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HEGEL ON CIVIL DISOBEDIENCE

Since the Second World War Hegel has had a bad press from liberal political philosophers. His critics have seen his organic metaphors as evidence of totalitarian collectivism. According to SIR KARL POPPER, Hegelianism represents the “renaissance of tribalism”, the “missing link between PLATO and more modern forms of totalitarianism”.¹ In the face of such criticism it is necessary to assert that, unlike PLATO, Hegel does not advance a theory of political obligation. Hegel does not see the role of the political philosopher as that of writing the blueprints for the perfect constitution. Philosophy is essentially descriptive. The *Philosophy of Right*, says Hegel, “containing as it does the science of the state, is to be nothing other than the endeavour to approach and portray the state as something inherently rational . . . The instruction which it may contain cannot consist in teaching the state what it ought to be; it can only be shown how the state, the ethical universe, is to be understood”. (PR. 11) As such the *Philosophy of Right* neither tells the citizen what he ought to do nor how the state ought to be. Instead, it tells us what it is to be a rational and free moral being. This, nevertheless, entails a description of what it is to be a member of a rational and free state. Such a state is one in which free citizens conscientiously and subjectively accept the laws and institutions of the state. Hegel’s account of the rational state does not tell us that we ought to accept the laws and customs of any given state; he simply draws attention to the fact that we cannot be free in any state unless we accept them conscientiously rather than habitually; conscientiousness entails a level of mo-

References to Hegel’s text are abbreviated as follows: PR = *Hegel’s Philosophy of Right*. Translated by T. M. Knox. Oxford 1967; Enz. III = *Hegel’s Philosophy of Mind*. Translated by W. Wallace. Oxford 1971; PhG = *The Philosophy of History*. Translated by J. Sibree. New York 1946; GP = *Hegel’s Lectures on the History of Philosophy*. Translated by E. S. Haldane and F. H. Simson. London 1968; PW = *Hegel’s Political Writing*. Translated by T. M. Knox. Oxford 1964; FHS = *Fragments of Historical Studies*. Appended to Rosenkranz’s *Hegel’s Leben* and subsequently translated by H. S. Harris. In: *Clio*. 7 (1977), No 1, 113–134.

¹ *Sir Karl Popper: The Open Society and its Enemies*. Vol. 2. London 1966. 30–31.

ral and intellectual maturity in both the individual and the institutions of the state.

The liberal charge against Hegel is that he exaggerates the organic nature of the state and over-emphasises the individual's obligation to the community. But it is important to realize that Hegel offers an alternative to the liberal account of freedom and of the relationship between the individual and the state. For the liberal, the state is an external institution over and above the citizens, and consequently the concept of freedom presupposed by the liberal will be "freedom from the institutions of state control". But Hegel's state is one which provides the conditions for the development of subjective freedom. As such, conscientious freedom in the rational state cannot be based on abstract principles of freedom: "Principles of civil freedom can be but abstract and superficial", Hegel warns, "and political institutions deduced from them must be, if taken alone, untenable." (*Enz.* III.287) Political freedom is neither acquired by contract nor by dispensation; it is grounded in a society's traditions, expressed in its festivals, and maintained by its institutions. Hegel's concept of subjective freedom cannot be equated with liberal individualism. Atomistic subjectivism was an anathema to Hegel, a form of decadence leading to impoverishment of the personality. Thus his criticism of the Württemberg constitution was that the introduction of voting qualifications in a society with no democratic traditions would only serve to alienate the citizens from government. "The most striking thing about it is that, according to such dry abstract provisions . . . the electors appear otherwise in no bond or connection with the civil order and the organization of the state as a whole. The citizens come on the scene as isolated atoms, and the electoral assemblies as unordered inorganic aggregates; the people as a whole is dissolved into a heap." (*PW.* 262) For Hegel, subjective freedom is not freedom from social life; it is the freedom of the social individual. A free citizen can only develop a mature and many-sided personality if, and when, social conditions permit a harmonious interaction between public and private life. Liberal political philosophers acknowledge a place for the conscientious rebel, claiming that there is no place for him in the Hegelian state. But Hegel did not believe that a tradition-bound *Sittlichkeit* was the alpha and omega of moral commitment and his social philosophy can accommodate civil disobedience, since it is only in the highest state, the community of free persons, that civil disobedience would be out of place. In Hegel's philosophy the moral rebel holds a unique place. But to appreciate this it is necessary to see how his moral philosophy is linked to his philosophy of history, a doctrine of change and development, where rebels like CHRIST, SOCRATES,

and LUTHER are presented as the personification of the world spirit raising mankind to a higher level.

