

## Hegel's Justification of Hereditary Monarchy Mark Tunick

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[481]Hegel's Rechtsphilosophie is typically cast as metaphysical not political<sup>1</sup>; Hegel is said to take flight in a dialectical fiction<sup>2</sup>, to offer poetry rather than exact thinking.<sup>3</sup> Since metaphysical is often taken to mean nonsensical and nonverifiable,<sup>4</sup> this criticism, in effect, declares that we can't know the meaning of what Hegel says, or judge its merit, let alone usefully invoke it in debates about our practices. I think we can do these all.

Nobody has contributed more to Hegel's reputation as politically irrelevant metaphysician than Karl Marx, who, in his Critique of Hegel's 'Philosophy of Right', calls Hegel's philosophy 'logical, pantheistic mysticism,<sup>5</sup> sophisticated<sup>6</sup>, and magical<sup>7</sup>. Marx dismisses Hegel's philosophy as nonempirical metaphysics: '(Hegel) does not develop his thought out of what is objective, but what is objective in accordance with a ready-made thought which has its origin in the abstract sphere of logic.'<sup>8</sup> Marx in effect indicts Hegel as anti-political. For politics is about the choices

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<sup>1</sup> Rechtsphilosophie refers to Hegel's philosophy of right, the sources of which include the published Philosophy of Right, tr. T.M. Knox (Oxford: Oxford University Press, 1952); and lecture notes taken by Hegel's students. References to the lectures: Rph I refers to Vorlesungen ueber Naturrecht und Staatswissenschaft, ed. C.Becker et.al. (Hamburg: Felix Meiner, 1983). Rph II, V, VI, VII refer to Vorlesungen ueber Rechtsphilosophie (1818-1831), ed. Karl-Heinz Ilting (Stuttgart- Bad Cannstatt: Friedrich Fromman, 1973), volumes 1-4; Rph III refers to Philosophie des Rechts: Die Vorlesung von 1819/20, ed. Dieter Henrich (Frankfurt: Suhrkamp, 1983). Numbers refer to volume, where appropriate, page, and line. In citing Philosophy of Right I shall refer to PR, and paragraph numbers. "Rem" refers to the remarks Hegel appended to the main paragraphs. "Z" refers to the "Additions," or the selected translations of lecture notes available to Knox, found in an appendix to Philosophy of Right. "Bem" refers to Hegel's marginal notes, published in Grundlinien der Philosophie des Rechts (Frankfurt: Suhrkamp, 1976). Enz refers to Encyclopaedia of the Philosophical Sciences, tr. William Wallace and A.V. Miller (Oxford: Clarendon Press, 1971).

<sup>2</sup> Ossip Flechtheim, 'Die Funktion der Strafe in der Rechtstheorie Hegels' in Von Hegel zu Kelsen (Berlin: Duncker und Humblot, 1963), p.9.

<sup>3</sup> D.J.B. Hawkins, 'Punishment and Moral Responsibility', in Stanley Grupp, ed. Theories of Punishment (Bloomington: Indiana University Press, 1971), p.16.

<sup>4</sup> John Wilson, Language and the Pursuit of Truth (London: Cambridge University Press, 1956).

<sup>5</sup> Karl Marx, Critique of Hegel's 'Philosophy of Right', tr. Annette Jolin and Joseph O'Malley (Cambridge: Cambridge University Press, 1970), p.7.

<sup>6</sup> Ibid., p.20.

<sup>7</sup> Ibid., p.34.

<sup>8</sup> Ibid., p.14.

we have to [482] make collectively; politics depends on our ability to argue and persuade, to judge among possibilities. But in the world of Marx's Hegel, the space for politics is occupied by a house of logic.

Hegel's Rechtsphilosophie is metaphysical, to be sure; but it is also political. To help show this, I shall make sense and show the plausibility and relevance of what appears to be one of the most metaphysical (and bizarre) claims to be found in Hegel's political philosophy: his justification of hereditary monarchy.<sup>9</sup> While among Hegel scholars Hegel's theory of constitutional monarchy has been a focus of heated debate over whether Hegel is a liberal or conservative; and has recently become a focus in the debate over whether Hegel accommodated himself to the Prussian government out of fear of censorship by publishing an exoteric view endorsing hereditary monarchy that belies his 'genuine,' more democratic view, to the nonspecialist Hegel's argument will seem to be of little relevance-- hereditary monarchy is not a live option for us in the 1990's.<sup>10</sup> My intention in giving it serious consideration is not to have us entertain hereditary monarchy as an undeservedly neglected possibility; but rather, to put the brakes on a tendency to dismiss Hegel as too much the idealist to dirty his hands with politics. If we can make plausible an argument which even those usually sympathetic to Hegel find 'strange,' 'curious' and 'wide of the mark,' or 'utterly fanciful,'<sup>11</sup> then perhaps we will want to rethink Marx's sweeping criticism of Hegel-- that Hegel is blinded by his speculative logic from seeing the realities of politics-- a criticism which, if no longer readily accepted by Hegel scholars<sup>12</sup>, still presents a barrier to the complete acceptance of Hegel into the canon of theorists

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<sup>9</sup> There is nothing bizarre about Hegel justifying hereditary monarchy (it was a dominant institution in Hegel's day), only about the particular justification Hegel seems to give.

