

## Part I

### Early Writings

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# Religion, Love, and Law: Hegel's Early Metaphysics of Morals

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Hegel's concern with the moral choices of concretely situated individuals, which was once thought to cast doubt on the very possibility of formulating a Hegelian ethics, is now regularly viewed as the expression of a genuine ethical stance; 'Hegelian' has come to mean attentive to the social and political context in which moral agency is exercised.<sup>1</sup> So a Hegelian ethics is an ethics that emphasizes context, history, community, and the roles and relations that give substance to our moral life. This is often defined in contrast to the ambition, associated with Kant's moral philosophy, to provide a metaphysics of morals, to engage, that is, in an abstract interrogation of the a priori possibilities of moral agency. And yet, this is precisely the project that occupies Hegel in the period from the late 1790s to the early 1800s. In these early works, he engages deeply with the problems that arise for moral agency from the incompatibility between the order of reason, which is shaped by laws that give expression to human freedom, and the order of nature, which is shaped by laws of physics that describe the causal relations between natural phenomena.

Hegel's continuing engagement with the metaphysics of morals is easy to miss because the ostensible themes of his early writings are not in any obvious way 'moral.' Among the works discussed here, "The Positivity of the Christian Religion," the "Love" fragment, and the essay "On the Scientific Treatment of Natural Law," the first two belong to the so-called 'theological' writings and the third addresses a key topic of modern political philosophy.<sup>2</sup> The passage from religion to politics is generally seen as marking different stages in Hegel's ongoing search for a model of a modern ethical community – a modern *Sittlichkeit*.<sup>3</sup> On this reading, the strong bonds and sense of belonging fostered in religious communities explain Hegel's early interest in religion. If we take a step back, however, to consider the context in which the theological writings took shape, a more complex picture emerges. "The Positivity of the Christian Religion," given this title by Hegel's editor, Herman Nohl, was written in 1795 and 1796, with a final part written in 1800 that contains a revision of the original preface. It remained unfinished. The "Love" fragment dates from 1797 to 1798. The dates are significant in

situating these pieces in a distinctively German philosophical tradition of religious-theological debate. Appreciating Hegel's participation in this debate will help with identifying the *moral-metaphysical* concerns of these early pieces.

The intellectual environment in which Hegel composed these pieces is saturated with debates about the continuing role of religion in human life in light of the aspiration to organize one's life on rational principles. Fichte's *Attempt at a Critique of All Revelation*, at first thought by many to be authored by Kant, appeared anonymously in 1792, and then in Fichte's name in 1800. Kant's own *Religion Within the Limits of Reason Alone* appeared in part in 1792, then fully in 1793, with a revised version coming out the following year. Fichte and Kant follow on the steps of an earlier generation of German *Aufklärer* who sought to show that religious content can be claimed by enlightened reason and reshaped in accordance with rational moral ideals. The idea that a rationally vindicable human *telos* is compatible with a divinely commanded one is mainly associated with Lessing.<sup>4</sup> He argued that the moral message of revealed religion, laid bare and freed of its external historical manifestations, chiefly its cultic form, is directly accessible by reason; in effect revelation and reason share the same truth. What is left unresolved, however, is what we might call the 'hermeneutic' question: how does one identify what is to count as 'external'? Unless a satisfactory answer can be found to this question – and what may be satisfactory for the philosopher may not be so for the believer – the assurance that religion and reason are compatible will be in vain. A sobering lesson from the history of biblical hermeneutics is that what in each case counts as authoritative interpretation reflects concerns traceable to the context of appropriation of the purportedly authentic message.

It is directly to these difficulties that Hegel addresses himself when at the very beginning of the "Positivity" essay he writes about the different 'methods' of treating Christianity and distances himself both from those who submit religion to the test of 'reason and morality,' and from those who appeal to the authority of tradition, 'the wisdom of centuries' (ETW 67; 152). Hegel can do so because his own approach is primarily diagnostic: he does not set out to defend a particular interpretation of the truth of the religious message; he is interested rather in analysing what is at stake in modern, morally oriented investigations of Christianity. Hegel's analysis is explicitly located within a post-Kantian moral universe. His aim is to show how, for a modern audience grappling with the compatibility of reason and religion, the life of Jesus and his teaching make vivid key concerns about the nature of moral commands and the way in which these are taken up by finite human agents. Hegel's guiding insight is that the hermeneutic question, which can be posed with reference to the religious message, can also be posed with reference to the moral law itself: which of our substantive moral commitments genuinely represent the moral law, and which are merely 'external,' a matter of habit and conformity to 'positive' practices? The question is an urgent one because it concerns the kinds of commands that may legitimately be thought to have authority over us. Allied to this is the problem that the purer our conception of the moral law is, the more difficult it becomes to identify with any certainty any specific duties as authentic expressions of it.

Note that Hegel's approach to the moral law is indirect: he offers a diagnostic analysis within a *religious* context of the problems of modern *moral* metaphysics. That he undertakes this diagnosis within a religious context is not simply a matter of historical

accident. Though he certainly shares the view of his contemporaries that religion raises distinctive problems for a purely rational morality, he is also concerned (as we shall see below in Section 1) to identify the brittle points of a conception of agency that takes its law from a transcendent authority. In this part of his argument, his chief interlocutor is not Lessing, but Kant.

Kant's project of a 'critique' of reason, which sets limits to reason's cognitive power, was taken to caution against rationalist immodesty. On the other hand, in his moral philosophy, Kant insists that reason is sufficient as moral legislator and indeed necessary for the achievement of true morality and the genuine exercise of our freedom. In short, moral agency is a rational agency, and rational agency gives its proper meaning to free agency. God's existence, though explicitly postulated within the practical sphere, appears to be a matter of subjective need – the need to assure ourselves that the natural universe we inhabit is not hostile to reason's moral commands, and that happiness is proportionate to morality. Although, as Kant says, this "hope ... first arises with religion," rational morality also has to address this need (*Rel* 87; VI:131). The need for assurance does not arise only out of a natural human concern with happiness but also out of the desire to view our moral ends as realizable. Kant treats this topic in *Religion* when he interprets the biblical announcement of the advent of God's kingdom here on earth in terms of the achievement of an 'ethico-civil' union, or an 'ethical commonwealth' (*ein ethisches gemeines Wesen*) (*Rel* 86; VI:130). What is left out of this hopeful prospect is an account of how nature, which for Kant himself as well as for his naturalistically minded contemporaries is explicable according to its own laws, might be amenable to the demands of a rational morality, which Kant states takes its cue from pure reason alone.<sup>5</sup> It is just such an account that Hegel seeks to elaborate in his early works, starting, as we said earlier, with what appears to be the more tractable problem of how a purely rational moral command – the moral law – can find expression in the kinds of practices and substantive commitments that make up the moral world in which we find ourselves.