The existence of moral heroes is an indication that the community in question has not adequately developed the conditions of subjective freedom to their fullness. Thus in the *Philosophy of Right* we are told that moral heroes “come on the scene only in uncivilised conditions”. (PR. § 93, A; p. 245) The strength of moral conviction is, paradoxically, a testimony to the moral corruption of a society, drawing attention to an urgent need for a well-founded ethical order. Heroism and decadence are dialectically dependent upon each other. (Thus when BOB DYLAN singles out comedian LENNY BRUCE as a twentieth-century hero and praises him for neither robbing churches nor decapitating babies, his remarks should be interpreted as an ironic comment on contemporary moral decadence.)² Conversely, in the perfect state there would be no moral rebels since virtue would be habitual and, lacking its antithesis, non-existent. If a society has no corrupt officials there can be no heroic administrator who resists the offer of a bribe. The ideal of morally perfect state is rather like Hegel’s conception of the end of history. It is a methodological presupposition which underlies his account of the dialectic of history, according to which social morality progresses via antagonism and contradiction. For if the reconciliation of moral conflict is a driving force in history, then a society free from such conflict must be the desired end. Whether such a state can be realized is highly doubtful. Whilst Hegel praised the state where virtue and intellectual pursuits have become universally habitual he also recognized that the attainment of this goal meant the end of social existence. “It is true that a man is killed by habit, i. e., if he has once come to feel at home in life, if he has become mentally and physically dull, and if the clash between subjective consciousness and mental activity has disappeared; for man is active only in so far as he has not attained his end and wills to develop his potentialities and vindicate himself in struggling to attain it. When this has been fully achieved, activity and vitality are at an end, and the result—loss of interest in life—mental or physical death.” (PR. § 151, A; pp. 260–61) Just as the individual, on reaching moral perfection, has no further scope for meaningful existence, so a state on reaching maturity is exhausted and ripe for transcendence.

It is with reference to moral rebels and the conditions of subjective freedom and opposition to the prevailing *Sittlichkeit* that Hegel advances cr. te-

² “He didn’t rob any churches or cut off any babies heads”, *Bob Dylan: ‘The Ballad of Lenny Bruce’*. *Shot of Love*. CBS Recordings. 1981.

ria for the evaluation of differing cultures. Hegel is a relativist, but unlike many contemporary relativists, he offers criteria by means of which the values and practices of a given society can be criticised. Some communities can be criticised because they lack the organs for the expression of subjective disapproval. Others may be criticised precisely because there *is* subjective disapproval. Moreover, Hegel exhibits a superficial ambiguity in his attitude towards political dissent. On the one hand he sides with the moral rebel who assists the development of spirit, and on the other hand his sympathies may lie equally with the existing *Sittlichkeit*. His relativism is most apparent when he speaks of the problem of transplanting a constitution from one society to another, as NAPOLEON found in Spain. "A constitution is not something manufactured; it is the work of centuries . . . No constitution is just the creation of its subjects. What Napoleon gave to the Spaniards was more rational than what they had before, and yet they recoiled from it as from something alien, because they were not educated up to its level." (*PR*. § 274, A; pp. 286–87) This does not mean that each *Sittlichkeit* must be seen as the sole criterion of right although at times Hegel comes very close to this position. In the *Philosophy of History* he offers a lengthy and detailed criticism of oriental culture and religion. In ancient China, he says, equality without freedom entailed the despotism of a centralised emperor. (*PhG*. 124) India represented an improvement over China in so far as it exhibited a diversity of power, but from the criterion of free subjectivity was unsatisfactory in so far as its caste system "condemned the Indian people to the most degrading selfdom". (*PhG*. 144) Hegel's description of the ancient world might be seen as an inaccurate account by contemporary standards but it must be recognized that he was governed by his sources. What is of greater importance is that his criteria for assessing these cultures was based on the level of subjective freedom that could be attained within them. "In every rational state", says Hegel when criticising the Indian caste system, "there are distinctions which must manifest themselves. Individuals must arrive at subjective freedom, and in doing so, give an objective form to these diversities. But Indian culture has not attained to a recognition of freedom and inward morality . . . In a free state also, such diversities give rise to particular classes, so combined, however, that their members can maintain their individuality." (*PhG*. 144)

