

Spirit of Legality: Hegel's Critique of Law and Turn to Ontology in the Frankfurt Fragments

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Abstract. This paper is an attempt to investigate the relation between George Wilhelm Friedrich Hegel's critique of law in his early Frankfurt fragments, most notably in the treatise *Spirit of Christianity and Its Fate* and his turn towards an ontological conception of the unity of life and love as its modification. It will be argued that Hegel's ontological turn can only be understood in light of his rejection of law as the form of absolute opposition. The form of law, moreover, will be treated as the thread to understand the initial movement of Hegel's profound rejection of Kantian morality. Nevertheless, in following the Christian concept of *pleroma* that promises to fulfil law and proposing to think unification ontologically, Hegel discovers that law cannot be simply rejected, but pertains or arises out of the very unity that was said to surmount it. If Hegel begins from an opposition of law and being, these fragments reveal the extent to which he will have to think their relationship dialectically, as a contradiction pertaining to the Absolute.

Keywords: legality, *pleroma*, love, unity, negativity.

Įstatymiškumo dvasia: Hegelio įstatymo kritika ir posūkis į ontologiją Frankfurto fragmentuose

Santrauka. Šis straipsnis yra bandymas nužymėti santykį tarp jaunojo Georgo Vilhelmo Friedricho Hegelio Frankfurto laikotarpio veikalė *Krikščionybės dvasia ir jos likimas* pateikiamos įstatymo kritikos ir ontologinės gyvenimo vienovės bei meilės kaip gyvenimo modifikacijos koncepcijų. Siekiama parodyti, kad jaunojo Hegelio posūkis į ontologiją gali būti suvoktas tik iš įstatymo kaip absoliučios opozicijos formos atmetimo perspektyvos. Be to, įstatymo formos kritika čia pasirodo kaip pagrindinė linija, leidžianti apibrėžti pirmuosius Hegelio Kanto moralės kritikos žingsnius. Kita vertus, įsivesdamas krikščionišką sąvoką *pleroma*, žadančią išpildyti įstatymo formą, ir siūlydamas suprasti suvienijimą ontologiškai, jaunasis Hegelis, kaip bus bandoma atskleisti, atranda, jog įstatymas negali būti paneigiamas, bet randasi ar iškyla iš pačios ontologinės vienovės, turėjusios jį įveikti. Hegelis pradeda nuo opozicijos tarp įstatymo ir būties, o šie fragmentai atskleidžia, kodėl jis prieina prie dialektinės jų santykio sampratos kaip prieštaravimo pačiame Absolūte.

Pagrindiniai žodžiai: įstatymiškumas, *pleroma*, meilė, vienovė, negatyvumas.

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Young Hegel's Frankfurt fragments, most notably the treatise entitled *The Spirit of Christianity and Its Fate* (hereafter simply the *Spirit* essay), are deeply marked by the problem of law and its form. Although here Hegel seeks to re-evaluate the radicalism of the teaching of Jesus that he finds in the notion of *pleroma*, the fulfilment of law in love in opposition to Jewish legality, the problem of law that Hegel attempts to think here cannot be reduced to mere theological concerns. These fragments reveal Hegel's attempt to newly rethink the relationship between universality and particularity, between infinity and finitude, between the subject and object that already points to his mature philosophy. Here he not only first comes to explicitly reject Kantian morality and its emphasis on autonomy and the moral law, but also puts forth an ontology—inspired by Friedrich Hölderlin's "unification philosophy"—to show a possibility of life outside the form of law. But the link between Hegel's emerging ontology and the problem of law remains obscure. This paper is an attempt to inquire into their pivotal relation that marks Hegel's early thought.

I.

From his earliest fragments onwards, Hegel's main concern was the question of freedom, yet what interested Hegel were not the conditions of its possibility, as these were already grounded in Kant's practical philosophy, but rather the conditions of its actualization. To secure the actualization of freedom, young Hegel saw it necessary to circumscribe a new fabric of shared life as the actual ground of freedom that could, furthermore, surmount the mechanical social atomism at the heart of modernity. He sought to think of a way to actualize Kantian autonomy within the world and for this reason he turned to the question of religion, a religion of pure practical reason that could nevertheless soften its opposition to sensibility by ennobling it through beauty and imagination – this, simply put, was the crux of his conception of public folk religion, the ideal of which he found in the Greek polis. Nevertheless, such a cohesive function of public religion could only be maintained on condition that it did not contradict practical reason; after all, "the aim and essence of all true religion [...]" as Hegel maintained in Bern, "is human morality" (Hegel 1971: 68).