One of the advantages of foregrounding Hegel's moral-metaphysical concerns is that it becomes possible to address a cluster of issues that Hegel saw as related: reason in relation to morality, to freedom, and to nature, and the metaphysical and historical conditions for the realization of moral agency. Each of these topics forms a discrete element of a philosophical tradition dominated by Kant, which Hegel inherits and with which he engages critically, but also largely constructively and synthetically. To unpack the cluster, we may start with reason itself. The notion, mainly owed to Kant, that reason is an active determining force in our moral lives means that reasoning is not just a matter of instrumental satisfaction of whatever ends we happen to have, but rather that it can help us identify ends that are morally worthy. Obviously, this process of evaluation of ends would be empty if we were not in position to put into practice what we rationally choose. So, as Kant admits, we need to assume freedom in order to think of rational agency in the first place. But a more interesting conception of freedom emerges from the idea that we are free insofar as we can give rational shape to our lives through the appropriate *choice of ends*. When it comes to identifying some content as 'free' and so as 'rational' and 'moral,' however, we find that it is easier to provide a negative definition: we are free to the extent that we manage to exclude anything that can appear as given – not only natural inclinations and received opinion but also

previously endorsed maxims that are part of our own personal history. The danger with this entirely negative conception of rational freedom is that it commits us to permanent self-testing: nothing is taken on trust, not even our own earlier testimony. Apart from other inconveniences, such as the onset of moral paranoia, this absolutist version of the demand for rational vigilance presents us with the task of identifying what is effectively a philosophical chimera, a self-authenticating insight that is capable of instructing us in a direct and epistemically sound way about what is morally right. Even assuming we had access to such action-guiding intuitions, we would not be able to tell why any specific norm rightly commands assent and is not just a matter of ad hoc conviction. It is important to note that Kant's test for what can be universalized is in part conceived to free us from such chimerical pursuits. What remains a problem for Hegel is that within the Kantian critical framework, it is difficult to identify with any confidence a specific content – *this* action, *this* end – that is rational and free in the requisite sense.

The problem of rational content, as becomes evident already in the "Positivity" essay, is for Hegel symptomatic of the metaphysical gap that separates pure practical reason and nature. One of the ways he formulates this question in "Positivity" is to ask how the deliverances of pure practical reason can be felt in our lives – how we, natural and also socially situated beings, heed reason's commands. He offers a tentative answer in the "Love" fragment when he entertains the thought that reason can be naturalized, and so not only speak to us through feeling but also be active through our natural desires. The problem with this solution is that the identification of feelings, say love, to explain how it is possible for nature to conform to reason runs the risk of making reason altogether redundant. In a fully closed naturalistic system, it is nature that determines us "to judge as well as to breathe and feel" (Hume 1949:183). Hegel is sufficiently committed to the Kantian (or more generally rationalist) view of reason to be dissatisfied with such an outcome. So although he remains throughout his career sympathetic to various naturalizing options, his chief concern is to show that these are compatible with an emphatic conception of rational agency. As we saw, a key obstacle in thinking about reason's activity in shaping our ends is a strictly negative notion of rational freedom that remains at a further remove from the actual commitments and actions that make up our moral lives. It is to address this problem that Hegel turns to consider the conception of freedom that must be presupposed for rational agency. This is the topic of the "Natural Law" essay.

Hegel holds that the worldly shape of practical reason is not mysterious; it is the shape of ethical life, *Sittlichkeit*. What he wants to show is that 'ethical' is not just an empty honorific title for events following a natural causal pattern, and that the events that make up a life can be recognized as actions brought about by agents who have both an understanding of their freedom and the capacity to act on such understanding. The "Natural Law" essay is an attempt to show that ethical life – and so human life – is the product of freedom. Of the three works considered here, it is the only one that Hegel prepared for publication. It appeared in consecutive issues of the *Critical Journal* in 1802 and 1803. Thematically, the essay is situated within the natural law tradition, that is, a tradition of enquiry that seeks to identify the principles of right that should form the basis of legislation, irrespective of whatever 'positive' law is in force in particular legislatures. Methodologically, it stands out from other writings of this period because of

Hegel's stated ambition to treat his topic 'scientifically.' For Hegel's readers, this would have signalled the adoption of a mode of argumentation, broadly based on Kant's transcendental method, where the emphasis is placed on the a priori deduction of the philosophical concepts applicable to the problem at hand.<sup>6</sup> The essay contains a highly abstract, almost geometrical treatment of empirical natural law theories followed by a discussion of the practical philosophies of Kant and Fichte, and a lengthy analysis of ethical life. Hegel's account of ethical life, 'deduced' a priori from the notion of freedom, represents at once a synthesis of freedom and nature, and, significantly, an explicit acknowledgment of a necessary gap between the two. This acknowledgment suggests that there is no further to go with the metaphysical investigation of the problem of agency. The "Natural Law" essay can be seen then as completing the philosophical task that Hegel sets himself in these early works, namely to offer a metaphysics of morals by describing the utmost bounds of this type of analysis.

Though written at different periods of Hegel's early development, coinciding with his stay in Berne (1793–1796), Frankfurt (1797–1800), and Jena (1801–1807), these three pieces show a consistent preoccupation with the fundamental possibilities of human agency. They also display a degree of philosophical experimentation that is not often associated with Hegel. Accordingly, the aim of the present chapter is to show the philosophical openness of the early works, their deep engagement with moral-metaphysical questions, and to identify the elements of a philosophical propaedeutic that although situated outside Hegel's system, nonetheless informs the 'Hegelian' ethics of the mature philosophy.

## 1. Religion: A Moral-Metaphysical Interpretation of 'Positivity'

"The aim and essence of all true religion, our religion included," Hegel states, "is human morality" (*ETW* 68; 153). The claim that religious teaching is in its essence moral teaching seems to follow on the tradition of Lessing's and Kant's writings on religion. But there is something new here. The key term is 'human morality.' Hegel asserts that when it comes to appraising the 'worth' and 'sanctity' of religious prescriptions with respect to obligations, we have a 'measure': human morality (*ETW* 68; 153.). Yet Hegel gives no definition of 'human morality.' On a Kantian interpretation, 'human morality' means the commands of morality as they apply to the will of finite rational beings like ourselves, for whom moral propositions take a categorical and imperatival form. However, we can also think of 'human' as a modifier of morality, and so as signifying a morality that is consonant with our humanity, or 'adapted to the moral needs of our spirit' (*ETW* 76; 159).<sup>7</sup> In the first case, moral concepts are what they are without regard for who we are, so 'human morality' is about how these concepts are known by us and how they shape our actions. In the second case, human feelings and interests are seen as continuous with morality, so it is human nature that provides the starting point for the discussion and development of moral concepts. The two interpretations are clearly in tension. Hegel does not reveal which one he favors. On the contrary, the moral terms he uses to articulate his criticism of the positivity of Christianity – and also his criticism of Judaism as a 'positive' religion – draw equally on both conceptions of human morality. That Hegel does not resolve this ambiguity is not a sign of



indecision on his part. It is the upshot of his indirect approach to the discussion of morality and religion. For Hegel, religion is a topic of vital moral interest from a post-Kantian perspective precisely because its study can contribute to a diagnosis of the difficulties with a conception of agency that takes its law from a transcendent authority.