Hegel was equally critical of religious practices in the oriental world. The zoolatry of the Egyptians he found repulsive but nevertheless superior to cultures in which the sun and the stars were worshipped: "for in the brute world the Egyptians contemplated a hidden and incomprehen-

sible principle". (*PhG.* 211) It is interesting to note that Hegel employs the organic-inorganic distinction as a criterion for the assessment of cultural development. This distinction is a relatively modern one. Even today there are residual animistic conceptions. Children, for example, are often unaware of the conceptual distinction between organic and inorganic nature. The organic realm has a conceptual priority, which means that for many children (and in primitive cultures) the behaviour of clouds, fire, and stones, can be explained in terms of the internal drives and purposes that motivate humans. For Hegel a deity represented by the organic world was a marked improvement upon one represented by inorganic matter since the former exhibits a degree of purposive freedom. As he says with reference to the ancient Egyptian practice of deifying cats: "A black tom cat, with its glowing eyes and its now gliding, now quick and darting movements, has been deemed the presence of a malignant being." (*PhG.* 211) This might reflect a curious criterion for ranking zoolatry over sun-worship, but Hegel's point is that there are conceptual links between zoolatry and more sophisticated religions which recognize the important distinction between organic and inorganic phenomena. Furthermore, Hegel is here stressing the superiority of a religion whose deities manifest a greater degree of freedom than those represented by purposeless inorganic matter.

Much of what Hegel says about primitive cultures could be disputed. Some of the practices and belief-systems Hegel describes in his *Philosophy of History* would not be deemed to be correct from the standpoint of contemporary research in archeology and anthropology. But what is of lasting value is Hegel's commitment to a principle of progress in the development of spirit. This progress is not necessarily chronological; it is organized by the philosopher-historian and measured according to criteria for subjective development and personal fulfilment. Thus the Christianity of the Middle Ages is condemned for its repressive and deforming inhumanity. In contrast the ancient Bacchanites are applauded in so far as they enhanced the integration of free persons. "The unbridled imagination of women in the Middle Ages raged about in the chastliness of witchcraft, in the attempt to practice petty envy and revenge on others, and has brought them to the funeral pyre. To Greek women in the Bacchanalian festivities a permissible room for free play was allowed. After the exhaustion of body and imagination there followed a quiet withdrawal into the circle of ordinary feeling and traditional life. The wild maenad was for the rest of the time a reasonable woman. On the one hand witches, on the other maenads; in the one case the object of phantasy is a devilish grimace (*fraz-*

ze), in the other a beautiful, vine-bedecked God; in the one socialized satisfaction of envy, of the desire for revenge and hate, in the other nothing but purposeless pleasure often verging on raving madness; in the one progress from individual attacks of insanity to total and enduring derangement of the mind, in the other withdrawal into ordinary life; in the first case the age did not consider this displaced madness as an illness but a blasphemous outrage which could be atoned only with the funeral pyre, in the second the need of many female phantasies and temperaments was something holy, the outbreak of which gave occasion for holidays, something which was sanctioned by the state and thereby given the possibility of being innocuous." (*FHS*. 9) This integration within the Greek world contrasts sharply with the divisive and pathological treatment of women in the Christian societies of the Middle Ages. The importance which Hegel attaches to free interaction and integration in the above comparison between the ancient and medieval period reveals how far removed is Hegel's conception of subjective freedom from modern individualism. For even in modern democracies the tendency is to speak of minority groups 'opting out', removing themselves from the state, of black and feminine separation, rather than free integration.

Unlike PLATO and ARISTOTLE, Hegel's comparative analysis of states is not undertaken with a view to selecting the most stable and desirable form of political organization. Concluding a comparative survey of the ancient world he warns against the prejudice in favour of duration, as if it gave any advantage as compared with transience: "the imperisable mountains are not superior to the quickly dismantled rose exhaling its life and fragrance". (*PhG*. 221) The survival of Chinese and Indian cultures does not provide grounds for ranking them above those of the transient Persian, Greek, and Roman cultures which were in turn superseded by the Christian Germanic states. "The Persian Empire", says Hegel, "exhibits a higher grade than those worlds immersed in the natural", since earlier cultures fail to exhibit the appropriate institutions for the development of subjective freedom. (*PhG*. 221) Thus: "It is only when dead that the Chinese is held in reverence. The Hindoo kills himself – becomes absorbed in Brahm – undergoes a living death in the condition of perfect unconsciousness – or is a present God in virtue of his birth. Here we have no change; no advance is admissible, for progress is only possible through the recognition of the independence of spirit. With the 'Light' of the Persians begins a spiritual view of things, and here spirit bids adieu to nature." (*PhG*. 221–22) Only in the Greek city states do the conditions for subjective freedom develop. But the political and religious consciousness

