

III. DERECHO Y SOCIEDAD CIVIL

Dilemmas Between the General and Particular Will – A Hegelian Analysis

CHRISTIAN BLUM
Universität zu Köln

MODERN SOCIETY IS RECURRENTLY PLAGUED BY FUNDAMENTAL CONFLICTS between individual interests and collective concerns. Sometimes these conflicts take up dilemmatic form, that is, situations emerge in which both sides represent incompatible claims of equal moral standing. In accordance with Rousseau's customary terminology, we may label conflicts of this type *dilemmas between the general and particular will*. Despite reliable moral intuitions that such conflicts occur indeed, contemporary political philosophy offers no explanation as to *why* they occur, let alone provide a decision criterion. Consequently, a theoretical alternative is called for. This alternative lies in Hegel's theory of the ethical state, developed in the *Elements of the Philosophy of Right* from 1820 (Hegel 1991; quotations indicated by §). As I shall argue, Hegel's mature political philosophy holds the conceptual resources to elucidate the grounds for the competing claims in such dilemmas and also provides a sound decision criterion.

Befitting a Hegelian analysis, I shall substantiate this thesis in three steps: First, I will plausibilize the concept of a dilemma between the general and particular will in a thought experiment and briefly show why the contemporary theories of liberalism and communitarianism fail to even acknowledge the possibility of this dilemma. Second, I will elaborate how Hegel's concept of the will prefigures his theory of the state. And third, I will concern myself with his conception of the state as a reconciliatory structure, which aims at integrating the general and particular will and employ the latter to analyze the dilemma.

Let us imagine the following: A jet with 500 passengers departs from Frankfurt airport towards the Balearics. Roughly 15 minutes after take-off, the pilot sends off a distress call according to which the plane has been hijacked by terrorists; then the line goes dead. Shortly afterwards the plane changes course, altitude and speed. Now it is flying slowly at a low altitude towards an urban area with several major cities and a nuclear power plant. The chief of the exe-

cutive (let us call her the chancellor) is informed by various experts that there is strong evidence (intelligence on the suspected terrorists, flight pattern etc.) that the hijackers plan to crash the plane on the nearby power plant. Military aircraft only have five more minutes to shoot down the plane, then a nuclear disaster is inevitable.

How does the chancellor decide? If she gives the firing order, she will prevent a nuclear disaster but accept the involuntary sacrifice of hundreds of innocent civilians. If she does not give the order, she will respect the passengers' claim to physical integrity, but allow that severe harm is inflicted on the state as a whole. This predicament can be analyzed first as a decision conflict between the general and particular will and second as a dilemma.

In Rousseau's nomenclature from the *Contrat Social*, the general will is defined as the will of the community as a whole, which is directed towards the common good and realized in general laws and political institutions; the particular will, on the other hand, is defined as the will of the individual directed towards her personal welfare only (Rousseau 2001). Obviously, this depiction of Rousseau's original take on both forms of the will is sketchy at best. But since I will concern myself exclusively with Hegel's reconciliatory appropriation of Rousseau's concepts – and not with elaborating the similarities and differences between both thinkers – this brief outline will have to suffice.

In the terrorist scenario the decision to shoot down the plane represents the safeguarding of the general will, since the imminent disaster clearly threatens the common good: the lives of millions, the state's prosperity, even its entire existence are on the line. The alternative of not giving the firing order represents the safeguarding of the passengers' particular will(s) to whom we can attribute a vital interest in the preservation of their physical integrity and in the non-violation of their base rights.

Both courses of action are tragically incompatible and intuitively appear to be backed up by decisive moral support – which means that the scenario fulfills the two standard criteria for moral dilemmas offered, for example, by Sinnott-Armstrong (1988) or Nagel (1979). This can be easily shown: It seems indisputable that the passengers' interests in the non-violation of their physical integrity are secured by basic human rights, whose enforcement lies in the government's responsibility. Nonetheless, it appears equally absurd to deny the government's core responsibility to deflect severe damage from the well-being of society as a whole – after all, serving the common good is what government officials are appointed for.