Characteristic of Judaism, and also of Christianity in its 'positive' stage, is the requirement of rigid adherence to given laws and rituals. This description can be made to fit a number of critical diagnoses. To understand what exactly is amiss with positivity, we need to look at the detail of Hegel's criticism. Close examination of both wording and claims reveals that he draws on two distinct sets of arguments: Kant's analysis of heteronomy and Schiller's analysis of self-alienation. The opening reference to 'mechanical slavery' (ETW 69; 153) echoes Kant, who, in his essay "What is Enlightenment?" describes 'dogmas and formulas' as "mechanical instruments ... [that] are the ball and chain of man's immaturity" (II:36). In a lengthier and more explicitly Kantian reference, Hegel contrasts unfavorably the man who, compelled by "fear of his Lord's punishment," bears the yoke of a law that he "has not given by himself, by his reason" (ETW 80; 161), with those who show "disinterested obedience to ... the moral law" (ETW 85; 165). Disinterested obedience expresses "the spirit of acting from respect for duty, first because it is a duty and secondly also divine command" (ETW 99; 176).<sup>8</sup> It is finally worth mentioning in this context Kant's own distinction between authentic *cultus* and *cultus spurius*, that is, between a church based on pure rational faith, which promotes a 'religion of pure reason' with a practical universal core, and a 'pseudo-service' that preaches salvation through "allegiance to the historical and statutory element of ecclesiastical faith" (Rel 141; VI:184). So on the Kantian interpretation, positivity is a combination of immaturity, moral heteronomy, and *cultus spurius*. The normative assumption motivating this criticism is that we should be able rationally and freely to obey the law, without further interest or regard. But a 'Schillerian' interpretation is also available. A clue is given early on in the essay, when Hegel laments the transformation into 'lifeless machines' of those who renounce the life of feeling (ETW 69; 153). This is reminiscent of Schiller's description of the predicament of those who, bereft of "living understanding ... imagination and feeling," are condemned to bare existence as 'lifeless parts' of the 'ingenious clockwork' that is modern collective life (AE 35; XX:323).<sup>9</sup> Reading on, it becomes clear that Hegel sees the link between feeling and the voice of conscience as a vital one. He emphasizes the importance of "free virtue springing from man's own being" (ETW 71; 154) and draws attention to the role of love as '*complementum*' of the law (ETW 99; 176). On the Schillerian reading, positivity signifies affective self-alienation, a cutting off of ourselves from the very resources that animate our moral life. The normative assumption here is that we should restore the moral role of feeling and affect. Hegel uses both Kant and Schiller because he wants to establish from the start that avoiding 'positivity' is not a matter of emphasizing the purity of practical reason over mere habit and positive law because pure reason itself can become 'positive,' issuing commands that are experienced precisely as external only. This is the first step to an analysis of why this problem of positivity recurs, and the answer has to do with a certain conception of rational agency.

The Kantian and Schillerian elements of Hegel's criticism of positivity reflect the ambiguity of the measure Hegel chooses to judge religious practice: 'human morality'



is compatible both with recognition of our rational agency, which demands 'struggle against inclinations' (ETW 70; 154), and with recognition of the value of a 'virtuous disposition,' which demands the collaboration of reason and inclination. Not only do we have two moral ideals in play, but one, Schiller's, was explicitly formulated in response to perceived flaws in the Kantian one. To see how Hegel is able to use both, we need to look beyond the substantive positions of each and examine how each perspective allows different aspects of rational agency to come to view. From the Kantian perspective, reason is an active force in our lives precisely to the extent that it is not caught up in any of the other, natural and social, forces that shape our conduct. From the Schillerian perspective, it matters urgently for the vindication of reason's role to show that nature is hospitable to rationally determined value. Rational activity and natural receptivity then form the two sides of the metaphysical picture Hegel seeks to describe. Here is how he states the problem:

The assertion that even the moral laws propounded by Jesus are positive, i.e. that they derive their validity from the fact that Jesus commanded them, betrays a humble modesty and a disclaimer of any inherent goodness ... in human nature; but it must at least presuppose that man has a natural sense of the obligation to obey moral commands (ETW 73; 157).

Jesus' purpose, Hegel claims, was to "restore to morality the freedom which is its essence" (ETW 69; 154). How and why, then, was freedom compromised and turned into the servitude of 'positivity'? Hegel initially shows Jesus as confronting a pragmatic problem about authority because at that historical juncture an appeal to pure practical reason was simply unavailable, and the appeal to 'God's will' was an expedient answer to the need to invoke a higher authority (ETW 76; 159). Accepting the moral laws Jesus teaches on the authority of God requires that Jesus be accepted as the Son. So is set in place a structure of authority that encourages patterns of obedience that in due course transform moral religion into 'positive' religion (ETW 77; 159).

Alongside this pragmatic story, Hegel offers a more interesting moral analysis that goes to the heart of the problem of rational agency. He argues that the people's acceptance of Jesus as their teacher and of his command as binding is a sign of modesty and a "disclaimer of any inherent goodness ... in human nature" (ETW 73; 157). This structure of top-bottom authority is not a contingent feature of the particular set of moral laws contained in Jesus' teaching. 'God's will' stands for a transcendent moral authority that performs a function similar to that of pure practical reason: it is a voice we may heed but not a voice we may contain and fully encompass. This is why even though Jesus himself speaks out of a living sense and feeling of morality, he commands that his teachings be recognized as God's will. The invocation of God's will is a way of saying that there is such a thing as objective moral value and so moral commands necessarily appear to us in a categorical and imperatival form, and without regard to our predisposition to hear or heed them. Indeed, this autonomy of morality is essential to the claim that we freely assent to its commands. And yet, Jesus' teaching presupposes in his audience a capacity for receptivity to moral laws, and so an element of 'predisposition,' possibly a 'natural sense of the obligation to obey' (ETW 73; 157). The ambiguity we identified originally in the notion of human morality is now tied explicitly to

a specific view of rational agency. Hegel is persuaded by the Kantian view, which he also attributes to Jesus, that moral commands appear as having the requisite authority and so are binding on us finite rational beings to the extent that they appear as categorical, and so he emphasizes the link between the authoritativeness of moral commands and their transcendent origin. However, Hegel also suggests that positivity is a structural feature of this conception of morality. The Schillerian view, signalled here with the references to moral predisposition and to natural moral sense, is attractive but not problem free either: first it is not obvious how the naturalization of moral reason can be reconciled with the categorical character of its laws, and second, this process of domestication of the divine voice is itself not immune to the problem of positivity since what thus becomes second nature, familiar, and ordinary is precisely absorbed in the given, the habitual, and so the 'positive.'

Hegel's analysis of the fate of Jesus' teaching provides further illustration of this moral double-bind. Jesus grafts his moral lessons onto existing codes and uses parables to show that he speaks of everyday, familiar, common things. This strategy fails to the extent that the authorities of the time recognize the startling *novelty* of his message. A different failure awaits when Christianity becomes institutionalized and 'positive.' Transformed into a daily ritual, an unthinking gesture or habit of words, its teachings lose their startling character. Hegel's account of this failure of ordinariness and of extraordinariness creates the context for a fresh understanding of his criticism of positivity. He does not see his task as consisting in the rational reconstruction of religious content, that is, the extraction of some moral essence from the 'positive' historically accreted extraneous matter. He adopts an indirect approach to show that the problem of positivity as it arises for the divinely commanded moral message *also* arises for a modern morality that aspires to autonomy. The basic difficulty, as Hegel states it in the context of Jesus' teaching, stems from the impossibility of reconciling the extraordinariness of Jesus' message – its practical rational purity, which commands respect – with the need for the teaching to be familiar so that it may touch ordinary human lives.