Yet as the aftermath of the French Revolution made apparent, freedom could not be actualized by casting it into the "dead" forms of laws and institutions. To grasp the failure of freedom's actualization, Hegel formulated the concept *positivity* (*Positivität*), with which, to simplify to the utmost, Hegel sought to circumscribe an abstract conception of law, pertaining to both the political and religious sphere, one that displaces man's capacity for autonomy and social relations to an external authority. Positive faith, in Hegel's view, commits an affront to reason, since it obfuscates and replaces its free self-determination or self-legislation in the form of moral law with the precepts and laws of a commanding authority. Positivity turns the active and self-legislating practical reason into a receptive and slavish faculty, "it does injury to the dignity of morality, which is independent, spurns any foundation outside itself, and insists on being self-sufficient and self-grounded"

(Hegel 1971: 79). That is to say, Hegel's initial project was broadly Kantian: to reclaim the dignity of morality, to restore autonomy as the basis of shared life.

In Frankfurt, however, Hegel begins to radically rethink his own Kantianism. Even though in his Bern writings Hegel accepted the Kantian distinction between mere legality and morality, and subscribed to his conception of autonomy in opposition to heteronomy, by the time of his Frankfurt period, he came to regard the "spirit" of Immanuel Kant's *Moralität* as the most insidious "letter" of the law. What made Hegel change his mind about the Kantian moral law as the remedy to positivity? As György Lukács pointed out, what Hegel rebels against in the Frankfurt writings is "the violation of living human beings by abstract moral injunctions, and dehumanizing division of man into mental and sensuous halves" (Lukács 1975: 153). That is, it is his attempt to circumscribe the specific heteronomy of positivity that led Hegel to question his own Kantianism. As we will see, what Hegel struggles to formulate here is the point at which both legality and morality meet, the very form of law, the form of unsurpassable diremption and opposition.

This shift can be most clearly discerned in a crucial passage of the *Spirit* essay. Paraphrasing a passage from Kant's *Religion within the Boundaries of Mere Reason*, Hegel writes:

between the Shaman of Tungus, The European prelate who rules church and state, the Voguls, and the Puritans, on the one hand, and the man who listens to his own command of duty, on the other, the difference is not that the former makes themselves slaves, while the latter is free, but that the former have their lord outside themselves, while the latter carries his lord in himself, yet at the same time is his own slave. For the particular—impulses, inclinations, pathologic love, sensuous experience, or whatever it is called—the universal is necessarily and always something alien and objective (Hegel 1971: 211).

Now autonomy comes to mask the most perverse heteronomy, since it rests on the division of the subject between master and slave. Although Kant managed to show how autonomy as pure self-legislation through the categorical imperative could be achieved, thus making morality possible, autonomy could only be secured in opposition to heteronomy and the categorical imperative could only be invoked at the price of splitting the subject between sensible and intelligible worlds, between *homo phenomenon* and *homo noumenon*. But to make matters worse, once it emerges from the division of the subject, the unity that the moral law asserts—and this is young Hegel's crucial insight—rests on a logic of subjection of particularity under universality. In light of this, Hegel reformulates his conception of the Kantian practical reason as the faculty of "the subordination [*Unterjochung*] of the particular under the universal – the victory of the universal over its opposed [*über sein entgegengesetztes*] particular" (Hegel 2020: 79, my translation).

Hegel's language in the above quoted passage is revealing. It is not that the universal and the particular are simply opposed; rather the universal itself comes to take the position of the mediating term between itself and the particular, i.e., the unsurpassable division between universality and particularity that the law is supposed to unite pertains to the

very form of law. Once Hegel raises the issue of the form of law, Kantian moral law cannot but appear as problematic. Kantian practical reason, Hegel now writes,

is the faculty of universality, that is, the faculty of exclusion; the incentives, respect; the excluded is subjugated by fear – it constitutes something disorganized, the excluded, that is not unified. That which is excluded is not something sublated [*aufgehobenes*], but rather something separated, yet preserved (Hegel 2020: 82, my translation).

Particularity, thus, emerges through a complex operation of the very form of law, namely, through the exclusion that conveys onto the excluded the form of particularity.