out of which it developed was unreflective and habit bound. Hegel thus characterises SOCRATES as a moral hero who gives expression to a principle of subjective rationality that was in the air following the fall of the Thirty Tyrants. But to grasp the significance of Hegel's interpretation of the effect of Socratic irony on the Greek mind, one must first understand that, for Hegel, ethics is characterised by a tension between customary morality (*Sittlichkeit*) and subjective morality (*Moralität*). SOCRATIC demands for a rational foundation for the current ethical and religious institutions reflected a transition from the natural immediacy of customary morality towards a more rational subjective morality. However, the expressions "*Sittlichkeit*" and "*Moralität*", like many of Hegel's correlative pairs, have a relative meaning. In the *Philosophy of Right*, for example, subjective morality is best understood as an abstract and one-sided standpoint reflected in KANT's ethical formalism, lacking any concrete social background or moral tradition. When a higher form of customary morality transcends subjective morality, it fulfills a need for a rational social order where rational institutions and laws provide the content for conscientious conviction. In the *Lectures on the History of Philosophy*, however, in placing emphasis on subjective morality, SOCRATES is portrayed in opposition to a form of customary morality which has no provision for subjective approval, being characterised as a natural, half-instinctive, ethical system that rests on obedience to established custom. It is apparent in Hegel's treatment of the trial and death of SOCRATES that the one-sidedness of the SOCRATIC principle would be overcome only in a higher form of customary morality, the rational state, where the individual would be reconciled with its laws and customs. This was not to be attained in the Greek world, and Hegel shows that any attempt to retain the existing customary morality must lead to repression. Furthermore, the incompleteness of the SOCRATIC principle, its tendency towards the isolation of the individual from the community, heralded the destruction of those virtues which distinguished the Greeks from other cultures. The personal tragedy of SOCRATES is thus, for Hegel, a reflection of both the zenith and nadir of Greek cultural life.

Hegel captures the spirit of the SOCRATIC revolution in the *Philosophy of History*, when he remarks that: "SOCRATES is celebrated as a teacher of morality, but we should rather call him the *inventor* of morality. The Greeks had a customary morality; but Socrates undertook to teach them what moral virtues, duties, etc., were. The moral man is not he who merely wills and does what is right – not merely the innocent man – but he who has the consciousness of what he is doing." (*PhG*. 269). Hegel's SOCRATES was an agent of the world spirit who gave expression to a rational subject-

tivity which had been nurtured by the Athenian *Sittlichkeit* that it was destined to destroy. Thus: "The rise of this inner world of subjectivity was the rupture with the existing reality." (*PhG.* 269) Hegel recognized that subjective freedom is essential to any free state and that its time was ripe when SOCRATES gave expression to it. Nevertheless, it was incompatible with the Athenian state and its institutions. In the *Philosophy of Right* Hegel draws a comparison between NAPOLEON's attempt to provide a rational constitution for Spain and the Socratic revolution. "Isolated individuals may often feel the need and the longing for a better constitution, but it is quite another thing, and one that does not arise till later, for the mass of the people to be animated by such an idea. The principle of morality, of the inner life of SOCRATES, was a necessary product of his age, but time was required before it could become part and parcel of the self-consciousness of everyone." (*PR.* § 274, A; p. 283) Hegel therefore sees in SOCRATES a living contradiction within the Athenian state. As a citizen of Athens, SOCRATES performed his duties, attended religious ceremonies, upheld the laws, and participated in military service. But it was duty without conviction: "it was not the actual state and its religion, but the world of thought that was his true home". (*PhG.* 279) Seeking a rational foundation for natural piety and family loyalty, SOCRATES contributed to the weakening of these fundamental institution of Athenian morality. Before SOCRATES religious practices were conducted out of a sense of necessity; after SOCRATES "the question of the existence and nature of the gods came to be discussed". (*PhG.* 270) His followers went so far as to call for the banishment of HOMER and HESIOD to make way for a more rational expression of religion. Hegel was in no doubt that whilst SOCRATES gave expression to a revolutionary watershed in Greek thought, like any other revolutionary movement, it was not without its regressive tendencies. "Many citizens now seceded from practical and political life, to live in the ideal world. The principle of SOCRATES manifests a revolutionary attitude towards the Athenian state; for the peculiarity of this state was, that (*Sittlichkeit*) customary morality was the form in which the existence was moulded, viz., – an inseparable connection of thought with actual life." (*PhG.* 270)