Though overall Hegel's aim in 'Positivity' is diagnostic and cautionary, the essay offers some intriguing anticipations of the socialized conception of agency developed in later works in the brief discussion of the different types of moral agency Hegel associated with Antigone, Jesus, and Socrates. He presents Antigone as subject to 'invisible' and 'unstated' laws she is free to obey or not (ETW 155; 222). What moves her to act is her vivid awareness of the law. While she experiences herself as bound by the law, her adherence to it is a matter of a free act; this is why, Hegel explains, she can break one law to obey another (ETW 155; 222). Drawing a tentative link between moral freedom and tragic agency, he suggests that Antigone's free law-abidingness appears as wanton disregard for the law. The solitariness of an agent who sets herself outside the *polis* is contrasted to both Jesus and Socrates, whose agency is realized within a community of like-minded individuals. In the case of Jesus, this is the community of his disciples. The disciples follow Jesus and his teaching because they love him (ETW 81; 162). So they love virtue because they love him. The inversion is familiar from post-Humean accounts of desire: we do not desire something because it is good, it is good because we desire it. So although Jesus and his disciples form a virtuous community, the love that binds this community together appears contingently motivated. Things stand differently with Socrates's pupils (ETW 82; 163). Hegel presents them not as

disciples but as free citizens, members of a *polis* who are shaped by a culture of public virtue; they love Socrates because they love virtue. It would seem then that Hegel recommends this virtuous community for having a comparatively solid foundation. Socrates's fate should, however, warn us against drawing conclusions too quickly from this highly schematic treatment of socialized agency. Nonetheless, the lengthy and sympathetic treatment he reserves for classical forms of citizenship suggests that one way of doing full justice to the idea of a human morality is by articulating conditions under which the moral agent is recognized as moral in community with others. The "Love" fragment describes the possibility of such recognition but also a different way of thinking about morality.

## 2. Love: Outline of an Ethical Relation

The "Love" fragment begins with a description of loss:

[E]ach individual loses more and more of his worth, his pretensions, and his independence ... for a man without the pride of being the centre of things the end of his collective whole is supreme, and being, like all other individuals, so small a part of that, he despises himself (ETW 303; 278).

The cause of the loss remains somewhat mysterious. Hegel relies here on a discussion that is no longer part of this fragment.<sup>10</sup> It is possible, however, to reconstruct this analysis of loss from what remains. When the collective to which he belongs expands, the individual loses the sense that he is a valued member of the collective, and so his very individuality fades. Thus, Hegel writes, "equality of rights is transposed into equality of dependence" (ETW 302; 378). Although this could plausibly form part of a political or social analysis of dispersal and alienation, the immediate context of Hegel's remarks is religious: he speaks of the changing relation of a member of a cultic community to the 'ruling Being' (ETW 303; 378). This religious context allows us to build on the previous analysis of positivity. Whereas the "Positivity" essay examines from an external standpoint the genesis, character and effects of 'positive' religious structures, the "Love" fragment shifts to an internal perspective, showing what it *feels* like to be under such structures. It is by building on this individual experience that Hegel ventures to resolve the moral-metaphysical issues that occupy him. There are certain continuities with the earlier piece, especially in the use of terms such as 'living' and 'dead' to describe the changing relation of the individual subject and his world. Nonetheless, there is no explicit connection made in this fragment between the stages of this changing relation and the history of Christianity. The analysis of subjective experience is conducted in an abstract philosophical idiom that describes the evolving relations of a subject with respect to other subjects, to objects, and to God. For all these relations, Hegel uses a single term, 'love.'<sup>11</sup>

Love is at first presented as a form of loss. This is an elaboration of the individual experience of loss with which the fragment begins. Love-as-loss is a relation in which "something dead forms one part of the relationship" (ETW 303; 378). We can think of this as the subject's love for something dead, and use the resources of the analysis

of positivity to fill in this relation. The individual who is subject to positive religious structures – and who therefore entertains a positive conception of the divine – experiences divine authority as mere fact. God's will is not the animating force of the worshipping community; it is reduced to a set of rules the individual obeys insofar as he is part of the community. 'Love' expresses his ongoing dependence on such authority, his desire to be guided, his need to view his daily relations to the social and natural world as divinely sanctioned. Speaking more abstractly, we might say that love is the continuing endeavor to make one's life meaningful. How, then, can love have something dead as part of it? We can think of the positive authority of law or of God as the dead element – we might want to say, for instance, that the subject is tied to the dead letter of the law. Note however that the 'something' that is dead is not a fixed position. And it is this that allows the relation of love-as-loss to develop. 'Something dead' describes also the way the subject relates to objects and perhaps also to other subjects *as* objects: "he is an independent unit for whom everything else in the world is external to him" (ETW 303; 378). In his daily interactions, the individual encounters his environment as made up of a multitude of changeable and perishable objects. Contrasting with this experience of daily loss, and to some extent compensating for it, is the conviction that the totality of entities, the world itself, is God's eternal creation.

Continuing the dialectic of this relation, Hegel invites us now to consider the subject's relation to himself: "his God is there, as surely as he is there" (ETW 303; 378). The necessity that binds the subject to God is experienced as conditional on self-awareness – on the *subject's* continuing being. But this is hardly reassuring for the subject, who is originally defined in the fragment by the experience of his utter unimportance. So it happens that the subject himself can occupy the position of 'something dead.' This is not because he realizes the contingency of his existence; this is not news to him. Rather it is because he realizes the contingency of his bond to God:

He exists only as something opposed [to the object] and one of a pair of opposites is reciprocally condition and conditioned. Thus the thought of self *must* transcend its own consciousness (ETW 304; 378, emphasis added).

The force of this 'must' is presented as if coming from subjective experience: "the individual cannot bear to think himself in this nullity" (ETW 304; 378). So self-transcendence is experienced as a spiritual need by a subject who is painfully aware of his nullity. However, Hegel wants to show that this subjective experience has an objective side to it. He wants us to see the love-as-loss relation as inherently unstable, so what 'must' be transcended is the basic incoherence that lies at its heart. The love-as-loss relation both affirms and denies the necessity of God's presence in the life of the individual. God's presence is necessary ontologically, as guarantee of the world's being; it is also necessary ethically for the conduct of daily life, and for the guidance one seeks and receives. This necessity vanishes with the subject's discovery of his own contingency. There is an interesting parallel here with the interpretation of individual self-abasement in the "Positivity" essay. A sign of modesty it may be, but the denial of goodness in human nature contributes to the problem of receptivity to the moral law. In the "Love" fragment, Hegel focuses on the problem of knowledge of God (rather than of the moral law). From the subject's ontological condition as *ens creatum*, Hegel draws

the conclusion – or perhaps indicates that the conclusion can be drawn by a subject who finds himself in this situation – that the subject's cognitive powers cannot convincingly establish relations of necessity.<sup>12</sup> The subject cannot *know* God's necessity with any certainty, he can only be certain of his need to know, a need that stems precisely from his 'nullity.'