Young Hegel's critique of law is aimed at the twofold operation of law's form: *exclusion* and *subjugation*. Law is grounded upon a constitutive exclusion that disarticulates unity, which it then re-imposes through its partial unifications. Laws "are unifications of opposites in a *concept*, which thus leaves them opposed while it exists itself in opposition to *reality*; it follows that the concept expresses an *ought*" (Hegel 1971: 209), that is to say, in positing the particular as its opposite, the universality of law disorganizes the totality from which it itself emerges, thus establishing its normative power against the unlawful particularity that "ought" to adhere to the demands of law. Law, consequently, exerts its dominance only to the extent that its demands are not met, that the "is" does not hold up to the normative standard of universality. This gap is necessary for the law to claim universality: *the validity of law can only be maintained on condition that the opposites can be subordinated to law's universality without thereby cancelling the gulf that separates them*. As Hegel furthermore suggests, it is law itself that posits and sustains that disorganization in relation to which it can assert its normative validity. To put it in the terms of Christoph Menke, law posits non-law (Menke 2018: 22), not that which is contra law, but everything that is outside its form. The paradox is that this "outside" is the necessary product of the form of law itself.

This is what Hegel means when he says that in the operation of law the excluded are not sublated, but *remain preserved as separated*. But since law nevertheless demands correspondence between its universal form and the particular, the form of law creates a paradoxical double bind, which dominates particularity. One is always within law by being excluded from its universality. It is precisely because of this double structure of opposition, that Hegel deems the Kantian moral law to be insufficient to overcome positivity. It merely reproduces the same logic of domination within the subject. Thus when Hegel claims that in the Kantian duty there still "remains a residuum of indestructible positivity" (Hegel 1971: 211), what he means is not some remainder of heteronomy external to autonomy, but its logic: the recalcitrant heteronomy of the Kantian law is not some ulterior hidden pathological motivation which serves as the incentive but the very form of law (after all, as Kant argued, the only incentive adequate for the moral law is moral law itself in the form of respect).

II.

In the *Spirit* essay, Hegel frames his critique of law in the historical and religious context of the teaching of Jesus and his attempt to surmount the legalism of Judaism. Here Judaism represents the most severe way of life under the empty form of law, where its emptiness takes the shape of the “most revolting and harshest tyranny” in which all life is extirpated, which, like Medusa’s head (Hegel’s example), turns all living relations into lifeless objectivity, mere “stuff, loveless, with no rights, something accursed” (Hegel 1991: 188), under the inscrutable positive commands of an all-powerful being beyond the community and even beyond truth.¹

Hegel extracts this critique in his reading of the Sermon on the Mount: “Do not think I have come to abolish the Law or the Prophets; I have not come to abolish them, but to fulfil them” (Mt. 5:17). One could have expected that in his attempt to fulfil the positive laws of Judaism, the merely external religious exercises, Jesus would have brought them before the court of pure practical reason, as Hegel himself thought previously. But now Hegel argues that the form of law is constitutively unfulfillable, be it positive or moral. Jesus is said not only to oppose Judaic positivity, but to be “a spirit raised above morality.” The fulfilment of laws, *pleroma*, that Jesus invokes, Hegel writes, cannot mean anything other than “an attempt [...] to strip the laws of legality, of their legal form.” The Sermon, “does not teach reverence for the laws, on the contrary, it exhibits that which fulfils the law but annuls it as law and so is something higher than obedience to law and makes law superfluous” (Hegel 1971: 212).

What is raised above the “thou shalt” and obedience that introduces a cleavage between form and content is nothing but the “is,” Being, as a modification of life that is love (*Liebe*). What underlies the arguments against law in the *Spirit* essay is the presupposition of an ontological unity, life (*Leben*), that is beyond the opposition between universality and particularity. To sketch an alternative to law, Hegel makes a foray into ontology. Hegel had already intimated this ontological turn in the fragment “*Glauben is die art...*,” where he argued for the synonymy of unity and being, in light of which he rejected positivity on the ground that it displaces the only true unity, the “is,” for a false unity that merely “ought” to be (Hegel 2002: 135).