In so far as the SOCRATIC revolution inspired a retreat from political involvement, Hegel saw it as a pathological development. Despite his praise of SOCRATES in the *Early Theological Writings*, where JESUS is compared unfavourably with SOCRATES for his apolitical stance and fixation over the number of disciples, the twenty or so pages devoted to the trial and death of SOCRATES in the *Lectures on the History of Philosophy* are a brief for the prosecution. In fact Hegel was one of the first philosophers to examine how the

SOCRATIC revolution must have appeared to the Athenians, and his analysis of these events marks a sharp contrast with liberal interpretation of SOCRATES as a rugged individual defying the dictates of a repressive democracy. From the standpoint of the Athenians SOCRATES was rightly found guilty at his trial and his execution following his refusal to recognize the legitimacy of the court was in accord with the existing principles of justice. Says Hegel: "The sentence bears on the one hand the aspect of unimpeachable rectitude – inasmuch as the Athenian people condemn its deadliest foe – but on the other hand, that of a deeply tragical character, inasmuch as the Athenians had to make the discovery that what they repudiated in SOCRATES had already struck firm root among themselves, and that they must be pronounced guilty or innocent with him. With this feeling they condemned the accusers of SOCRATES, and declared him guiltless. In Athens that higher principle which proved the ruin of the Athenian state, advanced its development without intermission." (*PhG*. 270)

According to Hegel, SOCRATES is a tragic hero caught between two world-views at the point of transition. As a world-figure SOCRATES is presented as one who pursued his own moral ends, but it would be incorrect to portray him as one who consciously and knowingly chose a morality that would be adopted by future generations. As Hegel recognized, the belief that one could design a new morality and put it into practice, is a piece of Enlightenment nonsense, akin to jumping over Rhodes. (*PR*. 11) A moral innovator can be as such only if he or she chooses and acts in accord with the direction of the *Zeitgeist*. Charles TAYLOR speaks of world-figures "seeing through a glass darkly"³ but even this small amount of foresight may be unnecessary. What matters is that a condition of the eventual recognition and acceptance of moral innovations is that they fall within the direction of the ethical drift. There is an analogy here with linguistic and also technological innovators who are seen as such because their particular contributions actually reflect the universal drift of linguistic or technical development. It is for this reason that the scope for premature inventiveness is closely circumscribed. MENDEL can only nowadays be recognized as being premature because his work lay in the direction of scientific development. For similar reasons not anyone can be an ethical hero or martyr. As Hegel says: "the laurels of mere willing are the dry sticks that never were green". (*PR*. § 124, A; p. 252) There is an internal relationship between prematurity and ultimate recognition, between intention and

³ Charles Taylor: *Hegel and Modern Society*. Cambridge 1979. 123.

completion. It is clear that WITTGENSTEIN was thinking on similar lines to Hegel when he said that "if someone is ahead of his time, it will catch up with him one day"⁴. SOCRATES was a moral hero who was ahead of his time, but it was precisely because the Athenians had moved in that direction that he was to be recognized as a hero and subsequently honoured.

Nevertheless, SOCRATES's opposition to the democracy of his time has been hailed as a piece of heroism by opponents of democracy from PLATO onwards. Hegel presents SOCRATES as a hero, but it is not for his disdain for democracy which is contrasted unfavourably with that of PERICLES who went to the people to save the lives of ASPASIA and ANAXAGORAS. Moreover, SOCRATES's negative attitude towards the Athenian *Sittlichkeit* is contrasted with *Antigone*, a dissident whose principles reflected the zenith of Athenian culture, and whose death represented true spiritual resignation and humility:

"If it seems good unto the gods, suffering,
I may be made to know my error."