<sup>10</sup> I believe that Hegel really does think hereditary monarchy is a rational and necessary institution, and so I reject the view that his endorsement of it was a result only of his accommodation to the censorship pressures at the time of the Karlsbad decrees. For this latter view, see Ilting, 'Der exoterische und der esoterische Hegel', Introduction to volume 4 of Ilting, ed., Vorlesungen ueber Rechtsphilosophie; Dieter Henrich takes issue with Ilting's view: 'Hegel was a monarchist out of not political tendency but theoretical duty.' 'Vernunft in Verwirklichung', Introduction to Henrich, ed., Philosophie des Rechts; Klaus Hartmann, in one of the few articles in English on the issue (some of Ilting's argument can be found in Pelczynski, ed. State and Civil Society (Cambridge: Cambridge University Press, 1984)), also objects to those who 'foist modern liberalism' on Hegel, in his review of Ilting's editions of the Rechtsphilosophie, in Modern Law and Society v.9, No.1 (1976) pp.21-26. Rolf-Peter Horstmann objects to Ilting's claim that Hegel gives two opposed standpoints (an exoteric and esoteric) and says that Hegel gives, rather, fundamentally the same position with different accentuations, and that the tension is within the Philosophy of Right, not between it and the lectures. Horstmann objects to Ilting's too-illiberal reading of Philosophy of Right, and too-liberal reading of the lectures, in 'Ist Hegels Rechtsphilosophie das Produkt der politischen Anpassung eines Liberalen?', Hegel-Studien Bd.9 (1974). A detailed discussion and line by line comparison of Philosophy of Right with the lecture notes on this issue, while worthwhile, would require another essay.

<sup>11</sup> See J.N. Findlay, The Philosophy of Hegel (New York: Collier Books, 1966), p.329; Hugh Reyburn, The Ethical Theory of Hegel (London: Oxford, 1921), pp.251-252; and W.T.Stace, The Philosophy of Hegel (New York: Dover, 1955) (1924), p.432.

<sup>12</sup> See, for example, the works of Avineri, Taylor, and Pelczynski, cited in other notes; and Steven Smith,

[483] who can still speak to us today.<sup>13</sup> This, and not the advocacy of hereditary monarchy, is my aim here.

That is the frame of this essay. But there is a content within the frame-- the specific arguments Hegel gives about hereditary monarchy--on which hinges the integrity of that frame. The more plausible and compelling those arguments are, the more we can be drawn to the picture, the less empty and superficial will be the frame. In recent years two commentators have put the same frame-- Hegel as political not metaphysical, Hegel as relevant to contemporary politics-- around Hegel's views on hereditary monarchy.<sup>14</sup> But the picture each gives is not quite right, and consequently, I believe, not capable of supporting the frame. Hegel's arguments about hereditary monarchy have a subtlety which those, like Marx, who see Hegel as merely a metaphysician, have completely missed, but which even these more sensitive commentators have not fully grasped. I hope, then, to contribute to their effort, by providing a more substantial content to the claim that Hegel, while metaphysical, is also political.

### Hegel on monarchy

To understand Hegel's justification of hereditary monarchy, we need to review Hegel's justification for monarchy of whatever sort. Hegel thinks monarchy is a necessary institution in a modern state, in part for providing a symbolic representative of the sovereignty of the state.<sup>15</sup> Hegel thinks the symbolism of a monarch is important for those who don't reflect philosophically about the reasons for their institutions.<sup>16</sup> For Hegel, the modern state is sovereign, or supreme, because it is above the particularity of civil society. Commitment to the modern state is commitment not merely to our individual, particular interests that have their play in civil society, but to the universal, to the whole of which we are parts.<sup>17</sup> This universality of the state is symbolized in the figure of the monarch. For Hegel, the monarch of the modern state, unlike that of a feudal state, stands above the members of civil society as the embodiment of the idea of the

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Hegel's Critique of Liberalism (Chicago: University of Chicago Press, 1989).

<sup>13</sup> See, for example, the tone of the remarks in Jon Elster, Making Sense of Marx (Cambridge: Cambridge University Press, 1985), pp.37-38, 109, 116; and the textbook accounts in George Sabine's influential A History of Political Thought (New York: Henry Holt and Co., 1937), pp.690-691; David Ingersoll and Richard Matthews, The Philosophical Roots of Modern Ideology, 2d ed. (Englewood Cliffs, NJ: Prentice Hall, 1991), pp.115, 121-123; and Leon P. Baradat, Political Ideologies, 4th ed. (Englewood Cliffs, NJ: Prentice Hall, 1991), pp.152-153.

<sup>14</sup> Peter Steinberger, Logic and Politics (New Haven: Yale University Press, 1988); and Bernard Yack, 'The Rationality of Hegel's Concept of Monarchy', American Political Science Review, vol.74 (1980) pp.709-720.

<sup>15</sup> Sholomo Avineri writes, 'The king is thus a mere symbol of the unity of the state,' in Hegel's Theory of the Modern State (Cambridge: Cambridge University Press, 1972), p.188. But both Yack (p.713) and Steinberger (p.227) rightly argue that the monarch is not merely a symbol.

<sup>16</sup> Rph VI: 4:642, on patriotism.

<sup>17</sup> PR 278 Rem.

state's sovereignty. The burgher who comprehends the idea of the state as the universal implicit within him will identify with the monarch: the monarch will stand not over and against him, as in feudal [484] society, but at the head of the body to which the burgher, now citoyen, belongs. The feudal monarch does not fulfill the same function of representing the state's sovereignty because the feudal state lacks the internal sovereignty of the modern state<sup>18</sup>: the feudal monarch is head not of an organic unity, but of an aggregate that expresses not universal but particular interests.<sup>19</sup>

Of course we may ask, why is the monarch necessary as symbol of the sovereignty of the state? Why not a tribunal, or a rotating committee of citizens, perhaps selected by lot? Steinberger suggests that Hegel could have no philosophical objection to a lottery.<sup>20</sup> But Hegel could think that having a monarch at the head trains us to be good citizens of the modern state: before we are educated enough to know that really the monarch's role in governing is circumscribed (a point we shall soon discuss), before we attain philosophical insight into the 'real' reason for monarchy, the institution teaches us to be committed to the state. We are used to the idea of a paternal authority and so to us the monarch will make sense, but a lottery wouldn't, since that's not how our fathers are selected.<sup>21</sup> In other words, the monarch is an instrument of Bildung, or education and shaping, which prepares us for a life of commitment to the state. But, we might ask, doesn't the device of monarchy teach us the wrong sort of thing-- to be subservient to a patriarchal authority, just to obey? Hegel thinks children have to learn to obey before they can become good citizens<sup>22</sup>, and, he might respond, often we are told things for pedagogical purposes that we later find out weren't quite right.

