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## People in Portrait: Georg Wilhelm Friedrich Hegel (1170-1831)

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If you have any questions, please do not hesitate to contact us.

[history-ius@unibas.ch](mailto:history-ius@unibas.ch)

## Armin von Bogdandy, Sergio Dellavalle

Armin von Bogdandy is Director at the Max Planck Institute for Comparative Public Law and International Law (MPIL), Heidelberg, Professor of Law at the Goethe University, Frankfurt. Among his works: *Hegels Theorie des Gesetzes* (Hegel's Theory of the Statute) (Alber Freiburg-München 1989), *Hegel und der Nationalstaat* (Hegel and the Nation State), *Der Staat* 30 (1991), 513-535; *Globalization and Europe: How to Square Democracy, Globalization, and International Law*, *EJIL* 15 (2004) 5, 885-906.

Sergio Dellavalle is Professor of State Theory at the University of Turin. Among his works: *Freiheit und Intersubjektivität* (Freedom and Intersubjectivity) (Akademie Berlin 1998); 'Hegels äußeres Staatsrecht' (Hegel's External State Law) in W Pauly *Der Staat – eine Hieroglyphe der Vernunft* (The State – A Hieroglyph of the Reason) (Nomos Baden-Baden 2009) 177–198.

## 12. Georg Wilhelm Friedrich Hegel (1770-1831)

Georg Wilhelm Friedrich Hegel is generally considered one of the thinkers who conceptually shaped the transition from the understanding of international order of the enlightenment era to the romantic, anti-universalistic view that characterized a great part of the 19<sup>th</sup> century. Having left behind the Kantian vision which saw the establishment of peace as the main content of international law, Hegel would have endorsed – at least according to this interpretation – the opposite theory of international relations based on the self-affirmation of the nation as well as of an international law of little normative relevance.

If we group the lawyers and philosophers who have elaborated the most important theories on international law around two main paradigms – universalism as the approach which considers a normative order of peace feasible even beyond the borders of the single state, and particularism claiming that order is possible exclusively within the individual polities, whereas between them only a limitation of disorder is achievable – then Hegel would be a (if not *the*) champion of the latter. However, if we analyse Hegel's works in more depth, things turn out to be less evident than widely assumed, and the philosopher transforms himself into probably the first thinker who blazed a possible path beyond the sheer universalism/particularism dichotomy.

## 1. *International Law as “External State Law”*

Within his political and legal philosophy, Hegel pays comparatively little attention to international law and relations. To their presentation are dedicated, indeed, only twenty rather short paragraphs of his *Philosophy of Right* (1820/1821), from § 321 up to and including § 340. Furthermore, we have the transcription of many lectures held by Hegel on political and legal philosophy, some of them predating the publication of the *Philosophy of Right*, others following it. Except for marginal differences, the presentation of international law in the lectures coincides with the contents of the book’s chapters. More than for other parts of his philosophy, Hegel’s theory of international law therefore seems to be unequivocal, raising no significant philosophical and philological debates on what he ‘really’ meant. Nevertheless, this may prove to be a shallow impression.

The fundamental element of Hegel’s theory of international law is the centrality of *state sovereignty*. This can be better understood if we consider the preeminent role of the state according to his view of law and politics. It is well-known that Hegel’s philosophical system raises the ambitious claim of providing an all-round interpretation of the natural and human world as well as of the knowledge that we have of it. In his understanding, all things that we experience as well as all our thoughts are expressions of the ‘Idea’. The highest expression of the ‘Idea’ is located by Hegel in the ‘Spirit’ (*Geist*) – a term that in his philosophy describes the properly *human* dimension of experience, ranging from mental processes to social and political life, as well as from art and religion to philosophy. The *internal* articulation of the ‘Spirit’ has three levels, the first of which is the individual mind – or ‘subjective Spirit’ – and the third is the domain of the ‘pure’ culture, i.e. the ‘absolute Spirit’ as the realm of art, religion and philosophy. Social life, politics and law – and therefore international law and relations – belong to the second level, the ‘objective Spirit’. Here the *Geist* is thought to realize itself in the world of human interactions. And here Hegel situates the ‘State’ as the most perfect realization of the ‘Spirit’ in the ‘objective’ world, i.e. in the world of social and political interactions.

Though being the highest concretization of the *Geist* in the objective world, the state is nevertheless affected by a significant deficit. As an alienation of the Idea in the material world, it is forced to lose that self-evident unity that characterises the ‘pure’ expressions of the Idea, such as for instance philosophical thinking. As a phenomenon of the real world the state is therefore *plural*: we do not have ‘one state’, but necessarily many of them, often conflicting with each other. Furthermore, just as the ‘universal subjectivity’ becomes concrete

in the shape of the plurality of individuals, so are states as mundane concretizations of the *Geist* themselves individualities – and like any individual is a *holon* based on self-control and on the distinction from the ‘other’, so every state seeks its payoffs and acts as a *sovereign*. The theory of the state as a ‘sovereign individuality’ has three consequences: first, as the most accomplished expression of the *Geist* on earth, it can legitimately curb the rights of the individuals for the sake of the common good; second, the supreme competence in the field of foreign policy is assigned to the institutional representative of the individuality of the state, namely to the monarch; third, every state individuality is a closed institutional structure, opposed in principle to any other state individuality – Hegel’s world is therefore, analogously to how Carl Schmitt put it a century later, a ‘pluriverse’, not a ‘universe’.