As the position of 'something dead' is taken up by various objects (people, God, things in the world) and the subject himself, the love-as-loss relation is exhausted. At this point Hegel indicates that a new relation of love can emerge if the original experience of nullity can be re-described. This remains a highly abstract and quite formal exercise. So although Hegel refers to individual experiences of loss, dependence, and love, he draws on these familiar psychological states to hunt a metaphysical quarry, a noncorrosive re-description of 'nullity.' This turns out to involve a basic relativizing move: "there is no determinant without something determined and vice versa" (ETW 304; 378).<sup>13</sup> The central idea is that "nothing is unconditioned; nothing carries the root of its own being in itself ... each is only relatively necessary; the one exists for the other" (ETW 304; 378). This idea allows dependence to be thought of as a relation of reciprocal sustenance between "living beings who are alike in power"; this, Hegel says, is "true union, or love proper" (ETW 304; 378).

Having reached this stage of Hegel's analysis, we can see how the permutations of the love-as-loss relation relate to the subject's search for an absolute foundation for his life. Under conditions of positivity, this search leads to the frustrating realization that the bond to God withers to mere subjective need. It is at this juncture that Hegel presents the problem from a different perspective thus offering a kind of resolution. Let us consider again the 'something dead.' One way of understanding the attraction of this metaphor for Hegel is that it can be used to describe both something burdensome (the 'dead letter' of the law) and something whose loss may be mourned (the loss of relations of reciprocity and recognition possible in a small community of believers). It also conveys the inertness attributed to mere matter – the world viewed as object – and, by extension, the normative opacity of nature (i.e. of nature conceived as mere matter). So the human subject encounters a world that is fundamentally indifferent to his spiritual or moral interests. This is very significant for Hegel's analysis of love and for his solution to the spiritual-moral predicament that love is meant to address. Hegel suggests that the encounter with the world as a dead object is the result of adopting an absolutist perspective in spiritual and moral matters, which amounts to sheltering spiritual and moral value in a wholly other world that is not determined by our human interests. This other world (of absolute value) can sustain human practical ambitions and hopes but at the cost of the now familiar problem of lack of interaction with the world that human beings inhabit and familiarly experience. Hegel proposes to resolve the problem through a relativizing move: the absolutist perspective is recognized as absolute *with respect to* the claims (moral, spiritual) it enables us to raise and appropriately redeem. This satisfies the demand, repeatedly asserted in "Positivity," that moral commands be categorical. However, and this is crucial, we gain access to the absolutist standpoint, and so recognize the moral command as categorical, only through ordinary practical experience and in response to specific practical needs. If we translate 'love proper' into moral-metaphysical terms, the claim that "each is only relatively necessary" (ETW 304; 378) suggests that each perspective, including the absolutist moral one, is only



relatively necessary. More broadly, the relativizing move introduces the thought that claims are always relative to particular frameworks, which of course does not mean that claims raised within a particular framework are necessarily relativistic. This is what enables Hegel to write that in love “the separate does still remain, but as something united and no longer as something separate; life ... senses life” (ETW 305; 379).

This structural solution is just one of those offered in the “Love” fragment. ‘Love’ for Hegel is a term of art, but it is never just that. It is also a feeling that founds an ethical relation of mutual reciprocity. The apparent simplicity of a felt emotion, which is directly involved in how we treat (some) others, opens the prospect of a continuity between nature and morality. Scattered references throughout the early writings to ‘moral sense,’ and to ‘moral disposition’ as the ‘*complementum*’ of the law, and to love as the ‘*pleroma*’ of the law indicate a persistent attraction to the idea of a naturalized moral reason.<sup>14</sup> In the “Love” fragment, Hegel devotes sufficient space to the phenomenology of love, a “mutual giving and taking” whereby the “giver does not make himself poorer” (ETW 307; 380), to make this interpretation plausible.<sup>15</sup> Here love is not presented merely as a perfection of virtue but rather as the natural basis from which virtue can develop; love holds the key to the transformation of desirous subjectivity into ethical intersubjectivity. Significantly, what Hegel describes is a noncognitive form of ethical responsiveness to another human being: the loved one is ‘sensed,’ Hegel writes, as worthy of love. Philosophically, ‘love’ is a seamless union of ethics and affect. But as we shall see in the “Natural Law” essay, what blocks the path of the naturalization of moral reason is Hegel’s concern that this is a reductionist position, which does not leave any room for freedom.

### 3. Law: Death and Absolute *Sittlichkeit*

In “Natural Law,” Hegel announces at the outset his ‘scientific’ intentions by framing the essay as the search for a single concept that can explain and also metaphysically ground the relations between reason and nature. Formally, this single concept is aptly characterized as ‘absolute’ (NL 417; 55).<sup>16</sup> This search for the absolute has, however, interesting unexpected outcomes, among them a radical and unflinching Kantian moral metaphysics.

Early on in Hegel’s discussion of empirical theories of natural law, the question arises whether the scientific treatment of natural law permits the designation of law as ‘natural.’ Hegel’s interrogation of the relation between ‘law’ and ‘nature’ raises the suspicion that there is a fundamental lack of sympathy between the projects of scientific and empirical natural law. It is interesting therefore that Hegel starts by praising the empiricists’ respect for experience – especially what he calls ‘intuition’ (NL 57–58; 419).<sup>17</sup> What he faults is their methodology. He focuses his criticism on perhaps the only feature that is common to those theories that he indiscriminately treats under the label ‘empirical,’ namely the use of counterfactual ‘state of nature’ arguments. He argues that such hypotheses are formed from psychological, economic, or political observations made within the civil state, and that there is no independent methodological justification for the features chosen in each instance. This procedure is flawed and cannot yield philosophically and scientifically robust results because we have no reason

to think that what is identified as fundamental in the explanation of the formation of civil society is indeed so. Empirical theories, Hegel concludes, take “the forms in which the fragmented moments of organic ethical life [*Sittlichkeit*] are fixed as particular essences and thereby distorted” (NL 66; 427). Because empirical theories combine explanatory with normative aims, the same methodological problem affects their normative claims. The set of natural characteristics identified in any particular theory as fundamental play a role in the account given within that particular theory of what the well-ordered *Sittlichkeit* should look like. Because these visions of postcontractual ethical life take their bearings from what was identified as ‘natural,’ Hegel argues, the ethical becomes ‘contaminated’ (*verunreinigt*) by the natural. Features such as atomism, property, or individual rights, which turn out to be central to the normative content of such theories, cannot be accepted as normatively ‘natural’ because the procedure that identifies them is faulty; ‘the natural which would have to be regarded in an ethical relation as something to be sacrificed, would itself not be ethical and so least of all represent the ethical in its origin’ (NL 66; 427).<sup>18</sup>

Hegel’s criticism of empiricism is, however, not just methodological. What concerns Hegel is the way in which empirical treatments of natural law deal with the problem of receptivity to norms. Insofar as empirical natural law theories seek to show how individuals come to recognize the authority of the state and be bound by its laws, they seek to show how an ethical relation between human beings is possible. The establishment of contractual relations forms a central part of this account. At the same time, recognition of contractual relations depends on receptivity to norms, minimally on acceptance by the contracting parties of the very idea of a contract. But, the founding of this ethical relation precisely depends on recognition that the state of nature must be left behind and so on a view of nature as “something to be sacrificed” (NL 66; 427). At the same time, this ethical possibility must also be somehow recognized as natural, as inherent in the state of nature. On the one hand, Hegel is critical of the notion of ‘nature’ invoked in empirical theories because it fails in its main explanatory task, which is to show how the ethical relation of the recognition of contractual bounds is possible. On the other hand, he wants to hold onto the idea of necessity conveyed by the designation ‘natural,’ the idea of a necessity that is not local, relative to specific legislatures and thus ‘positive,’ but rather attaches to the very notion of law.