As was mentioned, Hegel understands love as a modification of unity, as something immanent to it. “Love,” according to Alice Ormiston, “is a *transcendence* of the position of reflective rationality, a *re-finding* or *re-experiencing* of a primordial experience of unity that had been lost due to the separative influence of reflective rationality. It is overcoming of the subject-object divide” (Ormiston 2002: 508–509). Since love draws its unificatory

¹ Although the problematic character of this description of Judaism has been well noted, Hegel’s harsh critique, as Jay Bernstein has convincingly argued, cannot be understood as a mere apology of Christianity at the expense of Judaism; rather Hegel’s main target is Kant’s morality (Bernstein 2003: 395). See also Todd McGowan’s remarks on Hegel’s alleged anti-Semitism (McGowan 2019: 118–119).

power from the ontological unity of life, it is irreducible to understanding, *Verstand*, which subsumes sensible manifold under categories, but nevertheless leaves them opposed; nor is it of the character of Kant's reason, *Vernunft*, which demands its determinations unconditionally, imposes its "ought" on the "is," that is sharply opposes itself to what is to be determined (Hegel 1971: 304).

Yet rather than being in opposition to law, love proposes the logic fulfilment (*Ausfüllung*). Love is not a negation of law, but takes law up within itself. As Hegel argues, love and law are only opposed insofar as form is concerned; they share the same content (Hegel 1971: 225). This taking up of law into love, as what supplements its possibility with actuality, is a process whereby law loses its formal legal and conceptual shape and returns into the primordial unity of life. As Daniel Loick has rightly suggested, there is an affinity between Hegel's reading of the Christian notion of *pleroma* and his later conception of *Aufhebung*: "to fulfil something means at the same time to negate it, and also to preserve it and to raise it to a new level" (Loick 2014: 941). That is to say, love already points to a dialectical position: love in its unificatory power does not reduce differences into some immediate unity, but rather reconciles them within a mediated unity, it professes highest unity through the highest differentiation within life. Love, thus, "prefigures his later account of the movement of the concept from immediate unity, through difference, to a mediated unity that includes and incorporates difference rather than seeking a return to immediate unity" (Lewis 2013: 8).

But does love as a "re-finding of unity," as Ormiston claims, presuppose that the ontological unity that Hegel aims for in these fragments precedes diremption? The texts are quite ambiguous regarding the status of primordial unity that precedes division. Hegel does assume an initial unity of man and nature that is said to precede their violent separation, in which he locates the origin of legality as domination (Hegel 1971: 182). But elsewhere, Hegel comes to think not of the unity, but of division as being primordial, since he shifts the accent to reconciliation through love, suggesting that it is not the initial submersion of man in nature that is the highest point, or even something that we should aim at, but rather the process of (re-)unification through love. "Since love is a unification of life, it presupposes division, a development of life, a developed many-sidedness of life" (Hegel 1971: 278–279). That is to say, it is rather that in its attempt to uncover the ontological unity of life and its reconciliatory power of love as the basis for surmounting law, Hegel's thought is confronted with negativity that makes such a project ultimately untenable. Or differently put, in trying to hold onto the primordial ontological unity, young Hegel already comes to question the alleged immediacy that precedes dialectical process. To grasp the first inklings of negativity in young Hegel's thought, it is crucial to see why Hegel's alternative to law reaches an impasse.

Now one part of Hegel's argument in the *Spirit* essay is to insist that the form of the law and the Kantian duty can be surmounted by the Christian virtue of love, a synthesis in which law "loses its universality and the subject its particularity; both lose their opposition" (Hegel 1971: 214). Through the spirit of reconcilability that *pleroma* promises,

the law loses its cold universality, “the concept is displaced by life” (Hegel 1971: 215), thereby gaining its realization in the wealth of living relations. But as Hegel is aware, the fulfilment of law in virtues remains one-sided, that is, it shows how the form of law can lose its universality by being intimately unified with the restored fullness of the subject (Jesus, Hegel claims, wanted “to restore man’s humanity in its entirety” (Hegel 1971: 212)), but only internally and subjectively. What is needed, however, is to show how love can also achieve the opposite direction, that is, for the subject to lose its particularity, since for law to be truly fulfilled, both sides must lose their opposition reciprocally.

Here Hegel does not treat religion as a mere motivator of morality, but rather as a force that constitutes the realm of the social grounded upon and pointing to the primacy of an ontological unity. For *pleroma* to succeed, the subjective reconciliation must be capable of *external* objectification in religious and social practices. Religious practice, according to Hegel, “is our endeavor to unify the discords necessitated by our development and our attempt to exhibit the unification in the *ideal* as fully *existent*, as no longer opposed to reality, and thus to express and confirm it in a deed” (Hegel 1971: 206). But can love be objectified in a religion worthy of its name? To answer this question, Hegel turns to the problem of punishment – as the actualization of law’s form – that he thinks is endemic of law. To objectify itself, love must be capable of overcoming punishment.