Hegel would respond to such criticisms also by saying he does not even think it proper to discuss which form of constitution is to be 'preferred.'<sup>23</sup> Hegel claims monarchy is a necessary institution, apart from its advantages; it is justified not by utility<sup>24</sup>, but by what Hegel calls the 'Idea' or 'concept.'<sup>25</sup> The principle of monarchy can be derived from the concept of will: in the

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<sup>18</sup> Ibid.

<sup>19</sup> For Hegel's views critical of feudal particularity see PR 273, 278 Rem, 290 Z; Rph II: 1:233-234; Rph III: 238, 7-11; Rph VI: 4:253, 10-26, and 4:295, 25-31; also see his 'Proceedings of the Estates Assembly in Wurtemberg', Hegel's Political Writings, tr. T.M. Knox (Oxford:Oxford University Press, 1964).

<sup>20</sup> Steinberger, Logic and Politics, p.226.

<sup>21</sup> Cf. Michael Levin and Howard Williams, 'Inherited Power and Popular Representation: a Tension in Hegel's Political Theory', Political Studies, vol.35 (1987) pp.105-115: "The natural way in which the monarch acquires the sovereign's role reflects the similarly natural background from which each individual springs."(108)

<sup>22</sup> PR 174,175.

<sup>23</sup> PR 273 Rem, p.177; Enz, Par.544.

<sup>24</sup> Rph V: 3:761, 7-11.

<sup>25</sup> See Rph VI: 4:671, 7-29. Hegel distinguishes Idea from concept: The Idea is freedom embodied in the world; the concept is freedom; so the Idea is the concept in existence.(PR I Z) I shall ignore this distinction and use

end we need a leader to say 'I will.'<sup>26</sup> [485] Hegel adds, '[t]his 'I will' constitutes the great difference between the ancient world and the modern.'<sup>27</sup> In the ancient world decisions were made by consulting nature: 'the will of last decision appeared as external, i.e. the oracle or flight of birds.'<sup>28</sup> But in the modern world we know that not nature but man makes the law and so a man must say 'I will.'

Hegel thinks this final decision must be made by an 'immediate individuality,' by which he means a monarch determined by nature-- by birth.<sup>29</sup> Hegel therefore argues for the institution of hereditary monarchy.<sup>30</sup>

#### Marx on Hegel's justification of hereditary monarchy

Marx took seriously Hegel's claim that the concept or Idea justifies hereditary monarchy. Marx understood Hegel to mean by this that the institution can be deduced from the axioms of Hegel's logic; 'What is important to Hegel is representing the monarch as...the actual incarnation of the Idea.'<sup>31</sup> Marx accuses Hegel of making

"all the attributes of the contemporary European constitutional monarch into absolute self-determinations of the will. He does not say the will of the monarch is the final decision, but rather the final decision of the will is the monarch. The first statement is empirical, the second twists the empirical fact into a metaphysical axiom."<sup>32</sup>

Marx calls Hegel's justification of hereditary monarchy a 'metaphysical truth'<sup>33</sup> comparable to the 'immaculate conception of Mary': both, he says, 'can be understood as rooted in human

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the terms interchangeably.

Hegel's claim is that only in certain institutions are we free, does the free will 'come into existence.' An institution is justified by the concept if in it the free will comes into existence.

<sup>26</sup> PR 279 Rem.

<sup>27</sup> PR 279 Z.

<sup>28</sup> Rph III: 242, 11-15.

<sup>29</sup> PR 280.

<sup>30</sup> Hegel's view must be sharply distinguished from the theory of the divine right of kings, a view Hegel attacks in PR 281 Z. Cf. Yack, pp.710-11; and Avineri, p.187.

<sup>31</sup> Marx, Critique, p.24.

<sup>32</sup> Ibid., p.25.

<sup>33</sup> Ibid., p.33.

illusion and conditions.<sup>34</sup> Marx says the argument is 'magical,'<sup>35</sup> and shows itself to be a 'mystification'; hereditary monarchy is constructed 'out of the pure Idea.'<sup>36</sup>

Marx's criticisms reflect his own break from Hegel, announced by the declaration: 'the state is an abstraction; the people alone is the concrete.'<sup>37</sup> But we need not take [486] up Marx's argument here. For my present purpose it is enough to focus on the phrases I have highlighted above. Marx dismisses Hegel's justification, and loudly: it is metaphysical, mystical, not empirical. But perhaps Marx was too hasty, too impatient, or had too great a stake in advancing his own theory, to do otherwise than readily dismiss Hegel's arguments.

### A closer look at Hegel's justification of hereditary monarchy

In taking a closer look at Hegel's justification of hereditary monarchy (I now leave aside his justification of monarchy as such) I shall make use of the student lecture notes from Hegel's lectures on the Rechtsphilosophie, whose use I justify elsewhere.<sup>38</sup> Since Marx did not have access to all of these sources, some of them having only recently been discovered, it seems only fair to make this explicit at the outset.<sup>39</sup> We can understand Hegel to give at least two sorts of arguments-- foundational and nonfoundational<sup>40</sup>-- each with at least two variants, and these need to be distinguished before we can judge his view, and the justice of Marx's attack.

1. The foundational arguments: A foundational argument is one that appeals to first principles or axioms, or some metaphysical conception that is said to provide the grounds for the argument.

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<sup>34</sup> Ibid.

<sup>35</sup> Ibid., p.34.

<sup>36</sup> Ibid., p.35.

<sup>37</sup> Ibid., p.28.

<sup>38</sup> See Mark Tunick, Hegel's Political Philosophy: Interpreting the Practice of Legal Punishment (Princeton, NJ: Princeton University Press, in press), Ch. 1.

