

Hegel's Philosophy of Right and the European Debate on the Nature of the Constitution

Report on the colloquium held at Bochum, 19–22 September 1984

THE colloquium was the first full-scale collaborative venture by the Hegel-Archiv at the Ruhr-Universität Bochum and the Centre de Recherche et de Documentation sur Hegel et sur Marx at the University of Poitiers. Apart from nine staff members of the Hegel-Archiv and eight French scholars associated with the CRDHM, the colloquium brought together invited participants from Germany, Belgium, Ireland and the Netherlands, together with researchers from Japan, Poland, Spain and Turkey who were visiting the Hegel-Archiv at that time—about thirty participants in all. The twelve papers had been circulated beforehand, and their authors confined their oral presentations to about fifteen minutes each, to allow the maximum time for discussion. This arrangement worked exceptionally well.

In his welcoming address, Otto PÖGGELER, Director of the Hegel-Archiv, drew attention to the valuable contributions of earlier French scholars such as Eric Weil to the study of Hegel's theory of the state. He expressed the hope that their deliberations during the colloquium would help to place Hegel's evolving political philosophy in the context of the constitutional discussions under way throughout Europe in the wake of the Congress of Vienna, and that participants would shed light on the problem of the status as historical sources of the recently published transcripts of Hegel's lectures on political philosophy (by Wannenmann, Heidelberg 1817–18; Homeyer, Berlin 1818–19; anonymous, Berlin 1819–20).

The proceedings got off to a splendid start when Hans-Christian LUCAS (Bochum) presented a wide-ranging and well-documented paper on 'Hegel's understanding of the constitutional monarchy between Heidelberg and Berlin'. The paper began with a historical survey of the charge that Hegel adapted the key elements of his political philosophy to conform to the policies of the political authorities in Württemberg and Prussia, respectively. The high point of the campaign to discredit Hegel from a liberal perspective came when Rudolf Haym (in *Hegel und seine Zeit*, 1857) condemned not just the *Philosophie des Rechts* but the entire Hegelian system as the 'scientific summation of the spirit of the Prussian Restoration'. According to Haym, Hegel's identification of the *vernünftig* and the *wirklich* was 'the ultimate formula for political conservatism, quietism and optimism'. Some eighteen years earlier, however, K.E. Schubarth had published an essay denouncing the *revolutionary* and *anti-Prussian* nature of Hegel's political philosophy, with the vitriolic character of the attack probably dating back to a bitter exchange with Hegel in 1829. Schubarth condemned Hegel's constitutional monarchy as 'nothing more or less than a republic in

monarchical dress'. While acknowledging the important popularizing function of Hegel's lectures, Lucas strongly resisted the suggestion (made by Klenner and Henrich) that the published version of the *PhdR* contains 'only half the truth'. His close examination of the lectures on the topic of 'who is to devise the constitution, *das Volk oder wer anders*' (cf. *PhdR* §273, Knox p. 178) sought to demonstrate that Hegel's position on the constitution and the role of the constitutional monarch did not undergo any significant modification between 1817 and 1821. Lucas denied that Hegel made his ideas acceptable to the political authorities out of political ambition and questioned Ilting's thesis that, in the wake of the Karlsbad Decrees, Hegel effected a political volte-face and amended his manuscript of the *PhdR*, for fear of the official censor. This opening presentation excited a general discussion on some of the fundamental issues raised by the lectures: the importance of the perspective of the different transcribers; the extent to which Hegel's *Rechtsphilosophie* is speculative, historical, positive; a justification of the prevailing status quo or a defiant challenge to it.

Otto PÖGGELER covered some of the same ground in his paper on 'Hegel's encounter with Prussia'. With his usual meticulous examination of relevant documents from Hegel's time in Frankfurt, Jena, Nürnberg and Heidelberg, he argued convincingly that Hegel arrived in Berlin with a fully elaborated political philosophy which did not subsequently change in its essentials, and that he avoided contact with protagonists in Prussian politics (with the exception of the liberal minister von Altenstein), confining his circle of acquaintances, for the most part, to his students, a couple of Jewish business families, and some musicians and painters. Rather than join in the endless bickering over whether Hegel in Berlin was a liberal or a conservative (even if there were agreement on what these terms designate), he suggested that Hegel be thought of as a Württemberger 'old liberal', 'who refused to face up to the development of antagonistic classes (*Klassen*) in modern society, who put his money on the notables of the middle estate (*Stand*), and sought to organize this middle estate along the lines of the corporative tradition'.

The paper by Christoph JAMME (Bochum), on 'The self-education of the estates: Hegel's conception of civil representation in Heidelberg 1817–18', consisted of a close study of the pamphlet containing Hegel's comments on the Württemberg constitutional dispute of 1815–16 and of the Wannenmann transcript. He argued that Hegel's objective was mediation between the prince and the people, between the ruler and the ruled. The role of the educated middle estate (*Mittelstand*) was to realize a rational constitution. Cooperative associations (*Genossenschaften*) and corporations (*Korporationen*) formed the roots of a representative constitution. The Heidelberg lectures (1817–18) constitute Hegel's earliest account of his systematic *Rechtsphilosophie*, in which all citizens are brought together in estates, guilds (*Zünfte*) and corporations.