III.

Hegel’s discussion of penal law in the *Spirit* essay explicates his view about the contradictoriness at the heart of law in its most severe consequences, for it is at this point that the merely *formal* opposition between universality and particularity that grounds the form of law acquires a *real efficacy* to negate particularity. The problem that penal law presents to young Hegel’s anti-legalism is difficult. How can law, which rests on opposition between universality and particularity, punish a particular trespass, which from the standpoint of law’s form is constitutively excluded? How can such a particularity activate the terrible power of law in its universality?

Hegel shows that the problem with law’s formality, the “perversion of the law” (Hegel 1971: 228), rests not in the fact that by virtue of its emptiness in opposition to specific content law remains impotent in its unrealizability, i.e., at the mercy of the content in which it cannot recognize its universality, but that, on the contrary, its emptiness is precisely what binds particularity to its form, and violently so. Hegel’s point is that the realization of law can only take the form of imposition, submission and servitude, and in its most “perfect” application – the death of particularity. “This form of law (and law’s content),” Hegel claims, “is the direct opposite of life because it signals the destruction of life” (Hegel 1971: 225). The task is to show how the real efficacy of law is part and parcel of law’s formal contradictoriness, namely, to explicate that there is an immanent transition from the constitutive opposition within the form of law to the absolute negation of particularity in reality.

As Hegel argues, in its efficacy, penal law signifies not just some particular content, which can be negated by a particular trespass, but rather the deficiency of a relationship between universality and particularity, “a gap” (Hegel 1971: 225). Since the opposition between form and content pertains to law as such, the negation of law’s content, leaves the form of law untouched. In this way, law gains its true content in and through the trespass, since this content is precisely the negation of particularity. This is what Hegel means when he claims that the true content of penal law is punishment.

Since law is already in opposition to reality, the trespass cannot cancel this opposition; rather it manifests the law in its “awful majesty” (Hegel 1971: 226). That is to say, in transgressing the content of law, which Hegel tells us is not some particular content, but the concept – the operator of opposition – the trespasser negates the opposition between the form and content of law as such, that is, the gap that sustains law. It is precisely for this reason that the particular deed of the trespasser is raised to the status of a universal affront to law. Hence, “the form of the law, universality, pursues him and clings to his trespass; his deed becomes universal, and the right which he has cancelled is also cancelled for him [...]” (Hegel 1971: 226). Legal punishment, in this sense, reveals its incapacity to actually mend the trespass with the injured life, for it is self-referential, that is, the purpose of punishment is to reinstate the opposition, to manifest the validity of its universal form of absolute opposition. *Restoration of the universality of the law that punishment purports is nothing else than the restoration of opposition that is constitutive of law.*

Transgression purifies the form of law, leaves it empty, and for this reason activates its coercive power. The law can show no mercy for otherwise it could cancel itself, since it would forfeit its status of universality and its validity would run to ground. The trespass, then, can be said to reveal the true nature of legal form, i.e., its fundamental emptiness and ultimate indifference to specific content. Nevertheless, Hegel thinks that this restoration of opposition requires the law to be linked with power, or as Hegel puts it, “the law must be linked with life and clothed with might” (Hegel 1971: 226). This raises a difficult question: is the enforcement of law a component of the form itself or does it pertain to an external power, which applies it?

To answer this question, it is important to grasp that both of these solutions are reciprocally implying one another. Hegel’s claim that “the law is only a rule, something thought, and needs an opposite, a reality, from which it acquires its force” (Hegel 1971: 229) can perhaps be read in tandem with Hegel’s discovery that law as such is both the disorganization of the unity of life and partial subsumption of the disorganized elements under its form. If law posits that which from its perspective is non-legal, i.e., external to law, then it could be argued that law draws its coercive power precisely by excluding and dominating particularity, that is, by rending the living relations that immanently make up the unity of life. The disunity that law itself induces is the source of law’s power. “Punishment,” Hegel claims, “exercises its dominion only insofar as there is consciousness of life at a point where a disunion has been reunified *conceptually*” (Hegel 1971: 233).

Now Hegel spells this problem out by invoking the figure of the judge, “the living being whose might has been united with law, the executioner who deprives the trespasser in reality of the right which he has lost in the concept” (Hegel 1971: 266). The judge, however, is a living being, and since justice is merely one of his many characteristics, “there may be a contradiction between it as universal, as thought, and it as real, i.e., as living being” (Hegel 1971: 266). But this contradiction can be said to pertain, once again, to the very operation of the legal form, since it is here that the opposition between universality and particularity acquires its highest point, but from within the realm of particularity, which has negative consequences for living relations between these particulars.