The intuition which this thought experiment is supposed to trigger is that dilemmas between the general and particular will are possible and – given the current urgency of terrorist threats to western nations – even probable. This insight (which is not that spectacular in itself), however, leads to two follow-

up questions: 1) How can one explain our intuition about the occurrence of a dilemma in this scenario? – That is, what reasons to safeguard both wills underpin our intuition, and why do they seem to possess equal moral standing? 2) How should the chancellor decide? Should she favor one option or just toss a coin?

If one is interested in explicating the moral intuition about the competing claims of the general and particular will in this scenario, the most obvious choice seems to be to look for answers in a contemporary normative theory of the state. The dominant theories in this field nowadays are *liberalism* and *communitarianism* – both of which I will pin down (for the sake of brevity) to a set of relevant socio-ontological and normative core principles regarding the relationship between the individual and the political community as a social whole.

All major theorists of political liberalism (cf. for example Rawls 2005, Dworkin 1978, Nozick 1974 and Kymlicka 1997) share the assumption, that the individual (*qua* bearer of rights and interests) is ontologically and normatively prior to the community, which in turn serves only as an arrangement for the maximization of individual preference satisfaction under conditions of reciprocal dependency and thus possesses no intrinsic value. Since the state's sole purpose consists in safeguarding individual interests, the latter must by necessity trump collective concerns. According to *communitarianism* on the other hand, which has been advocated most prominently by MacIntyre (1984), Sandel (1982) and Taylor (1995), the community is considered ontologically and normatively prior to the individual and determines (through social roles, mores etc.) its identity and legitimate claims. Hence, collective concerns always trump individual interests; the reason being that if individual claims were played off against the community's welfare they would subvert their social foundations and contradict themselves.

The upshot of this analysis is clear: Due to their core premises, both theories fail to even acknowledge the *possibility* of dilemmas between the general and particular will and hence cannot account for the basic moral intuition which the terrorist scenario triggers. While liberalism posits an absolute primacy of the particular will, communitarianism posits an absolute primacy of the general will; both, however, neglect the legitimacy of the respective other will. Since neither theory is capable of elucidating the dilemma, it seems appropriate to abort the liberal-communitarian analysis at this juncture and not to address the issue of a decision criterion. Such a criterion, it appears, would be ill-informed from the outset.

These shortcomings of contemporary political theory warrant a look back in the history of philosophy. As I would like to argue, a more promising theory for analyzing the dilemma is Hegel's theory of the state from his *Elements of*

the Philosophy of Right. Before consulting Hegel's theory of the state itself though, an analysis of his concept of the free will from the introduction of the *Elements* is in order. There are two reasons for this detour: First, the free will is the systematic foundation of Hegel's practical philosophy, whose cogency stands or falls with the plausibility of its core principle. Second, Hegel's theory of the state is prefigured by his theory of the will and thus cannot be understood isolated from the former.

According to Hegel, the free will must not be conceived as an ability pertaining to a subject in the sense of a substance/accident relationship but rather as a universal with the logical status of singularity (*Einzelheit*), consisting in the dynamic unity of two interdependent moments: a general moment (*Allgemeinheit*), the pure self-conscious I; and a particular moment (*Besonderheit*), the contentually determined I – both of which are unified in the volitional act of a spatio-temporally situated individual. This unification is best expressed in § 7 where Hegel states that the freedom of the will consists in “positing itself as the negative of itself, that is, as *determinate* and *limited*, and at the same time remain[ing] with itself, that is, in its *identity with itself* and universality”. The point Hegel presses here is that only by distinguishing oneself *qua* pure self-consciousness from the content of one's will and at the same time purposely identifying with it can an individual be committed to a particular end and nonetheless be free.

In the following (§§ 8-32), Hegel elaborates his thesis, that there are two dimensions in which the freedom of the individual will outlined so far must be realized: First, it must have an adequate *internal* relationship to its own freedom; second, it must have an adequate relationship to the *external* world.