Here *Antigone* is fully integrated with the Greek *Sittlichkeit*, whereas the subjective morality of SOCRATES was at variance with it. The death of SOCRATES was an act of defiance rather than passive acceptance of the will of the people. In PLATO's account, however, there is an apparent tension between the defiant stance taken by SOCRATES at the trial and his later decision to accept the terms of the sentence. Thus in the *Apology* (29 D) SOCRATES says that if discharged on condition that he gives up philosophical questioning, he would disobey, whereas in the *Crito* (50 B) he argues that one should obey the laws even if, in a particular case, the decision was unjust or mistaken. According to A. D. WOOLEY, this apparent contradiction can be resolved if we consider that "what in the *Apology* SOCRATES is prepared to do against the court is not the same as what in the *Crito* he is not prepared to do against the court".⁵ In the former case he merely reserves the right to criticise the laws; in the latter he is repudiating the practice of disobeying the law. But this account makes the philosophical questioning of SOCRATES appear as a rather light-weight matter, in keeping with the trivial status assigned to contemporary philosophical inquiry. WOOLEY's SOCRATES is a rather harmless old dissenter, insisting on the right to debate the pros and cons of a piece of legislation whilst continuing to act in accordance with it. Commenting on SOCRATES's, statement to the court

⁴ L. Wittgenstein: *Culture and Value*. Oxford, 1980. 8.

⁵ A. D. Woolley: *Socrates on Disobeying the Law*. In: *The Philosophy of Socrates*. Edited by G. Vlastos. New York 1971. 307.

– “I shall never give up philosophising, and both exhorting you and demonstrating the truth to you” (*Apology* 29 D) – WOZZLEY concludes: “This is civil-disobedience indeed, but of the kind that stays and attempts to change by means of reason and does not try to escape the legal consequences of doing it; not the kind that uses violence, or tries to dodge the law by escaping.”⁶

WOZZLEY’S account resolves the tension between the *Apology* and the *Crito* in the sense that SOCRATES can be seen to be consistently upholding the Athenian constitution. Hegel’s approach, however, is radically different. According to Hegel, SOCRATES was consistently defiant both at the trial and in his determination to die, fully aware that his death would ultimately be bound up with the destruction of the Athenian *Sittlichkeit*. WOZZLEY’S SOCRATES is a dissenter within a period of established and widely accepted political ideas and institutions; Hegel’s SOCRATES is caught up in a revolutionary transition from one moral system to another, where established political and religious institutions are in a state of crisis. SOCRATIC questioning revealed a lack of confidence in the Athenian moral system and its institutions, and his sentence is to be understood as a reaction from those who had (correctly or incorrectly) identified the cause of their insecurity with the philosopher who had revealed it to them. From the standpoint of the Athenians: “both these things done by SOCRATES (impiety and corrupting the youth) were destructive . . . while in our constitution the universal of the state is a stronger universal, which last undoubtedly permits of individuals having freer play, since they cannot be so dangerous to this universal. Hence it would undoubtedly in the first place mean the subversion of the Athenian state, if this public religion on which everything was built and without which the state could not subsist, went to pieces . . .” (*CP*. 429)

SOCRATES’S questioning of family piety and the public religion, however well-intentioned, struck at the foundations of the old world-view. The threat presented by SOCRATES was not that of a radical reformer like ALLENDE whose death was deemed to be necessary for the success of a right-wing junta. Nor did SOCRATES pose the threat of a revolutionary doctrine for the masses of the kind proposed by LENIN or LUXEMBURG. Still less was it a proposal, like PLATO’S, for a ruling elite of philosophically trained tyrants. Instead SOCRATES simply reflected the stark fact that the very need for the foundational support of the existing morality was an indication that it was defunct. As far as the Athenian state was concerned, the owl of

⁶ Ibid. 307–308.