What Hegel calls ‘a priorism’ promises to do justice precisely to this notion of necessity (NL 70; 431). The specific application of a priorism that interests Hegel relates to Kant’s and Fichte’s attempts to vindicate their respective models of rational agency. Again, despite references to Kant and to Fichte, his concern is with the basic normative picture that emerges out of transcendental argumentation, not with the detail of Kant’s or Fichte’s practical philosophies.<sup>19</sup> This is how Hegel summarizes this basic picture:

It is possible for right and duty to have reality independently as something particular apart from individuals, and for individuals to have reality apart from right and duty; but is also possible that both are linked together. And it is absolutely necessary for both possibilities to be separate and to be kept distinct [...], and the possibility that the pure concept and the subject of right and duty are *not* one must be posited unalterably and without qualification (NL 84; 442).



The key element in this picture is that it is pure reason – what Hegel calls here ‘the pure concept’ – that issues the demands of right and duty. In the *Critique of Practical Reason*, Kant claims that the moral law “exhibits us in a world that has true infinity,” because it reveals “a life independent of all animality and even of the whole world of sense” and a destination that is “not restricted to the conditions and limits of this life but reaches into the infinite” (V:162). On Hegel’s interpretation, this revelation of our moral personality – the ‘subject of right and duty’ – depends on an absolute unalterable separation – ‘without qualification’ – between the ordinary reality of the world of sense and the pure reality of right and duty. That Hegel speaks here of the ‘reality’ of the pure concepts of right and duty suggests that he wants to draw a close connection between this analysis of how the ideas of right and duty appear to us and where they might be located metaphysically.

Kant’s discussion of spontaneity provides a useful context here. Human beings, Kant argues in the *Groundwork*, have a capacity that separates them ‘from all other things,’ and this is “a spontaneity so pure that [this capacity] goes far beyond anything in sensibility ... and because of this we regard ourselves as belonging to the two worlds” (IV:450–52). For Hegel, the problem is precisely our dual citizenship, so to speak. It is tempting here to import the relativizing move Hegel proposes in the “Love” fragment so we can think of belonging to two worlds as meaning simply that we must consider the claims that are permissible and possible within each conceptual framework. This is not a path Hegel is prepared to take in this essay; “it is absolutely necessary,” he writes, “for both possibilities to be separate and to be kept distinct” (IV:450–52). Interestingly, this blocking of the relativizing move allows a more positive assessment of Kantian and of Fichtean a priorism. The emphatic articulation of rational agency Hegel finds in a priorism enables him to introduce to the discussion the idea of a necessity that is purely ethical – that pertains only to right and duty.

To understand the next step of Hegel’s analysis of a priorism, which paves the way for his own rather striking conclusion, it is important to appreciate how ‘infinity’ is linked to ‘freedom.’ Already, as we saw in the quotation from the *Critique of Practical Reason*, Kant claims that the moral law shows our belonging to a world that has true infinity, and that this belonging is credited to our capacity for pure spontaneity. Whereas for Kant spontaneity understood as transcendental freedom is a condition for practical freedom, that is, the infinity revealed to us through the moral law, Hegel uses ‘freedom’ to encompass both spontaneity and infinity. This enables him to focus directly on how freedom should be understood for moral agency to be possible. So the problem of how to establish the compatibility between the order of reason and the order of nature, successively reinterpreted in terms of our receptivity to morality and then our belonging to the worlds of freedom and of sense, is now recast in terms of understanding freedom for finite organic beings. And the natural fact that all organic beings have to face is death. For Hegel then, giving an adequate account of freedom is a matter of showing how individuals deal with this natural fact. The key claim is that “[f]reedom itself (or infinity) is ... the negative and yet the absolute” (NL 91; 448). Hegel establishes the connection between freedom and ‘the negative’ in a lengthy and rather repetitive argument to the effect that freedom is not mere choice between options and so is not merely a matter of choosing between doing A or its opposite (NL 89f; 447f). Choice depends on a possibility that is not itself among the available options, or in Hegel’s words, ‘determinations.’ It is this possibility, which is ena-

bling but not manifest, that Hegel calls 'the negative' to underline the need to distinguish qualitatively between freedom as enabling condition for the exercise of choice and the practical freedom of doing A or –A. The enabling condition, which both Kant and Fichte term 'transcendental,' remains unknowable.

Having established this connection between infinity and freedom, Hegel claims that the 'negatively absolute, pure freedom' appears as 'death' (NL 91; 448). How are we to understand this sudden identification of an unknowable, yet practically and metaphysically necessary, condition for the possibility of particular choices with the naturally ever-present possibility of annihilation of each and any particular choice? Death, a natural phenomenon, would seem to provide the link between freedom and nature. The connective step is this: "by his ability to die the subject proves himself free and entirely above all coercion (*Zwang*)."<sup>19</sup> The reference to the 'ability to die' is not a reference to a property of mortality that human beings possess *qua* natural beings. It is a reference to a choice – a choice that is the enabling condition of all other, particular choices. The ability to choose death suggests that human beings can choose something that is a natural possibility (the fact of mortality) against nature (since nature instructs creatures to do all in their power to survive). The individual who is able to confront death in this way, that is, see death as a choice and not as mere fact, acts purely as a free being 'above all coercion.' Thus nature (the fact that we are natural creatures who die) is used to overcome nature (as we are also creatures who can go freely to meet our death). The revelatory power of confronting our mortality already acknowledged in Kant's analytic of the sublime in the *Critique of Judgement* (V:269–70) is taken here as the key to a moral metaphysics: it is by confronting the necessity of death that the necessity of freedom is realized. The possibility that death can be a choice for an individual allows Hegel to draw a connection between freedom and nature but also between individual and collective. The communal confrontation with death is the conceptual link that allows him to 'deduce' the socio-political concept of 'absolute ethical life.'

The prospect of death, now as a possibility for a plurality of agents acting in cooperation, produces bonds among members of the community but also justifies their communal life under laws, thus enabling them to realize their freedom within an ethical whole. In effect, Hegel presents war as constitutive of absolute ethical life (NL 93; 450). This is not a pragmatic claim about how people come together when confronting a common enemy, it is a moral-metaphysical claim that results directly from Hegel's analysis of freedom in terms of the human ability to confront death.<sup>20</sup> Hegel interprets war – the empirical fact of war – in light of his interpretation of freedom to show that real historical communities have an ultimately metaphysical foundation in freedom. Thereby, although Hegel devotes most of his positive argument to describing the life of the members of the ethical whole, the rational life of institutions, principles of legislature and structures of political economy, the key to it all is the 'negatively absolute,' the pure freedom that appears as 'death.' The choice of death makes manifest the possibility of choice as such. From this, Hegel draws the conclusion that ethical life requires continuous confrontation with nature; that is to say the natural imperative of survival is 'confronted' when death (which is itself a natural, organic necessity) is confronted as a choice.