Building on these premises, Hegel’s understanding of international relations can only be based on conflict, with war as an ever concrete possibility. Hegel rejects the idea of ‘just war’, since in his eyes the reasons to wage war never have a normative – be it moral or legal – content, but are always rooted in the selfish interests of the individual state. Coherently, he also rejects the hypothesis of a *super partes* arbitration because every single state is always the supreme authority in its own matters. As a consequence, international law is of weak normative relevance: insofar as states are unlimited sovereigns, their agreements always depend on the free will of each of them and no moral or political authority of a supra-state institution will urge it to comply with the law. In Hegel’s words, international law is only an ‘ought’ which, faced with the reality of the world, is doomed to pitiless failure.

## **2. Against Universalism – and Particularism as well**

Trying now to situate Hegel’s conception of international law within the dichotomy between particularism and universalism, what first comes to the fore is his rejection of any idea of a ‘universal’ order as realized by legal norms or political agreements. Hegel’s dismissal of classic ‘universalism’, in particular as it was developed in the peace projects of the enlightenment, becomes evident in his criticism of Kant and the proposal for perpetual peace, considered a mere chimera.

While Hegel is surely not a supporter of universalism, he can however hardly be seen as a ‘particularist’ either. Three main differences distinguish him from the exponents of romantic and nationalistic particularism, which developed at the dawn of the 19<sup>th</sup> century. First, in his understanding war is not the highest manifestation of the existential self-affirmation of the

nation, but rather – with an approach shared by many authors in the aftermath of the French Revolution – a kind of healthy wind that shakes up the status quo bringing fresh air to backward-oriented societies. Second, international law may be characterized by a weak normativity, but it has nevertheless a significant function, which ‘true’ particularists generally deny, namely it guarantees the mutual recognition between states. Third, the idea of a universal international order is indeed present in Hegel’s view, yet it is not realized in the law that organizes the relations among states, but is accomplished in ‘world history’. In other words, the setting of international relations reveals an underlying rational and universal structure, yet this is not implemented by legal norms and political procedures, but by the ‘cunning of reason’ of historic fate.

Concluding, provided that Hegel is indubitably not a universalist, he is not a typical exponent of the 19<sup>th</sup> century’s romantic-particularistic idea of international (dis)order either. Rather, his philosophy paves the way for a conception that overcomes the dichotomy by incorporating the most fruitful elements of both approaches. Indeed, he maintains the centrality of individual states, which is denied by many universalists, rejecting their largely unfeasible vision of the *civitas maxima* or the ‘world republic’. On the other hand, the international world is according to Hegel not the realm of disorder, although the supra-state order is guaranteed only at a level beyond the law. The central theoretical element for Hegel’s construction of political order is his concept of *Geist*: conceiving human interaction within a multilevel and – at least potentially – intersubjective setting, it allows reconciling in a single structure, at different levels, elements that were seen as contradictory, such as individual states and the idea of a supra-state order. Admittedly, this powerful vision remains a nascent potentiality in Hegel’s works: in particular, it is not really convincing why the conciliating aim of the *Geist* should be unrealizable in the legal and political world, thus relegating supra-state order to the realm of historic *facta bruta*. This seems to be in Hegel’s view a question of principle rather than a matter of coherently deduced and proved argumentation. Nevertheless, the seed for overcoming the particularism/universalism dichotomy was sown – for fruits to be harvested many decades later.

## Recommended Reading

Hegel, Georg Wilhelm Friedrich Grundlinien der Philosophie des Rechts (Meiner Hamburg 2009); Engl.: Philosophy of Right (Clarendon Press Oxford 1967)

- Hegel, Georg Wilhelm Friedrich Vorlesungen über Naturrecht und Staatswissenschaft 1817/18. Nachgeschrieben von P. Wannenmann, C. Becker et al. (eds) (Meiner Hamburg 1983)
- Hegel, Georg Wilhelm Friedrich Vorlesungen über Rechtsphilosophie 1818–1831, K-H Ilting (ed) (Frommann-Holzboog Stuttgart-Bad Cannstatt 1974)
- Arndt, Andreas (ed) Zwischen Konfrontation und Integration (Akedemie Berlin 2007)
- Avineri, Shlomo Hegel's Theory of the Modern State (London Cambridge University Press 1972)
- Hicks, Steven V. International Law and the Possibility of a Just World Order (Rodopi, Amsterdam 1999)
- Jaeschke, Walter 'Vom Völkerrecht zum Völkerrecht' (2008) 56 Deutsche Zeitschrift für Philosophie 277–298
- Peperzak, Adriaan 'Hegel contra Hegel in His Philosophy of Right' (1994) 32 Journal of the History of Philosophy 241–263
- Siep, Ludwig 'Das Recht als Ziel der Geschichte' in C Fricke et al. (eds) Das Recht der Vernunft (Frommann-Holzboog Stuttgart-Bad Cannstatt 1995) 355–379
- Smith, Steven B. 'Hegel's Views on War, the State and International Relations' (1983) 77 The American Political Science Review 624–632