The will's adequate self-relation is labeled “freedom in and for itself” and contrasted to what Hegel calls “arbitrariness”. He argues that the possibility of choosing between different inclinations is not a sufficient condition of freedom – because in this configuration the will is only *formally* self-determined, such that it can reflect upon its contents and even decide not to follow any inclinations at all. *Contentwise*, though, it is dependent on “what comes from the outside” (§ 15) which means that the relevant contents are not created in the volitional act itself but rather “appear” within the individual's consciousness in the form of contingent impulses. This deficit marks the difference between arbitrariness and freedom in and for itself: In the former sense the will's self-determination does not extend to its content and thus cannot achieve full independence; in the latter sense the will wills freedom *itself* as its content and is thus “completely *with itself* [...] so that any relationship of dependence on something *other* than itself is thereby eliminated”. (§ 23) Following Kant, Hegel states that the will realizes this self-determination by subordinating its particular determinations under self-given principles guiding its actions as universal laws.

The reference to the concept of action leads to the second dimension of the freedom of the will (between the will and the world), which is realized in the “process of *translating* the *subjective end* into objectivity through the mediation of activity” (§ 8). This exposition is guided by the Hegelian view that willing must not be understood as a theoretical attitude only, but also as a practical one. Thus, for the will to be free, it is not sufficient to introspectively form an adequate self-conception, but also to objectify the latter in the material and social world by actively overcoming the world’s otherness and appropriating it as an embodiment of itself. This process of the will’s self-realization passes through several (ideal) stages developed in the respective chapters of the *Elements*: Abstract Right, Morality, and finally Ethical Life – or more precisely: the ethical state.

Other than Abstract Right or Morality, both of which are incomplete and one-sided realizations of the will’s freedom, the ethical state represents its adequate self-objectification. This status is manifested in two related properties of the political system outlined by Hegel. *First*, the ethical state represents the *structure of the will*, insofar as it consists in the mediation of a general and a particular moment of the will on the level of the political system: It integrates the general will (concretized in political and social institutions directed towards the common good) and the particular will (concretized in the private wills of the citizens) in a constitutional structure. *Second*, this specific structure constitutes the will’s *freedom in and for itself*.

Generally speaking, this dual function is accomplished as follows: In an ethical polity the institutional arrangement of the general will constitutes the foundation of the individuals’ freedom, who in turn acknowledge it as an expression of their own will and hence conceive themselves as free agents within the state. Accordingly, the individuals’ freedom has two components: a material component originating in the general will, which Hegel labels *objective freedom*; and a mental component originating in the particular will, labeled *subjective freedom*. The realization of freedom in an for itself thus

“consists in the unity of objective freedom, i.e. of the universal [allgemeinen] substantial will, and subjective freedom as the freedom of the individual knowledge and of the will in its pursuit of particular ends.” (§ 258 A)

In my view, this passage is the key for rendering Hegel’s theory fruitful for an analysis of the dilemma between the general and particular will. To back up this thesis, two argumentative tasks must be accomplished: First, it must be shown with Hegel that both objective and subjective components are indeed indispensable for the freedom of the individual will; second, it must be demonstrated that the concept of unity Hegel has in mind really allows for dilemmatic conflicts between both forms of the will.

Objective freedom is constitutive for individual autonomy in three senses: First, the state's social structure, especially family and civic society, enables individuals by means of education to act rationally and autonomously. Second, the exercise of autonomy is protected by basic rights, including property rights, freedom of speech, the right to a fair and public trial etc. And third, by providing social roles in the various spheres of society, such as father, juror or merchant, the polity sets the preconditions and parameters within which individuals can autonomously realize their life plans and personal projects.