The subsumption of others under a concept manifested in the law may be called a weakness on the ground that the judge is not strong enough to bear up against them altogether but divides them; he cannot hold out against their independence; he takes them not as they are but as they ought to be; and by this judgment he has subjected them to himself in thought, since the concept, the universality, is his. But with this judging he has recognized a law and subjected himself to its bondage [...] (Hegel 1971: 222).

The avenger can forgive, the judge – pardon; but none of these contingencies can satisfy law as the absolute, because “justice is unbending; and, so long as laws are supreme, so long there is no escape from them, so long must the individual be sacrificed to the universal, i.e., put to death” (Hegel 1971: 222). Penal law, in young Hegel’s view, is nothing but the absolute negation of particularity that intrudes within the realm of particularity posited by the universality of law; it is nothing but dispensation of death, it merely restores the authority of the law itself, or as Bernstein puts it, “the sacrifice of the individual, his death, is the truth of law” (Bernstein 2003: 420). Law, hence, is by its very form and content antithetical to life.

Yet is there a way to fulfil the law and overcome the coercive logic of its form that manifests itself in the case of legal punishment?

There can be no other cancellation so long as punishment has to be regarded solely as something absolute, so long as it is unconditional, or so long as it has no aspect from which both it and what conditions it can be seen to be subordinate to a higher sphere (Hegel 1971: 228).

This higher sphere to which punishment is to be subordinated is the ontological unity of life. But how can this higher sphere immanently mediate trespasses without any invocation of externality? To answer this, Hegel introduces the concept of fate (*Schicksal*).

IV.

Fate, in *Spirit* essay, is the deterioration and restitution of the ontological unity of life itself; it offers a theory of self-determination as pure actuality, namely, a self-determination beyond the domination of universal over the particular, of the “ought” over the “is.” Instead of domination, fate introduces hostility between the universal and particular that

does not precede the trespass, but is rather its consequence. “Fate is just the enemy, and man stands over against it as a power fighting it. Law, on the contrary, as universal, is lord of the particular and has subdued man to obedience” (Hegel 1971: 229). From the perspective of fate, a trespass is a departure from the whole, where one opposes oneself to the whole to which one intimately belongs. It is a diremption from within life that allows for reconciliation. “Hence punishment as fate is the equal reaction of the trespasser’s own deed, of a power which he himself has armed, of an enemy made an enemy by himself” (Hegel 1971: 230). That is, fate opposes the trespasser as an equal.

Fate cannot dissolve punishment, but it no longer treats this opposition as absolute or from the perspective of the concept, but rather as pertaining to the ontological unity of life, of being. Life can be injured and returns to haunt the trespasser, as a ghost, as Banquo who took the seat at Macbeth’s table (Hegel’s example). The heinous act merely transforms the friendliness of life, the belonging to its rich totality into an opposition. Life sets against the trespasser whose act has sundered its own unity with life. Hegel thinks that fate allows for reconciliation, since what opposes the trespasser is nothing but his own deed returned to him in the sense of loss and longing for return. It is a sensing of life. “Justice,” in the case of fate, “is satisfied, since the trespasser has sensed as injured in himself the same life that he has injured” (Hegel 1971: 232).

If the form of law that hypostasizes the disjunction between its postulated ideal and its perpetually imperfect realization in a reality under its yoke, which thereby “ought” to be different from what it “is,” produces and sustain the gap, then in fate, in the immanence of life, the laceration within life, which “is not a not-being but is life known and felt as not-being” (*felt*, we should add, *by life itself*), can only emerge from an immanent self-negation of life. Laceration has to be thought ontologically. Yet this implies that for life to truly assert its unity and totality, lacerations cannot remain a mere possibility, but, since the ontological unity of life was presupposed to overcome the distinction between possibility and actuality that is characteristic of law, they must perpetually actualize itself within this unity as an immanent moment of life itself. Hence, life must be shown itself capable of immanent self-laceration and self-mending, it must show a capacity of self-mediation. Or in the words of Werner Hamacher:

A gap or break must open up in original being, precisely that it may fulfil itself as being. The undamaged corpus of life must mutilate and wound itself, precisely in order to bestow this undamaged integrity upon the wound; the totality must lacerate itself, in order to preserve this totality in and through the laceration (Hamacher 1998: 149–150).