<sup>39</sup> I doubt that Marx would have changed his views had he access to the sources now available, mainly because Marx has a greater stake in establishing his own 'materialistic' theory than in getting Hegel right. But also, Marx was a student of Edward Gans, who had access to many of the important lecture notes, certainly to Rph V and VI. Gans provided the selection which is the source for the 'Additions' found in Knox's translation. I must add that I hope this article contributes to a recognition of the importance of the recent editions of lecture notes, which have not been used in a significant way in the English-language scholarship on Hegel.

<sup>40</sup> Here I borrow terms used by Don Herzog in Without Foundations: Justification in Political Theory (Ithica: Cornell University Press, 1985). Herzog distinguishes foundationalists from contextualists. Contextualists 'justify an institution by showing that it is better than the available alternatives.'(24) They 'provide a preponderance of good reasons, so they are good enough to qualify as justifications, even if they do not deliver the certainty that foundational arguments might.'(225) Herzog argues that 'successful foundational justifications are philosophers' pet unicorns; we have yet to see one.'(225)

Hegel gives two variations of a foundational argument for hereditary monarchy, each of which rests on Hegel's claim that the institution of hereditary monarchy is grounded in the Idea<sup>41</sup> or concept. In one version, Hegel's justification presupposes consent to and rests on Hegel's speculative logic:

"This transition of the concept of pure self-determination into the immediacy of being and so into the realm of nature is of a purely speculative character, and apprehension of it therefore belongs to logic."<sup>42</sup>

[487] "[T]he majesty of the monarch is a topic for thoughtful treatment by philosophy alone, since every method of inquiry, other than the speculative method of the infinite Idea which is purely self-grounded, annuls the nature of majesty altogether."<sup>43</sup>

Here Hegel invokes philosophical expertise to silence political discussion. The political institutions of a modern state embody the formal properties of truth. Hegel claims to have a full and completely satisfactory account of that truth-- of the concept-- hence insight into the necessity of those institutions.<sup>44</sup> We might call this a 'dogmatic logical' argument; those skeptical of our having knowledge of truth about our institutions and laws, knowledge which would compel us to see their right, Hegel puts on the same level with Roman despots or fanatic pietists whose pretentious reliance on mere subjective feelings and particular convictions leads to the 'ruin of public order and the law of the land.'<sup>45</sup> I shall not make the effort to unpack Hegel's claim, for this would not serve my purpose here. The logic to which Hegel refers may, for all we know, accurately portray reality, but I don't think Hegel's argument will be persuasive in practice; it is not political; the logic it presupposes fills the space for argument and persuasion, crowding out politics. This is the argument on which Marx focuses and which he easily attacks.

Hegel claims that the Idea unfolds in history, and this suggests another version of a foundationalist argument for hereditary monarchy: since 'reason is the law of the world and...in world history,' the institutions which develop in history are rational<sup>46</sup>, and thereby justified. Bernard Yack at times seems to understand Hegel to claim that hereditary monarchy is justified because it has developed in history; presumably the monarch of modern states is born in history

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<sup>41</sup> PR 281 Rem.

<sup>42</sup> PR 280 Rem.

<sup>43</sup> PR 281 Rem.

<sup>44</sup> Cf. Steinberger, pp.298-99.

<sup>45</sup> PR pp.8-9.

<sup>46</sup> Hegel, Reason in History, tr. Robert S. Hartman (Indianapolis: Bobbs-Merrill, 1953), p.11.

to fulfill his preassigned role for the Idea, which unfolds like a 'homonculus-in-the-egg'<sup>47</sup>:

"Hegel's concept of monarchy depends on the historical development which has led to the actual limited role [of the hereditary monarch]."<sup>48</sup>

"[Hereditary monarchy] is rational only in the context of the actual institutions and political sentiments which have developed in modern Europe. Considered apart from them, hereditary monarchy has no special claim to rationality."<sup>49</sup>

[488] Later in his article Yack pulls back slightly on this highly deterministic historical account, writing that 'the historical development of the European monarchies has made the [political] solution' merely 'possible'.<sup>50</sup>

The argument for hereditary monarchy that rests on the foundational premise that whatever develops in history is rational is not very persuasive; but then, it is not the most persuasive account of Hegel's argument. Hegel does not think that institutions are rational because they have arisen in history. In his lectures Hegel told his students,

"When someone says to a legal scholar, this or that law doesn't accord with the concept, the scholar probably answers: 'My dear Sir, you don't understand', and explains by showing that it is right, because it is from this or that Kaiser, or was the product of this praetor, that Senate counsel, taken up in this legal code... But this only adduces how this law came into the sphere of existence...[B]ut to reason from the concept requires a different understanding."<sup>51</sup>

For Hegel its existence in history does not itself justify the institution of hereditary monarchy. If an institution is justified it's because of the concept.<sup>52</sup> To say that the concept justifies hereditary monarchy is to say that a reason beyond its mere existence justifies hereditary monarchy.

## 2. Nonfoundational arguments

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<sup>47</sup> Cf. Enz., Par.542: 'The monarchical constitution is the constitution of developed reason; all other constitutions belong to lower grades of development and reality of reason.' Cf. Hegel, Reason in History, p.60.

<sup>48</sup> Yack, 'Rationality of Hegel's Concept of Monarchy', p.715.

<sup>49</sup> Ibid., p.716.

<sup>50</sup> Ibid., p.719.

<sup>51</sup> Rph VI: 4:538,19-539,9.

<sup>52</sup> Cf. PR 3 Rem.