MINERVA had packed her bags and left. For once it was revealed that fundamental ethical institutions stood in need of rational foundations their natural necessity was lost. A moral system based on rational foundations would, of necessity, entail different social institutions. The prosecutors of SOCRATES had deceived themselves into thinking that by silencing a philosopher they could prevent social disintegration. But all that SOCRATES had done was to bring home the truth that the existing system was ripe for transcendence. SOCRATES was a voice of revolution that did not find it necessary to escape or rely on an elite of revolutionary disciples. As an Hegelian hero he simply reflected that which already had become actual, even though it may not have been fully recognized at the time. To bring home to the Greeks the truth of what he stood for, SOCRATES resolved to die a martyr's death. According to Hegel, the submission of SOCRATES to the execution confirmed the rightness of his defiance at the trial. His death was not an acceptance of a just punishment for conducting philosophical inquiry, but rather the conclusion of a philosophical argument in his favour. What many commentators overlook is the fact that SOCRATES had resolved to die, and that his death would bring down his opponents. Consequently, the arguments in the *Crito* should be seen as an attempt by SOCRATES to reconcile his friends to a course of action he had already decided upon, rather than an explicit defence of his own position.

There is evidence that the state was reluctant to kill SOCRATES.⁷ By insisting on his execution, SOCRATES had not only maintained the defiant stance of the *Apology*; he had exposed the inherent weakness of the Athenian state. Creating the conditions whereby a virtuous state must kill a virtuous man, SOCRATES thus revealed the limitations of customary morality. From now on right would have to rest on rational necessity. For if the martyrdom of SOCRATES was not to be repeated the individual's integration with the state could no longer be unreflective and immediate. SOCRATES knew that his death would help to bring about this awareness. XENOPHON records how, after receiving sentence of death, SOCRATES saw ANYTOS, his prosecutor, walk by, and commented: "That man is proud as if he had done a great and noble act in putting me to death. . . He does not seem to realize which one of us has performed the better and nobler deeds for the future, and is the real victor."⁸

Had SOCRATES escaped or chosen exile there was a high probability that he would have been later reinstated, as in the case of a conscientious

⁷ Sir Karl Popper: op cit. 193.

⁸ Xenophon: *The Defence of Socrates Before the Jury*. 29.

objector to a war or policy that is later recognized as unjust. The state might have apologized to him and even paid the reward he had demanded at his trial. But all of this would have been contingent. SOCRATES knew that in the manner of his death the confirmation of his virtue would be necessary. By obeying the law and submitting to a sentence that history would inevitably pronounce as unjust, SOCRATES was to achieve both a moral and a political victory over his prosecutors. The Greeks of a new generation were to see him as a moral hero, and this was how posterity came to see him. "His own world cannot comprehend SOCRATES", says Hegel, "but posterity can insofar as it stands above both". (GP. 444) Likewise, XENOPHON has SOCRATES state that "the future and the past will testify that I never wronged anyone and never made a man evil".⁹ Presenting the trial and death of SOCRATES as a clash between two ethical world-views, Hegel sees in SOCRATES'S appeal to posterity an ultimate reconciliation in a higher *Sittlichkeit* where the right of subjective consciousness will be vindicated. However, from the standpoint of the participants in this tragic conflict – to which Hegel gives equal consideration – the wider issues and process of social change were hidden. Only the philosopher-historian, equipped with the hindsight of the present, can offer a complete story of the unfolding conflict. SOCRATES had an instinct for the direction of the world-spirit: despite his refusal to play the role of rhetorician to the jury he nevertheless played it to the gallery of posterity. The death of SOCRATES indicated the seriousness of the social forces he represented. Anything demanding less than death could not have met the criterion for revolutionary change, and for that reason he resolved to die.

Presenting the trial and death of SOCRATES in this manner Hegel may not accurately depict the actual facts of the case – although his reporting of these events is carefully detailed. Hegel's main point, however, is to draw attention to a logical bond between the success of a moral revolution and the death of those who give expression to it. Martyrdom is portrayed as a logically necessary precondition of social revolution. A revolution that is serious enough to create martyrs in one that is capable of victory. The execution of SOCRATES thus heralded the beginning of a new era. The old order had duly recognized the forces that were to replace it and had obligingly discredited themselves in their execution of one of the heroes of the new order. In the questioning voice of SOCRATES philosophy had arrived to depict the end of the old ethical order. In time his executioners were to be

⁹ Ibid. 26.

tried, found guilty within the terms of the new ethical system, and consequently punished.