A number of points can be raised against this analysis of *Sittlichkeit*. Whatever its precise metaphysical status – and here some commentators detect in Hegel's references

to 'ethical nature' (NL 66; 427, and 73–4; 433–4) undisclosed and possibly untenable Spinozan metaphysical commitments – it can be argued that as a political model it is archaic and so, irrelevant to modern societies, and with its emphasis on the organic structuring of ethical life, fails to protect modern freedoms.<sup>21</sup> Often allied to this worry is the concern that Hegel abandons the ambition to justify specific action-guiding norms and in doing so reduces the practical domain to the object of merely theoretical observation and description. The complaint is that a philosophical account of how human beings are capable of leading an ethical life cannot just be a matter of offering a description of the practices in which they engage, however sophisticated such a description may be.<sup>22</sup> Both sets of arguments can be plausibly prosecuted. There is indeed a naturalizing tendency in all the early works. Furthermore, Hegel is committed to the idea that to be free is to be able to subjugate one's self to norms, and he thinks that we have no other way of grasping this than through some account of the practices of ethical life. What enables Hegel to interpret these practices *as* ethical, however, is his analysis of freedom as a metaphysical condition for the founding of an ethical community. It is an analysis of freedom that depends on a complex 'confrontation' with nature, not mere absorption of the ethical into the natural. Similarly, although it is true that Hegel does not concern himself with issues of normative justification, he is no mere observer of communal habits. Rather, he is concerned to ground them on an account of *pure* freedom.

Hegel's analysis of freedom as the choosing of death is intended to show that it is pointless to seek guarantees of a fit between our rational and natural interests. What remains is the daily struggle to realize our freedom, the outcome of which we are in no position to prejudge. Hegel uses the word 'fate' to designate this surprisingly Kantian solution (NL 105; 460).<sup>23</sup> He explains fate by describing what he calls its 'picture,' which is to be found in Aeschylus's *The Eumenides*. The picture shows the litigation in the Areopagus over Orestes's fate, which is decided when Athene intervenes in the proceedings. Orestes' release through Athene's vote is 'fate,' because it exceeds normal expectations. At the same time, his release is not wholly miraculous because Athene intervenes within the established mechanisms of justice, namely the Areopagus court, and submits herself to the court's voting procedures. Hegel's picture is Kantian because it shows that as moral agents we can have no guarantees of safe conduct; metaphysically, the opposition between reason and nature is real, and so it appears to us as 'fate.'

This sobering conclusion brings to an end Hegel's metaphysical propaedeutic. It is extensive, detailed, and takes us in different directions, initially in the direction of a socialized agency in "Positivity," of a naturalized agency in "Love," and, in the "Natural Law" essay, of the practices that make up 'ethical life.' But it is not these anticipatory elements of later positions that make these pieces of lasting interest. Rather it is the way in which these different possibilities are presented as issuing from a systematic examination of the ways in which we seek to make moral sense of ourselves as natural and rational creatures. Through the different layers of Hegel's analysis and criticism of positivity, we gain an understanding of the difficulties of seeking to articulate a human morality— of the questions that motivate the metaphysical analysis of morality and of the problems that beset such analysis. A central question concerns the recognition of moral demands, typically of the moral law, by finite rational beings. The "Love" fragment represents an attempt by Hegel to address this issue in ways that do not fall foul

of the problems identified in his earlier diagnostic essay. In that respect the structural solution he offers is of considerable interest since it consists in recognizing the role of the absolute practical standpoint within a specific sphere of human action; the suggestion is that absolute claims form part of our ordinary practical discourse. This very sketchy proposal gives way to the more systematic treatment of law in the "Natural Law" essay. Here Hegel gathers together all the elements of the post-Kantian discussion of the relation between reason, nature, and freedom to offer a striking interpretation of freedom as the choosing of death, which consists in basically showing that we may assert our rational freedom only to the extent that we are in position to confront nature. This fundamental confrontation gives meaning to our attempt to make moral sense of ourselves as rational and natural creatures.

### Notes

- 1 Doubt about the possibility of a Hegelian ethics is discussed in Walsh (1984:11, 55). Recent studies that emphasize the social and political aspects of Hegel's ethical thought are Neuhouser 2000, Franco 1999, and Hardimon 1994; see also Schnädelbach 2000 and Siep 1992:81–115. The subjective/intersubjective dynamic is explored in Patten 1999 and, within a broader philosophical context, in Pippin 2005. Wood's exclusive focus on ethics and Quante's on action are the exceptions (Wood 1990; Quante 2004). For the use of 'Hegelian' as identified here, see Eldridge 1989. The habitual distinction between morality and ethics is not directly relevant to the present discussion, though see Wood 1990:131 and Pippin 1999.
- 2 On the suitability of the 'theological' label, see Walker 1997 and 2006. For an account of Hegel's early development, see Pinkard 2000; see also Beiser 2005 and Bienenstock 1992. The philosophical context is given in Di Giovanni 2005, Pinkard 2002, Ameriks 2001, Beiser 1992, and H. S. Harris 1972.
- 3 Examples include Beiser 2005 and Wood 1990. The aim of this chapter is not to give an overall account of Hegel's early development. However, because of the emphasis I place on moral metaphysics, a general account is implied that is at variance with prevalent interpretations, so I do not treat the nature-reason relation as a version of 'romantic' concerns, as Beiser recommends (Beiser 2005: 11 and 13); see also Wood 1990:202–205. The discussion presupposes a more positive engagement with the Enlightenment inheritance than Beiser allows, closer to the account given in Pinkard 2000:58–75. Finally, against the tendency to identify a hiatus in Hegel's early development between an early Kantian stage and one under Fichte and Schelling's influence that coincides with a sharp turn away from Kant (Wood 1990:127–129; Geiger 2007:26–27), I follow Harris in arguing for continuity; though unlike Harris, who sees this in terms of the search for an organic unity of life (Harris 1972:233), I interpret it in terms of Hegel's engagement with moral metaphysics.
- 4 Lessing articulates this position in "The Christianity of Reason" (1753), "On the Origin of Revealed Religion" (1764), and "The Education of the Human Race" (1777–1780) (see Nisbet 2005). The religious-theological debate starts with the *Aufklärer* and the 'popular philosophers,' continues with Kant, Schiller, Fichte, Schelling, Hegel, and the early romantics, and revives with Nietzsche and the Young Hegelians.
- 5 Di Giovanni describes aptly the broader issue in terms of the tension between post-Enlightenment positivism and humanism (Di Giovanni 2005:1–6). Kant is keenly aware of the moral peril of leaving the nature-reason divide as an open chasm. But while he is able