A nonfoundational justification provides not the certainty of logical proof, but a preponderance of good reasons, merely a persuasive account, perhaps one that shows that the practice or institution in question is better than available alternatives. Hegel is unimpressed by nonfoundational justifications. He says that when an institution is justified by its concept it is justified apart from its utility relative to alternatives.<sup>53</sup> Hegel explicitly renounces efforts to justify hereditary monarchy by appealing to its advantages over elected monarchy:

"If succession to the throne is rigidly determined, i.e. if it is hereditary, then faction is obviated at a demise of the crown; this is one aspect of hereditary succession and it has long been rightly stressed as a point in its favour. This aspect, however, is only consequential (Folge), and to make it the reason for hereditary succession is to drag down the majesty of the throne into the sphere of argumentation, to ignore its true character as ungrounded immediacy and ultimate inwardness..."<sup>54</sup>

[489] Hegel claims that hereditary monarchy is not justified by the advantage or utility it has in obviating factional struggles.<sup>55</sup> Yet Bernard Yack understands this, too, to be one of Hegel's arguments: hereditary monarchy 'depoliticizes' the regime at the top, 'creates the conditions in which freedom of political association and competition can continue without disturbing the general rational administration of the state.'<sup>56</sup> In Yack's view, 'as long as the final decisive power is available in a state, individuals will compete for it.'<sup>57</sup> By putting legitimate authority to rule in the hands of a monarch who earns his position not by competition but by birth, the institution of hereditary monarchy provides 'the political solution' to the 'political problem' of who should rule.<sup>58</sup> Yack, then, understands Hegel to be giving the sort of consequentialist argument Hegel explicitly rejects.<sup>59</sup> Hegel does criticize elected monarchy for

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<sup>53</sup> There is nothing inherently nonfoundational about utilitarian or other consequentialist justifications. Both deontological and consequentialist justifications may, or may not, be foundational. Hegel rules out nonfoundational justifications insofar as he refuses to accept as adequate justification for a practice that its consequences are superior to the consequences of alternatives.

<sup>54</sup> PR 281 Rem, my emphasis.

<sup>55</sup> PR 281 Rem. This defense of hereditary monarchy-- that it prevents opening the political arena to factions-- was given by some French liberals, including Benjamin Constant. See Jacques D'Hondt, Hegel in his Time, tr. John Burbridge et.al. (Canada: Broadview Press, 1988) (1968), p.102.

<sup>56</sup> Yack, 'Rationality of Hegel's Concept of Monarchy', p.715.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid., pp.715, 719-20.

<sup>59</sup> As we saw, Yack also suggests that in Hegel's view hereditary monarchy is justified not for its positive consequences, but because this institution exists and developed in history. Yack never acknowledges or resolves this ambiguity in his interpretation of Hegel's view.

surrendering to the discretion of particular wills and thereby circumscribing the authority of the elected monarch, weakening sovereignty and leading to disintegration.<sup>60</sup> But if we take seriously his claim that hereditary monarchy is justified not by its advantages relative to elected monarchy, but by the concept, then this argument can count only as icing on the cake.<sup>61</sup>

We are left with the question, then, of whether there is a way to take Hegel's claim that the concept justifies hereditary monarchy that does not command assent to Hegel's metaphysics, a way that would understand Hegel's argument to be nonfoundational. I shall argue that there is.

Hegel distinguishes concept 'in the speculative sense' from 'what is ordinarily called a concept.'<sup>62</sup>

"In the logic of understanding, the concept is generally reckoned a mere form of thought...[in this view] a concept is something abstract, empty, dead. The case is really quite the reverse. The concept is, on the contrary, the principle of all life...The concept is a form, but an infinite and creative form, which includes, but at the same time releases from itself, the fullness of all content."<sup>63</sup>

[490] Here Hegel describes the concept as a creative form; it has ontological status, it inheres in the world.<sup>64</sup> But Hegel, at times, also speaks of the concept less mysteriously as the idea of a thing, the principle underlying it. Hegel speaks of the 'concept' of punishment as retribution not utility, meaning that the purpose or essential principle immanent in the practice is not deterrence or reform or incapacitation, but the vindication of right.<sup>65</sup> Hegel says that consanguineous marriages are opposed to the 'concept' of marriage, because the concept of marriage is to unite what is different.<sup>66</sup> In these examples, Hegel means by the concept of a thing its principle or purpose. So while Hegel uses 'concept' in a strong sense that refers to a principle that has ontological status, that literally inheres in the world releasing contents, he uses the term at other times in a weaker sense that refers simply to the principle or purpose underlying a practice or

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<sup>60</sup> PR 281 Rem.

<sup>61</sup> Cf. Williams and Levin, 'Inherited Power and Popular Representation', p.107.

<sup>62</sup> Enz Par.9.

<sup>63</sup> Enz 160 Rem.

<sup>64</sup> That it inheres in the world is the Idea, which Hegel defines as the 'unity of existence and the concept.'(PR 1 Z) On the concept as ontological, see Charles Taylor, Hegel (Cambridge: Cambridge University Press, 1975), pp.226, 298-300.

<sup>65</sup> PR 99 Rem.

<sup>66</sup> 'Ist dem Begriffe zuwider.'(PR 168) 'Was schon vereint ist, gibt sich nicht.'(PR 168 Bem)

institution. To say that a practice or institution is justified by the concept where 'concept' has this latter, weak sense is not necessarily to make a foundational argument, to presuppose a metaphysics that sees history as the realization of the Idea, where Idea is concept in existence. Hegel does consistently maintain that ultimately his metaphysics privileges his version of the concept (in the weaker sense of principle or purpose) of a practice. But this needn't prevent us from appropriating Hegel's interpretation of the purpose or principle of a practice without privileging it, as Hegel does in giving it a metaphysical grounding. There is a 'nonfoundational' interpretation of Hegel's claim that hereditary monarchy is justified by its, as opposed to the, concept. I think it is the most persuasive but also most overlooked of the arguments Hegel gives in defense of hereditary monarchy.<sup>67</sup>