And it could be said that here Hegel touches upon the question of the ontological status of law as such. His early concept of fate shows that law is something derivative and not absolute, grounded upon the immanent process of life and yet, notwithstanding the subordination of the concept to the primordial unity, Hegel discovers that the logic equivalence and retribution pertains to the ontological unity of life itself. Thus fate, as Hamacher rightly points out, “is the law of life itself” (Hamacher 1998: 150). To properly

understand this, it is important to inquire into Hegel's conception of the struggle for rights that make up the process of fate.

In suffering a wrong, one can defend his injured right or submit to grief. Both are modes of holding onto one's right, even in grief, in which the subject experiences a contradiction between the consciousness of his abstract right and the actual inability to hold on to it; "his fate is his lack of will" (Hegel 1971: 233). In the suffering of courage, where one risks and can lose, the subject engages in the sphere of might. Unlike the law, against which anyone is merely a particular opposed to it, in the struggle for rights the opposing parties are equal in their demand for universality; both have right in their concept. Both demand their right and engage into a battle as living beings. A trespass produces a reaction, injury against me gives me the right to injure the perpetrator, yet, as Hegel notes, the perpetrator has full right to defend himself in turn. This produces a potentially infinite struggle. To end it, one of the combatants must submit or they must turn to a mediating party, an arbiter. Either the struggle is settled by power or they throw themselves at the mercy of a judge.

Retributive justice, in Hegel's view, cares little for the restoration and healing of injured life. From the perspective of the ontological unity of life, justice reproduces injury and disseminates lack across the unity of life, since "instead of sublating one lack through the other, it matters only that each lack should be equal to the other" (Hamacher 1998: 97). The *pleroma* through love, then, is not the re-establishment of equivalence, but an attempt to transcend the measurable itself:

An eye for an eye, a tooth for a tooth, says the laws. Retribution and its equivalence with crime is the sacred principle of all justice, the principle on which any political order must rest. But Jesus makes a general demand on his hearers to surrender rights, to lift themselves above the whole sphere of justice and injustice by love, for in love there vanish not only rights but also the feeling of inequality and the hatred of enemies which this feeling's imperative demand for equality implies (Hegel 1971: 218).

The one who can let go of its rights rises above struggle and grief, for no assailant can injure what the subject has already renounced. In this way, Hegel thinks, one can escape from the conflictual nature of fate. Attachment to right produces grief and division, while detachment becomes a pre-emptive strategy for a subject who maintains the position of "the soul of beauty." "Rather than make life his enemy, rather than rouse a fate against himself, he flees from life" (Hegel 1971: 236). He is like the sensitive plant, mimosa, that withdraws into itself when touched by something external (Hegel's metaphor). But this flight from life far from proposing a relief from the intricacies of fate is highly ambiguous. "To save himself, the man kills himself; to avoid seeing his own being in another's power, he no longer calls it his own, and so he annihilates himself in wishing to maintain itself" (Hegel 1971: 235).

Ultimately, this ambiguity spells out the failure of the Christian *pleroma* of law to objectify itself into religious and social practices: "[...] love is not religion, since the oneness or the love of the members does not at the same time involve the objectification

of their oneness” (Hegel 1971: 290–291). Love is incapable of losing itself in the manifoldness of life, since it could not accept the diremption at the heart of the immanence of life. In withdrawing from the world, Jesus set the unity of life against the world of rights and legality, reintroducing opposition. “He needed only the opposite of the world, an opposite in whom his opposition [to the world] was itself grounded” (Hegel 1971: 290). In the failure to transform the statist legality, to challenge the objectified forms of domination by objectified love, the beautiful bond of love could only be secured by an infinite flight from the actuality of fate. To retain the purity of love, Jesus avoided the entanglement with the “web of Jewish legalities,” but thereby “could find freedom only in the void” (Hegel 1971: 285).

The ontological unity of life that love was said to re-establish in actuality could only be asserted in an ideal world as a promise and command, as transcendence beyond the self-realization of individuals in love. Love has proven itself to pertain merely to the subjective unification of subject and object, and even there, as Hegel’s fragment “*Love*” shows, the recalcitrant remainder of objectivity—the body and property—threatened to spoil subjective union of lovers (Hegel 1971: 305–306). The repressed actuality of relations came to haunt the Christian community, yet not only as the unreconciled opposites in law, but as the very excluded remainder of reconciliation in love, unreconciled and irreconcilable. Since love abhorred objectivity, deemed it irrelevant, even injurious to its ideal, the objectivation of love could only take the shape of the relations found in actuality, defective and yet insurmountable. Dead to the forms of life, Christianity itself fell victim to dead objectivity.