The notion of subjective freedom is prefigured in the Morality chapter of the *Elements* as the “*right of the subjective will* [...] that whatever it is to recognize as valid should be *perceived* by it *as good*” (§ 132) – by which Hegel means that no individual can be considered free unless it reasonably conceives itself as free. The key concept regarding the realization of subjective freedom in the ethical state is Hegel's notion of “patriotic trust” which is to be understood both a sentiment and as the product of reflection (for a detailed analysis see Kaufman 1997): An individual develops trust if it lives in a socio-political order whose purpose is to advance its citizens' freedom and – reflecting upon these conditions – realizes that it is what it is (an autonomous agent with a personal identity, a life plan etc.) only qua member of this order. Thus, a trustful individual will be, as Hegel puts it, “*at home and with itself* in this *externality*” (§ 187 A), not perceiving the general will as a restriction but as a system of rational self-given laws.

The strong emphasis Hegel puts on the individuals' identification with the general will, most prominently in his statement that “the destiny [*Bestimmung*] of individuals is to lead a universal life” (§ 258 A), might suggest that the notion of subjective freedom is in truth only a ‘masquerade’ for the systematic subordination of particular ends to the general will. The respective thesis – which is, oddly enough, not only advocated by ardent Anti-Hegelians such as Popper (1954) or Berlin (2003) but also by contemporary proponents of his theory like Neuhauser (2000) – would be that in a state of Hegelian design individuals were subjectively constituted to willingly sacrifice their own (vital) interests to the benefit of the state. If this thesis were correct, my endeavor of applying Hegel's theory for analyzing a dilemma between the general and particular will would have to be abandoned; Hegel's theory would then be nothing but a variation of the abovementioned communitarian position.

In my view, this interpretation can be repudiated with reference to Hegel's annotation to § 261 where he discusses the relation between collective and individual welfare in the state. Here, he states

“that the moment of particularity is also [ebenso] essential [as the moment of universality], and that its satisfaction is therefore entirely necessary”.

Simply quoting Hegel concerning this difficult issue won't obviously do the trick, but there is strong systematic evidence for taking the abovementioned statement seriously. As I have pointed out in my discussion of Hegel's concept of the will: It is the *individual* will that adequately realizes its freedom in the ethical state – which means that the latter must preserve those features that constitute the will's individuality, that is, its *particular* determinations. Hegel himself picks up this thought in the chapter on Ethical Life where he writes that in an ethical state

“the individual attains actuality only by entering into *existence* [Dasein] in general, and hence into *determinate particularity*” (§ 207).

These considerations lead him to formulate a fundamental requirement for the constitution of the ethical state which illustrates the kind of unity of both forms of the will Hegel has in mind, namely that

“the universal does not attain validity or fulfillment without the interest, knowledge, and volition of the particular, and that the individuals do not live as private persons merely for these particular interests without at the same time directing their will to a universal end” (§ 260).

It is noteworthy, though, that Hegel refers to this requirement as an “ought [Sollen]” (cf. § 261 A). This indicates that he does not consider the mediation of both forms of the will as a permanently established feature of the ethical state but rather as process in which citizens constantly strive to attain balance.

Now the stage is set. If we assume the fundamental requirement, that in an ethical state the universal shall not be achieved “without the interest [...] of the particular” and vice versa – because both forms of the will constitute equally important aspects of freedom in and for itself –, then we receive the theoretical foundations to underpin our intuition about the occurrence of a dilemma in the terrorist scenario. The reason for the dilemma is simply that the Hegelian requirement cannot be fulfilled: The scenario is structured such that the mediation between the general and particular will cannot be accomplished and that the chancellor is forced to favor one of the wills – although both represent claims of equal moral standing.

At this point it seems appropriate to pause for a moment and consider the implications of this conclusion for the plausibility of Hegel's political theory in general. As I see it, the capacity of Hegel's *Elements* to explain the grounds for the dilemma (a task at which liberalism and communitarianism both fail) shows that his theory is capable of connecting with our moral intuitions and at the same time elucidating our normative self-conception as citizens of a modern state. This lends new credibility to Hegel's thought and suggests that he ought to be taken seriously in current debates on political philosophy.