- in his historical writings to offer interesting accounts of the prospects for the realization of political goals, his commitment to moral autonomy leaves little scope for a positive account of moralized nature.
- 6 The post-Kantian development of transcendental arguments is examined in Ameriks 2001. On interpretative issues concerning Kant's transcendental procedure, see Stern 1999 and 2000.
  - 7 Kant himself opens *Religion* with a reference to what he calls the 'pessimists' and the 'optimists' about morality (*Rel* 15; VI:21).
  - 8 See also *ETW* 85; 165–166. The relevant references to Kant are to the *Groundwork of the Metaphysics of Morals* IV:440–444; also the Preface to the first edition of *Religion* (*Rel* 3–4; VI:18). As with questions of law, so with religion the usual contrary to 'positive' is 'natural.' The Roman and specifically Ciceronian idea of a universal natural law is philosophically motivated by the search for natural order and politically by the need to discover principles of governance that are plausibly shareable over a large empire inhabited by people with different legal traditions and customary laws. Hegel's discussion of the methodological flaws of empirical natural law, discussed in Section 3 below, are anticipated in the extensive debates occasioned by the reception of Aquinian natural law in the Catholic Church about what is to count as natural (a good reference remains D'Entrèves 1951).
  - 9 The entire Sixth Letter from *On the Aesthetic Education of Man* is relevant here because Schiller is using Kantian themes to articulate his criticism of the separation of reason from feeling and to promote an ideal of human wholeness. Hegel appears to quote directly Schiller when he talks of 'moral superstition' (*ETW* 71; 154); Schiller describes the modern vacillation between "unnaturalness and mere nature, between superstition and moral unbelief" (*AE* 29; XX 321). Hegel's criticism of a "life spent in monkish preoccupation with petty, mechanical, trivial usages" (*ETW* 69; 153) echoes Schiller's criticism of 'monkish asceticism,' which is a position that according to Schiller represents a misunderstanding of the Kantian position. This criticism is developed in "On Grace and Dignity," and Kant responds to it in *Religion* (*Rel* 18–19; VI:23–4).
  - 10 "But the wider this whole ... extends., the more an equality of rights is transposed into an equality of dependence (as happens when the believer in cosmopolitanism comprises in his whole the entire human race), the less dominion over objects granted to any one individual, and the less of the ruling Being's favor does he enjoy. Hence each individual loses more and more of his worth, his pretensions, and his independence" (*ETW* 303; 378).
  - 11 Standard interpretations tend to focus on the motif of romantic love; see Habermas 1999:140. The concept of 'love' is of course laden with religious and philosophical meanings. It is likely that Hegel draws from a range of sources to present a relationship that combines an explicit ethical dimension (from the Christian usage of *agape*), a cognitive rational dimension (from the Platonic conception of the rational soul's erotic attraction to the good), and a natural dimension (from orectic and conative interpretations). An epistemic dimension is explored in Schiller's "Philosophy of Physiology" of 1779, where he claims 'love' as a principle of truth if the aim of our cognitive endeavors is to attain 'unity' between knower and known.
  - 12 See also: "That the world is as eternal as he is, and while the objects by which he is confronted change, they are never absent, they are there, and his God is there, as surely as he is here. This is the ground of his tranquility in face of loss ... but, of course, if he never existed, the nothing would exist for him, and what necessity was there for his existence?" (*ETW* 303; 378).
  - 13 The text is ambiguous here on whether God is also to be included in this 'vice versa.' At first God appears as sustaining the new relation of love. However, as Hegel elaborates this new relation, especially its procreative aspect, God appears to dissolve into it (cf. *ETW* 307; 381).



- 14 The references are respectively from "Positivity" (ETW 99; 176) and from "The Spirit of Christianity and Its Fate" (ETW 213–216; 266–268).
- 15 Hegel quotes Shakespeare "The more I give to thee, The more I have" (ETW 307; 380). Aspects of this relation develop into the concepts of 'recognition' and of 'letting-go' in the *Phenomenology*. Recognition is structurally similar to love: "it is only when the 'I' communes with itself in its otherness that the content is known conceptually" (PS 486; 583) 'Letting-go' is characteristic of the 'self' who is capable of releasing itself (*entlassen*) from its possessive desire and grant its object 'complete freedom' (PS 492; 590). An early treatment of the epistemic features of recognition can be found in the "Scepticism" essay, where an encounter between incommensurable philosophical standpoints is presented as a suspension of reciprocal recognition that leaves the philosophical as "two subjectivities in opposition" (Harris and di Giovanni 1985:253, 276).
- 16 Characteristic of 'science' is what Franks calls 'derivation monism' (Franks 2005:17); see also Jamme and Schneider 1990. Again, the interpretation given here departs in significant ways from those that are based on reconstructions of Hegel's substantive criticisms of Kant and of Fichte; see for example Franco 1999:60–61.
- 17 "[T]his thing styling itself 'philosophy' and 'metaphysics' has no application and contradicts the necessities of practical life" (NL 430; 69). Empiricism concentrates on the facts of our existence, and its scientific ambition is to found and vindicate a this-worldly unity; see Cruysberghs 1989:116, and Cristi 2005:65–67. In the *Lectures on the History of Philosophy*, Hegel praises Hobbes for he "sought to derive the bond which holds the state together, that which gives the state its power from principles which lie within us, which we recognize as our own" (316). Hegel argues that the emergence of modern natural law itself as a universal and unchanging principle that limits and informs the stipulated order of positive law, is the expression of and reaction to a specific socio-historical state of affairs (op.cit., 809ff.); see also NL 57; 418, and 58; 419. He allies this with the possibility of immanent critique. If empiricism were true to itself, he claims, it would "treat the mass of principles, ends, laws, duties and rights as not absolute but as distinctions important for the culture through which its own vision becomes clearer to it" (NL 69; 430).
- 18 This is a Rousseauian point as Hegel acknowledges in the *Philosophy of Right* (§258), where he describes Rousseau as a pivotal figure in natural law theories for making freedom the principle of state formation; in the *Lectures on the History of Philosophy*, Hegel credits Rousseau with the idea that "man possesses free will, and freedom is what is qualitatively unique in man. To renounce freedom is to renounce being human" (527). See also Honneth 1992:204; and Wylleman 1989:15.
- 19 Clearly there are here anticipations of criticisms Hegel develops in later works (see NL 76; 436); interpretations of "Natural Law" that follow this path are Wood 1990 and Franco 1999. See also Bonsiepen 1977.
- 20 The role of war in Hegel's thought is a matter of controversy (see Stewart 1996: 131–180). Geiger treats it as paradigmatic of the shocking act of founding an ethical community (Geiger 2007).
- 21 See Riedel 1984:69, Franco 1999:65–66, and Horstmann 2004. On the problem of organicism, see Henrich 1971:27 and Wahl 1951:185.
- 22 See Claesges 1976, esp. 61, and Cruysberghs 1989:90; see also Chiereghin 1980.
- 23 "Tragedy consists in this, that ethical nature segregates its inorganic nature (in order not to become embroiled in it) as a fate and places it outside itself" (NL 105, 460). See also Deligiorgi 2007. I would like to thank Stephen Houlgate, Jason Gaiger, and Nicholas Walker for their very useful comments on earlier versions of this chapter.

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