Hegel does not suggest that revolutionaries and martyrs are destined to supersede their predecessors in all cases, or that after the SOCRATIC revolution mankind progressed towards a superior level of rationality and ethical integration. He also recognized that it is possible for the old order to suppress and recuperate any challenge to its fundamental institutions. The dialectic of history does not reflect a necessary sequence from misery to happiness, from barbarism to civilization or from oppression to freedom. "History", says Hegel, "is the slaughterbench of human happiness." The dialectic of history is no more an unbroken ascent to heaven than it is a parade of human folly. There is a principle of evaluation in Hegel's history of philosophy. In Hegel's account of the trial and death of SOCRATES we can see this principle at work; that an essential yardstick of evaluation is the degree to which a citizen of any community must freely and conscientiously feel integrated with its institutions. Nevertheless, even when the conditions of the ideal state do not exist the principle of evaluation applies: a state with moral heroes who are openly at logger heads with the authorities, is a great improvement over unreflective barbarism.

From Hegel's standpoint, taking into consideration the historic background to the trial and death of SOCRATES, and the latter's repudiation of democratic institutions, the execution of SOCRATES was justly carried out. But does not this suggest that Hegel ultimately approves of the final sanction of state coercion – capital punishment for political dissent? Apparently not. His remarks on the death penalty and his attitude towards public executions, which were published in an appendix to ROSENKRANZ'S *Hegel's Leben*, are extremely critical of judicial execution, not merely because it brutalises both the state and the public but because it runs counter to a moral regard for subjective freedom which, argues Hegel, should extend to convicted wrong-doers. Hegel's regard for subjective right is therefore at its strongest in the following phenomenological account of public execution. "What is it in a execution that immediately strikes the eye, and what sensation is occasioned by this phenomenon? What strikes us is an unarmed bound man, surrounded by numerous guards, who is held by disreputable henchmen, who is brought out completely defenceless amid the summons and prayer of clericals who cry out to the offender in order to drown consciousness of the present moment. This is how he dies. The soldier who is mowed down by another, or who, met with invisible lead, falls to the ground, does not awaken in us the same sensation

which execution of the offender brings about. I think that in this last moment what we sense is that a man's *right of defending himself for his life* has been taken away from him. The man who dies in battle with another can be pitied by us, but such death does not vex us like death by execution, for one who dies in battle has exercised his natural right to defend his life. Moreover, he fell only because the other man asserted the same right. The feeling of indignation upon seeing a defenceless man executed by, even worse, a superior number of armed men fails to be transformed among witnesses into rage only because the *pronouncement of the law* is sacred to them. But this representation is not capable of entirely representing that feeling, which arises as a first impression. If hangmen are admittedly servants of justice, still this bare representation has been incapable of suppressing the general feeling which has branded with *dishonour* the calling or station of these men who are able to kill in cold blood a defenceless man here before the gaze of the entire people, who perform their service here just like unseeing tools, similar to the wild animals to which criminals formerly were thrown." (FHS.13) Two important points arise out of this passage: first, that for Hegel an individual has an intrinsic moral right to self-defence – even a convicted wrong-doer in a rational state. Second, lawful execution is both unnatural and morally unjustifiable and those who participate in them, even if they are lawfully appointed, are dishonourable. Moreover, the gruesome practice of execution – either public or private – has no place in Hegel's rational state, since the point of punishment is to bring about a reconciliation between the wrong-doer and the law and is not a means of eliminating wrong-doers or deterring potential wrong-doers. Thus with reference to the Greek *Sittlichkeit* Hegel says: "Among the Greeks I do not know public executions to have existed. Socrates at least drank of the poisonous cup in prison, and Orestes, according to Euripedes, is said also to have consummated his self-chosen method of death." (FHS. 13) A rational *Sittlichkeit* would have no need for deterrants and public spectacles. "The asserted necessity of cruel and public penalties proves on the whole nothing more than the little confidence which the lawgiver and judge could place in the ethical feeling of their people". (FHS. 13)

But what of the objection that if executions are not publically demonstrated a despotic state would have considerable powers to silence its opponents behind closed doors? In an era when governments are increasing their powers to suppress dissent and subjective freedom is under attack, Hegel's reply should be welcomed by champions of the democratic tradition of free access to law and open government. "In any state in

which a court not chosen from amidst the people passes judgement behind closed doors on the life of a fellow citizen, nothing is so much to be wished for the subjects than this shadow of importance attached to the voice of the public be retained, for the court justifies itself prior to public execution in the eyes of the public as if (guilty) because of the sentence it has already passed, which is read off along with the grounds. But in states in which the citizen has the right to be judged before his peers, where everyone enjoys free access to the courtroom, this inconvenience would fall away." (*FHS*. 13)