But still, even if Hegel's theory successfully accounts for our moral intuition and allows for the *diagnosis* of the terrorist scenario as a dilemma, the question remains, whether it also provides a *decision criterion*. Prima facie, this question is a little puzzling, since I have emphasized that the scenario is characterized as a situation in which the mediation of both forms of the will cannot be accomplished – regardless of how one decides. It seems that the theory of the ethical state is suitable for diagnosing the conflict situation as a dilemma, but precisely not for decision-making

This view, however, is based on an abstraction: At this juncture, the dilemma is considered as a *singular situation* in which the options are exclusively evaluated concerning the integration of the general and particular will in this particular instance. In fact though, the dilemma is not an isolated singular situation but (just) one occurrence within the ethical state, which is – as a socio-political structure persisting through time – designed for the *continuous* integration of both forms of the will. The dilemma cannot be understood independently from this process because the normative and ontological conditions of the ethical state make its occurrence possible in the first place. Thus, the options must also be evaluated concerning their impact on the institutionalized integrative process as a whole.

Considered from this angle, one alternative in the scenario suddenly shines out as the better one: If the firing order is not given, the process of integrating the general and the particular will fails permanently because its institutional foundations are destroyed by a nuclear catastrophe; if, however, the order is given, the process suffers a (major) setback but can be continued since its foundations are preserved. The latter alternative is obviously preferable – thus, the chancellor must give the order to shoot down the passenger jet.

Deciding the dilemma in accordance with this criterion, however, comes with a concession. One concedes not to have settled the conflict on the basis of the opposing claims in the dilemma *itself* – that is, by showing that one claim is morally more significant and hence trumps the other – but by judging the dilemma with regard to its consequences for the continuous process of integrating the general and particular will. This implies that the dilemma is indeed not *solved*. Rather, as I would like to conclude, it is '*aufgehoben*' in the Hegelian sense. This means that the dilemma is identified as the moment of a superordinate context, the ethical state *qua* reconciliatory structure, and settled in favor of its preservation, which means that it is *negated*. Nonetheless, the dilemma's significance is *preserved* by conceding the legitimately inextricable conflict between both forms of the will in the concrete situation. Ultimately, Hegel's theory does not grant us a 'moral absolution' for dealing with dilemmas between the general and particular will such as the terrorist scenario; however, it provides the opportunity to make a responsible and reasonable choice.

REFERENCES

- Berlin, I. 2003, *Freedom and its Betrayal*, Princeton: Princeton University Press.
- Dworkin, R., 1977, *Taking Rights seriously*. Harvard: Harvard University Press.
- Hegel, G. W. F., [1820] 1991, *Elements of the Philosophy of Right*. Edited by Wood and translated by Nisbet. Cambridge: Cambridge University Press.
- Kymlicka, W., 1997, *Contemporary Political Philosophy*. Oxford: Oxford University Press.
- Nagel, Th., 1979, "The Fragmentation of Value" in Nagel *Mortal Questions*. Cambridge: Cambridge University Press, pp. 128-141
- Neuhouser, F., 2000, *Foundations of Hegel's Social Theory*. Harvard: Harvard University Press.
- MacIntyre, A., 2003, *After Virtue*. Notre Dame: University of Notre Dame Press.
- Nozick, R., 1974, *Anarchy, State, and Utopia*. Cambridge: Cambridge University Press.
- Popper, K. R., 1954, *Die offene Gesellschaft und ihre Feinde*. Tübingen: Mohr Siebeck.
- Rawls, J., 2005, *A Theory of Justice*. Harvard: Harvard University Press.
- Rousseau, J. J., [1762] 2001, *Du Contrat Social*. Paris: Flammarion.
- Sandel, M. J., 1982, *Liberalism and the Limits of Justice*. Cambridge: Cambridge University Press.
- Sinnott-Armstrong, W., 1988, *Moral Dilemmas*. Oxford: Blackwell Publishers.