In the Philosophy of Right Hegel gives an account of what he takes to be a rational modern state. In this state, the function of the monarch is limited. In passages found in the lecture notes, Hegel says that nothing the monarch need do depends on his [491] particular abilities or capacities-- 'he only dots the i's.'<sup>68</sup> A state in which the monarch's particular character does become important is flawed, not fully developed, not well-constructed.<sup>69</sup> In a well ordered state the monarch just gives a formal decision<sup>70</sup>, an 'empty last decision' that must be distinguished from objective decisions according to grounds.<sup>71</sup> Hegel says that the monarch doesn't really decide, but relies on his ministers:

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<sup>67</sup> Both Findlay and Charles Taylor refer to one or another of the key points underlying this argument, that the monarchical majesty lies in the groundlessness of his decisions (Findlay, Philosophy of Hegel, pp.338-339), and that hereditary monarchy is justified for its immediacy and naturalness (Taylor, Hegel, pp.440-441), but say little more, and do not make any effort to separate out Hegel's various arguments. Both Avineri and Pelczynski, commentators noted for their attention to the political details of Hegel's theory, miss it (see Avineri, Hegel's Theory of the Modern State, pp.187-189; and Pelczynski's 'Hegel's political philosophy: some thoughts on its contemporary relevance', Pelczynski, ed. Hegel's Political Philosophy: problems and perspectives (Cambridge, 1971), p.231.) Reyburn, one of the most careful and sensitive of commentators on the Rechtsphilosophie, also misses it-- see Reyburn, Ethical Theory, p.244. Stace, notable for his effort to be comprehensive, dismisses Hegel's theory of hereditary monarchy in much the same fashion as did Marx, and like Marx, also misses this argument.(See Stace, Philosophy of Hegel, pp.432-433) Levin and Williams, 'Inherited Power and Popular Representation', also miss it, and consequently see Hegel's constitutional preferences (monarch by birth, yet bureaucracy by merit) as 'beset with contradictions'(p.114). One reason Hegel's argument is so often missed is, no doubt, that only in his lectures did Hegel really drive home the points central to this argument.

<sup>68</sup> PR 280Z; in Rph V, 3:764, 5-11. The fact that this and similar passages are found only in the lecture notes, and not in the text Hegel published (though many are found in later German editions that include some of the lecture notes, and, of course, in Knox's translation), is central to Ilting's argument that the conservative, exoteric position in Philosophy of Right conceals a liberal, esoteric Hegel. See FN 11.

<sup>69</sup> PR 280Z; in Rph V, 3:765, 7-10.

<sup>70</sup> PR 280 Z. Being an 'addition', this was a statement Hegel did not willingly publish, though it appears in Knox's translation.

<sup>71</sup> Rph II: 1:332, 2-5 (corresponding to PR 279). The German reads: 'Das leere letzte Entscheiden macht die fuerstliche Gewalt aus, von objektiver Entscheidung nach Gruenden ist nicht die Rede.'

"With regard to the particular content we see that the monarch is thoroughly dependent; he has no independent knowledge of things, and can decide only according to the assessment of the situation given to him and to the laws that apply..."<sup>72</sup>

Hegel is critical of Turkey, for there the monarch himself governs without the heed of objective advice, and this is dangerous.<sup>73</sup> These passages describing the limited role Hegel imputes to the monarch are crucial in accounting for what I take to be Hegel's most persuasive (and most often missed) justification: hereditary monarchy is rational and justified in a modern state, in this view, in that it provides to the modern state a method of making completely arbitrary final decisions in matters where there is no objective basis for deciding: in such matters we need a 'groundless method' (grundlose Weise).<sup>74</sup> There is no need to have the worthiest monarch elected.<sup>75</sup> The function or purpose of hereditary monarchy is to provide groundless decisions-- this is its concept. Given the limited role Hegel assigns the monarch in the rational modern state, hereditary monarchy is justified by its concept.

In a rational modern state, the legislature (Estates), not the monarch, establishes the civil and criminal law, and maintains bridges, streets, parks, colonies, and the financial system.<sup>76</sup> The monarch does not make laws or the constitution, they are [492] prior. The monarch steps in only where the laws collide.<sup>77</sup> He also decides among equally-qualified candidates in hiring government officials.<sup>78</sup> Hegel thinks the institution of hereditary monarchy is the most rational institution for filling a position that does not require the capacity for rational decision-making. Those aghast at the thought of placing at the head of the state someone whose only prerequisite for the job is the accident of his birth miss this point. If our institutions are rational then our welfare won't depend on the personality of the prince.<sup>79</sup> Consequently, it won't matter if the monarch is an idiot by birth.<sup>80</sup> Hereditary monarchy has the advantage over elected monarchy of

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<sup>72</sup> Rph VI: 4:685, 14-18.

<sup>73</sup> Rph III: 253, 12-16.

<sup>74</sup> Rph VI: 4:678, 9-10. One problem with Hegel's view is that he does delegate to the monarch the right to pardon criminals (PR 282). Hegel apparently thinks the decision to pardon can never have grounds ('die grundlose Entscheidung,' PR 282 Z) and so is appropriate for the Willkuer, or arbitrary will, of the monarch to decide.

<sup>75</sup> Rph VI: 4: 678, 29-679,6.

<sup>76</sup> Rph III: 261- 2.

<sup>77</sup> Rph VI, 4:687, 5-13.

<sup>78</sup> PR 292.

<sup>79</sup> Rph III: 246, 2-7.

<sup>80</sup> PR 280 Z. Cf. Yack, p.714: 'The rational functioning of the state does not depend on the contingent

not emphasizing the particular personality of the monarch. The institution of elected monarchy is irrational because it is premised on the view that the particular features of the monarch do matter. In a rational modern state they don't. The most rational way to select a monarch, then, is in a totally immediate way, a way that is un-mediated, unconnected with any sort of thinking or willing, a way 'against which caprice is powerless,'<sup>81</sup> and selection by birth fits the bill. While a hereditary monarchy is not an arbitrary basis for selecting a monarch, it provides, in a way untainted by the particular wills and ambitions of individuals or factions, an arbitrary will, that of the hereditary monarch, to decide among equally meritorious alternatives-- to make the last decisions.