What emerged in the failure of love is the historical shape of the “highest subjectivity,” the other extreme in respect to positivity, that is, “the fearing of objects, flight from them, fear of union” (Hegel 2002: 118). A subjectivity that takes the shape of the negative freedom, of “*absolute abstraction*,” which, in Hegel’s later definition, is the “*absolute possibility of abstracting from every determination [...] the flight from every content as a limitation [...] Thus is the freedom of the void, which is raised to the status of an actual shape and passion*” (Hegel 1991: 38). Hence, the inability to reconcile itself with objectivity, withdrawal as passion, is what marks the fate of the Christian subject. What is important to note here is that even though Hegel ascribes to it the “courage of passivity,” the “beauty of soul” is profoundly active in its passivity. As Jean Hyppolite remarked:

The beautiful soul is not passive, lax consciousness, which still claims its rights in things of the world yet shows itself, however, incapable of upholding it. It remains a living, active consciousness, but refuses to recognize right anywhere except in the inwardness of the soul. It therefore flees the world in order to separate radically the *pure and the impure* (Hyppolite 1996: 34).

Love that promised to fulfil law has proven itself to be as much obsessed with purity as the law. The emptiness of the form of law could be “fulfilled” only at the price of transposing the void into subjectivity.

V.

From this perspective, one could claim that law far from introducing an insurmountable opposition within life should rather be understood as a moment of the Absolute as life itself, as its immanent stopgap against its own negativity. Law emerges to put a break on the vicious circle of self-perpetuating violence of fate. In this sense, the failure of *pleroma* to fulfil law by reconciling fate has re-activated fate as history, and the unhappy Christian consciousness that emerges from this failure opens up a path for Hegel to come to terms with the role of historical development in his subsequent re-conceptualizations of the Absolute and the status of law.

But what of the ontological unity that Hegel presupposes in the *Spirit* essay? As Dieter Henrich has convincingly shown, even though Hegel's Frankfurt fragments display an undeniable influence of Hölderlin's "unification philosophy," the conception of unity developed there already show Hegel's decisive step beyond Hölderlin (Henrich 1997: 132). In contrast to Hölderlin's conception of love as the unification of the dual tendency exhibited in the striving of the subject that emerges from the primordial loss of an immediate unity in being, and which nevertheless manifests the strict impossibility of the subject fully returning to the primordial unity, Hegel first and foremost tries to devise to go beyond this duality. He begins to think of unification and separation as two inseparable facets constitutive of the primordial being or unity itself. Hence, as Henrich claims, "ultimately, all the structures that Hölderlin understood in terms of primordial being, Hegel had to interpret as modes of interrelatedness of what is unified. The occurrence of unification itself, not the ground whence it derives, is the true absolute, the "all in all" (Henrich 1997: 132). This shift of perspective regarding unification already points to Hegel's subsequent attempts to think Absolute as "spirit," rather than "being." One can already notice that Hegel attempts a parallax shift with respect to "unification philosophy." As Slavoj Žižek has succinctly pointed out, "what he [Hegel] adds to Hölderlin is a purely formal shift of transposing the tragic gap that separates the reflecting subject from pre-reflexive Being into this Being itself [...] it is out very division from absolute Being, which unites us with it, since this division is immanent to Being" (Žižek 2012: 15).

Differently put, the failure of the Frankfurt fragments in general and the *Spirit* essay in particular can be viewed as a surprising success. It is not that Hegel failed to think the absolute in his attempt to surmount abstract legality, on the contrary, it is precisely through his commitment to the notion of a primordial unity that precedes law and conceptual thought, that Hegel was able to discover negativity and grasp something crucial about the absolute – that it is self-mutilating and conflictual, that the One of *hen kai pan* is always-already split. Thus, Hegel comes to realize that the main issue is not to show how a return to a primordial unity that has been lost is to be reconquered; rather the issue becomes to conceptualize the inevitability of diremption of the absolute. What consequences will this insight into the nature of Absolute have for Hegel's position regarding law and legality remains to be investigated. One thing, however, is certain – the question of law is pivotal to Hegel's onto-logical endeavour.

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