Rolf GRAWERT (Faculty of Law, Bochum) gave a paper which discussed in great detail and with great authority 'The constitutional question and legislation in Prussia:

a comparison of the pre-revolutionary (*vormärzlichen*) system of government with Hegel's concept of a philosophy of right'. Paul CHAMLEY (Strasbourg) spoke about Hegel's economic philosophy in the light of the recently published texts, with particular reference to Stuart and Galiani. Kurt Rainer MEIST (Bochum) discussed differences in Hegel's interpretation of the '*neuesten Zeit*' as his conception of world history developed. The paper by Walter JAESCHKE (Bochum) focussed on Hegel's controversy with Haller and Savigny, legal apologists for the Restoration. Wolfgang BONSIEPEN (Bochum) examined 'The attitude of Leopold von Henning (b. 1791) to the Prussian constitutional system'.

In what was one of the most enjoyable sessions of the conference, Jacques D'HONDT (Poitiers) considered Hegel's attitude to Napoleon, and the mystery of the *Manuscrit venu de Sainte-Hélène d'une manière inconnue: Mémoires de Napoléon Bonaparte*. The decisive moment in the downfall of Napoleon was his attempt to impose on the people of Spain 'an *a priori* constitution' which they refused to accept. Napoleon's own analysis of this episode, in the *Saint-Helena Manuscript* (published in 1817), is closely paraphrased in §274 of the *PhdR*: 'every nation has the constitution appropriate to it and suitable for it'. Napoleon found, to his cost, that there is no constitutional model that can be applied to all countries. He proclaimed his own mission in terms even more clearly Hegelian than Hegel himself: 'I assumed the throne [of France] to make the laws conform to custom (*les mœurs*)'. He then tried to be a modern Theseus, paying no heed to the individuality of national character; and he came a cropper. D'Hondt eventually let the cat out of the bag: the *Saint-Helena Manuscript* was probably written, not by Napoleon himself, but by Benjamin Constant and Mme de Staël, who had become Hegelianizing liberal Bonapartists, after the fall of the emperor.

In the course of his paper on the contrast between the representative system of Sieyès and Hegel's constitutional monarchy, Guy PLANTY-BONJOUR (Director of the CRDHM at Poitiers) noted that the whole purpose of the constitution, for Sieyès, was to protect the freedom of the individual against the encroachments of the state, while Hegel's constitutional aim, of course, was to integrate the individual into the organic state. For Hegel, the constitution is 'inviolable and holy'. While it cannot be changed radically, it must, however, be modified, as the *Zeitgeist* that it expresses changes. He blamed the horrors of the Terror on the constitutional vandals such as Sieyès. One of the particularly interesting aspects of the Wannenmann lectures is Hegel's use of the notion of representation: the monarch is the supreme representative of the people. Representation was central to Sieyès's system: 'it is identical with the very essence of social life'. Since people are born naturally unequal, only an elite is capable of governing. But the views of the two theorists on the nature and role of representatives were widely divergent: Sieyès was committed to the abolition of the corporations, while Hegel was convinced that recruiting representatives from outside the *Stände* (as had been done in France) is guaranteed to bring chaos. Their shared use of the notion of representation is deceptive: Sieyès was a modern bourgeois

individualist, while Hegel sought to locate the freedom of the citizen firmly within the state.

Ludwig SIEP (Duisburg) offered a very succinct paper on Hegel's theory of the separation of powers. He claimed that anyone studying the development of Hegel's political philosophy must be struck by, on the one hand, the continuity of the basic philosophical concepts and, on the other, the great flexibility of their application to concrete political institutions. This prompts a fundamental question: how 'elastic' must Hegel's principles of political philosophy be, if they are to be applied to so many disparate situations? He proceeded to elucidate the basic structure of Hegel's theory of the relations among the three powers within the state as it evolved between 1817 and 1820. He distinguished vertical separation of powers (districts, estates, state) from the more conventional horizontal separation between institutions with different functions. He was then in a position to tackle the question of how much *Spielraum* such a structure allows in different constitutional situations.

The paper by Adriaan PEPPERZAK (Nijmegen) on 'Moral aspects of Hegel's philosophy of right' generated a lively discussion. In the course of an admittedly very Kantian review of Hegel's discussion of duties and virtues in the section on *Moralität*, we heard that for Hegel peace is impossible and war is necessary, because of the nature of the modern world. Bernard BOURGEOIS felt strongly that this reading constituted a less than truly Hegelian *Aufhebung*.

The abiding lesson of the conference overall was that we must henceforth provide a much more differentiated account of Hegel's views on political and constitutional matters. The depth and breadth of Hegelian scholarship displayed by the other participants was most impressive throughout, even overwhelming at times. Personally, I found that rather a lot of the discussion was bound too tightly to the texts. I should have preferred a little less scholarship, perhaps, and a little more discussion of the philosophical issues raised by the texts.

The expenses of the colloquium were underwritten by the Thyssen-Stiftung. The hospitality was superb, the organization (by Hans-Christian Lucas) first-rate. The intimate setting greatly enhanced the value of the discussions, which often continued over lunch or well into the evening. The proceedings of this exhilarating colloquium will be published in book form: they should make for an outstanding volume.

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