It is this point, that hereditary monarchy is justified precisely because it alone provides a purely arbitrary will, that Steinberger misses. Steinberger argues that in Hegel's view the monarch is necessary because we need an agent who is responsible and to whom we can ascribe responsibility<sup>82</sup>; in Steinberger's view, the will of the monarch is not an arbitrary will, but the will of the state<sup>83</sup>; 'the capricious monarch is in fact no monarch at all, is a violation of the concept of monarch.'<sup>84</sup> But Hegel argues that hereditary monarchy is justified precisely because it guarantees a purely arbitrary will. The monarch is not responsible for his decisions.<sup>85</sup> Yack comes closer to capturing Hegel's argument in seeing that selection by birth avoids fractional struggles for power; but Yack fails to see how hereditary monarchy is in Hegel's view appropriate because only it provides a 'groundless' decision on those issues where we have no objective grounds for decision. Yack catches the 'icing on the cake', but neglects Hegel's account of the concept of hereditary monarchy.

[493] Hegel's position is hardly mystical, and can be made quite plausible. Given alternatives of equal merit among which there can be no rational or objective basis for selection, and given that we must choose<sup>86</sup>, then we need an arbitrary basis for selection. We might say that only if it is made arbitrarily is the decision fair or just, and representative of the universal will of the state. If any particular faction were to decide according to their particular wills, then the decision would be made not by the sovereign, or state, but by a faction. In an elective monarchy, the monarch's decisions in cases lacking an objective basis to decide will reflect the particular wills of those who elected him. The elected monarch's decisions, then, will not be 'groundless';

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character and talents of the monarch; anyone could do the job.'(714)

<sup>81</sup> PR 281.

<sup>82</sup> Steinberger, Logic and Politics, p.218.

<sup>83</sup> Ibid., p.220.

<sup>84</sup> Ibid., p.221.

<sup>85</sup> Cf. Avineri, p.188: 'While ministers and officials are answerable for their actions, [the monarch] is not.'

<sup>86</sup> PR 279, p.183.

they will be rooted in the particular wills of the constituency who elected him. The last decision, in these cases, would not be the decision of the sovereign. In Rousseau's language, it would not express the general will. A hereditary monarch, on the other hand, would decide these cases completely without grounds, which is appropriate for such cases, and without taking into account any particular interests. He would in effect flip a coin.<sup>87</sup>

How could an arbitrary decision express the general will? Suppose we have a practice that is essentially contested: two competing principles are immanent in the practice, and each is held to be as valid as the other. Either of two competing actions within the practice can be justified by appealing to either of the two principles. Either action would be equally grounded, since each principle is equally valid. But choose we must. Between the two principles there is no rational basis to choose. Whatever action we settle on will accord with one or another of the principles and so is not irrational. But so long as the action is chosen by someone who is equally (un)committed to both principles, who is predisposed to favor none of the competing principles equally immanent in our practices, then the decision is arbitrary. According to this account, hereditary monarchy is justified if it provides this uncommitted monarch. (We can disagree with Hegel about whether it does.) So long as a people share practices which are essentially contested, which have conflicting principles equally immanent in them, only a method of decision regarding actions within these practices which respects the essentially contested nature of the practices by not systematically favoring one or another of the contested principles will truly reflect the will of the people sharing in these practices.

Hegel supposes that the monarch's counsel, whose members are chosen by objective criteria<sup>88</sup>, can resolve an issue at least to the point where only an arbitrary [494] will can choose among the options. The counsel rules out all the bad alternatives (which democracy doesn't do), until the remaining options are equally meritorious. Even if the monarch decided every political issue, the issues he'd be deciding would be different than the issues as they first appear, and which a democratic vote would have resolved. The monarch makes a 'groundless' decision that still has grounds. Consider a concrete example: Suppose prisons are so overcrowded that there is absolutely no room for newly convicted criminals, and we need to decide what to do with them. One alternative is to kill them all. Another is to build a new prison (which is expensive). Another is to reduce the sentences of some already in prison to make room for the new. Another is to let the new criminals go free. Another is to think up some new punishment. Some of these

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<sup>87</sup> Then why not merely flip a coin? Because for other reasons we have a monarch, and his job is to make these last decisions. We might have a law requiring an elected monarch to flip a coin, but what if he were to use a weighted coin?

<sup>88</sup> PR 277 and Z. Cf. Levin and Williams, 'Inherited Power and Popular Representation', p.106. But see PR 283, which suggests the opposite: "The individuals [of the supreme council]... are in direct contact with the person of the monarch and therefore their choice and dismissal alike rest with his unrestricted caprice." Perhaps this is an instance where the published Philosophy of Right (PR 283) presents a view more conservative (pro-monarchical) than the view Hegel espouses in his lectures (PR 277 Z); or perhaps in PR 283 Hegel is simply elliptical, and means that the monarch chooses among equally competent applicants, a choice which is arbitrary.

alternatives won't be acceptable, and the counsel will eliminate them. The remaining alternatives are grounded (i.e. in the principle that we must not kill, or that we must punish wrongdoers), but suppose it's arbitrary which of them we choose. The monarch decides this. His decision among the alternatives presented to him by his counsel is groundless, but his decision, in an absolute sense, that takes into account all possible alternatives, is not without grounds.

We might raise several objections to Hegel's argument. If all we need is an arbitrary way to decide among options among which there is no rational basis to decide, why, we might ask, don't we just read the entrails of a goose? Hegel thinks this would be equivalent to having nature dictate law, but that modern man knows humans make the law and so a human being must decide. Why not read the entrails only to decide which person decides? But the entrails can't name names-- there must be a list of candidates already determined as hopefuls, and, Hegel might ask, how were they picked? Why wouldn't a lottery fit the bill just as well as selection on the basis of heredity? Hegel might argue that this would undermine the symbolic role the monarch has. If any citizen could just as well be monarch, people might wonder what is so special about this figurehead. Does selection based on heredity guarantee a truly arbitrary decisionmaker? What about 'eugenics' debates about who is really next in line? Might the politics Hegel thinks selection by heredity avoids infiltrate even this selection process? Yes, but Hegel could criticize such a practice, using the principle he finds immanent in the institution of hereditary monarchy-- its concept-- as the standard by which to criticize the actual institution.

In Marx's reading of Hegel's justification of hereditary monarchy, we could not discuss these issues, or recognize the potential critical force of Hegel's Rechtsphilosophie, since in Marx's view Hegel's justification is not subject to discussion, it is a deduction. Marx's view often is uncritically accepted, and these issues have been virtually ignored. Hegel himself says his justification is a deduction from the concept, where by concept Hegel means the concept, which inheres in the world and develops in history by a predetermined process, just as an acorn develops into an oak tree.<sup>89</sup> Hegel calls what he does 'science,' and says that it yields 'absolute knowledge.' [495] Hegel's science seeks out 'the substantial and underlying essence, and not the trivialities of external existence and contingency.'<sup>90</sup> Hegel says his task is 'to apprehend in the show of the temporal and transient the substance which is immanent and the eternal which is present.'<sup>91</sup> But we can nevertheless appropriate Hegel's account of a practice's concept (in the weak sense), of its principle or purpose, which for nonfoundationalists is a matter for interpretation and debate. To those committed to certain practices or institutions, such as hereditary monarchy, but also private property, marriage, or legal punishment, Hegel offers accounts of the purposes or principles immanent in these practices, which might be employed in

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<sup>89</sup> The comparison is Hegel's. See Hegel, Phenomenology of Spirit, tr. A.V. Miller (Oxford: Oxford University Press, 1977), p.7; and Hegel, Reason in History p.23. But it is a misleading analogy, because Hegel thinks human history, unlike an acorn, develops through passion and will. See Ibid., pp.26-28.

<sup>90</sup> Enz 549 Rem.

<sup>91</sup> PR p.10.

political debates about whether to continue with them at all; or in criticizing actual aspects of the practice by appealing to an interpretation of what the point of the practice is, and therefore of how it should be practiced.

In one passage, Hegel, attacking the 'Understanding,'<sup>92</sup> opposes its argument that because birth is accidental, the principle of hereditary monarchy is irrational. From this view, says Hegel, 'there follow the other deductions disruptive (zerruetenden-- also 'undermine,' 'wreck') of the idea of the state.'<sup>93</sup> Hegel might be claiming only that those denying that hereditary monarchy is justified violate the dictates of Hegel's logic. If we really believed, as Marx seems to, that Hegel thinks hereditary monarchy is justified by the logic, then we might think Hegel is claiming the Understanding is just making a mistake, out of ignorance. But Hegel is not oblivious to the political character of justifications: he says that these critics disrupt the idea of the state. The 'idea of the state' is a conception of the state as a universal of which we are the parts: the state as our ethical substance.<sup>94</sup> Hegel seems to be speaking of the consequences of rejecting his conception of the state: the failure to see the rationality of hereditary monarchy, and the irrationality of an elected monarchy, signals that we have a conception of the state that in Hegel's judgment could prove fatal to the preservation of the state; and this claim need not depend on any metaphysical doctrine. Yet Hegel does make a foundational argument. He claims that hereditary monarch is justified by the Idea and suggests that no empirical evidence that hereditary monarchy in fact is destructive of the state could refute this justification.<sup>95</sup> Hegel says that the philosopher with speculative knowledge of the [496] underlying necessity of our institutions need not 'drag himself down into the sphere of argumentation' to debate about the comparative advantages of these institutions. Yet Hegel does just that. Sometimes he defends hereditary monarchy by pointing to what he sees as its advantage over elective monarchy; other times, by offering an interpretation of the concept or principle implicit in hereditary monarchy that lets us see it as fitting into Hegel's broader conception of the rational modern state. I believe Hegel is necessarily inconsistent, in that he wants at once to offer an argument that compels with

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<sup>92</sup> The 'Understanding,' or Verstand, is the label Hegel gives to various schools of thought that differ with his own speculative approach, which he calls Vernunft ('Reason'). See Charles Taylor, Hegel, pp. 48, 86, 116 for some discussion of this distinction.

<sup>93</sup> PR 280 Rem.

<sup>94</sup> By calling it an 'ethical substance' Hegel means that by living according to the customs, institutions, duties, laws, and practices of the state, we are obeying our own law, we are free; in them is the source of our standard of right. For discussion of ethical substance see Taylor, Hegel, Ch.14; and Tunick, Hegel's Political Philosophy, Ch. 4.

<sup>95</sup> At times Hegel claims to be empirical, maintaining that the logical necessity of our institutions and the rational process in history which he has uncovered are a result of analysis of those institutions, of that history. See Hegel, Reason in History, p.12: "What I have said here provisionally, and shall have to say later on, must, even in our branch of science, be taken as a summary view of the whole. It is not a presupposition of study; it is a result which happens to be known to myself because I already know the whole...History itself must be taken as it is; we have to proceed historically, empirically." But at other times Hegel says he presupposes 'philosophical logic.' See PR 2 and Rem, PR 31, PR 33 Rem, and PR p.2. Sometimes Hegel gets around the methodological problem of what grounds what by referring to philosophy as a 'circle.' (PR 2 Z)



the force of logical necessity, and to be politically relevant. To do the former, he offers dogmatic, foundationalist arguments, rooted in his metaphysics, arguments which are often attacked. Unfortunately, the attention Marx and others have drawn to the metaphysical arguments has been at the expense of our recognizing the other, politically relevant and critical moment in Hegel's philosophy; a moment which Hegel himself not only refuses to make explicit, but explicitly rejects.

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