

Hegel, Fichte and the Pragmatic Contexts of Moral Judgment

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Hegel's treatment of 'Moralität' in both the *Phenomenology of Spirit* and the *Philosophy of Right* provides important clues as to how he conceives the recognitive dynamics of modern moral life. As 'spirit that is certain of itself', morality as comprehended in the *Phenomenology* is the final form of spirit [*Geist*], which, in Hegel's exposition, follows 'reason' which itself had followed 'consciousness' and 'self-consciousness'. Spirit had first been considered in its objective form as an 'in itself'. This was the 'true spirit' of the ethical world of antiquity. As something 'for itself', spirit had then been considered in its self-alienated form as 'culture' which had culminated in an analysis of modern politics—specifically the political project of 'absolute freedom', the French Revolution, and the terroristic consequences that had been so acutely linked to the modern rationalist political project by Schiller. But, as many have pointed out, if Rousseau was the theorist of the modern political struggle for autonomy, Kant had an equally revolutionary conception of moral autonomy, which, like Rousseau, put the idea of a self-legislating will at the centre of thought. Such an internalization of the self-legislating will, however, now reveals the proper object for judgment in terms of the evaluative polarity of good and bad—the will itself. This evaluation becomes the task of *conscience*.

In this paper I examine Hegel's treatment of the role of conscience in moral judgment in the light of his relationship to Fichte, and interpret it in terms of a broadly conceived pragmatics of reason-giving in moral life implicit in his concept of intersubjective *recognition* [*Anerkennung*].

The Dilemmas of Kantian Morality: The 'Moral Worldview' and Conscience

As the stance of 'morality', which is meant to combine the 'in itself' and 'for itself' dimensions of the earlier moments of spirit, Hegel examines the subjectivized version

of practical reason more characteristic of the situation in Germany, in the period after the French Revolution, than in France, and traces it through a series of dialectically related forms. The first of these, ‘the moral worldview [*moralische Weltanschauung*]’, is identifiably Kantian and has clear connections to the Fichtean shape of self-consciousness. From within the moral worldview, a conscious moral agent takes rationally determined *duty*, that is, ‘pure’ duty as determined by the moral law, to be their absolute essence, the expression of their absolute freedom. But duty conceived in this way will be regarded as ‘indifferent’ to the natural world, which in turn will be regarded as ‘indifferent’ to it.¹ That is, the moral worldview so conceived arises at the same time as the modern scientific view of nature, with the normative law governed realm of duty and the descriptive law governed realm of nature—the Kantian noumenal and phenomenal realms—thought of as somehow complete in themselves and unable to interact, and hence, as mutually ‘indifferent’.

The general complexion of Hegel’s criticisms of (what he regards as) the abstract ‘formalism’ and ‘rigorism’ of Kant’s conception of morality are well known. Here Hegel’s emphasis is on the moral outlook’s response to what it learns of the indifference of the natural realm to the duty of which it is certain. Unable to harmonize morality and nature, the moral worldview resorts to the Kantian *postulates*, effectively utilizing the symbolic formal correspondence between prescriptive and descriptive laws. Grasping its own finitude and its inability to act on *pure* duty, the moral worldview construes the idea of pure duty, the determinate moral law, as the object of another, *divine*, consciousness. This all leads to the thought, however, that the world of morality exists *only* in thought, and this leads to the ‘dissemblance and duplicity’, combining the acknowledgment of morality by a subject forced to act in a world conceived as indifferent to it.

Hegel had been critical of the constitutive dichotomy at the heart of Kant’s moral consciousness from at least the time of his early writings on religion. Like many (probably most) other interpreters of Kant, Hegel seems to have taken *as the whole* of Kant’s moral philosophy what more liberal Kantians have come to take as *one part* of

¹ G. W. F. Hegel, *Phenomenology of Spirit*, trans. A. V. Miller, Oxford: Oxford University Press, 1977, §599 [2.461]. Here and elsewhere, in referring to Hegel’s texts the numbers in square brackets following the reference to the given translation refer to the corresponding volume and page numbers in G. W. F. Hegel, *Sämtliche Werke: Jubiläumsausgabe in zwanzig Bänden*, ed. H. Glockner, Stuttgart: Frommann, 1951.

a fuller account—the deduction of the ‘objective’ conditions of the moral will, requiring the augmentation of a ‘moral anthropology’ setting out the conditions for the *application* of the moral law in action.² Reacting against those forms of philosophy in which practical reason was assimilated to theoretical cognition, Kant’s project, from the time of the transcendental turn, had been most focussed on the ‘objective’ side of the larger project, and the exploration of the ‘subjective’ conditions concerning the application of reason had been confined to the margins. Nevertheless, Kant himself had signalled the need for the development of this applied side of ethics, and this need was felt even more strongly among his immediate followers such as Fichte.³ It is Fichte’s attempt to do just this that comes into focus in the next section of ‘Morality’ in the *Phenomenology of Spirit* in the context of Hegel’s discussion of *conscience*.

After following the fate of the moral worldview into the antinomies that are expressed in ‘duplicity’, Hegel turns to a moral stance in which the Kantian approach had been given a particularly subjectivistic inflection in order to address the problem of the applicability of the formal moral law, the approach of ‘conscience [*Gewissen*]’. The moral worldview had located the moral law, *qua* law with material content, in *another* consciousness, that of God as absolute moral authority, effectively re-enacting the attitude of the earlier ‘unhappy consciousness’. The idea that this other consciousness is *nothing other* than its own thought, however, causes the moral worldview to relocate the source of this authority back within itself. It believes that *it itself* is ‘in its contingency completely valid in its own sight, and knows its immediate singularity [*Einzelheit*] to be pure knowing and doing, to be the true reality and harmony’.⁴

One aspect of the disunity of theoretical and practical reason found in Kant that worried the post-Kantians was just that aspect of his moral theory about which Kant himself had been concerned—that of the subjective conditions for the application of the moral law. In short, one has to be able to identify both actions and worldly

² As has been stressed, for example, by Robert B. Louden in *Kant’s Impure Ethics*, Oxford: Oxford University Press, 2000.

³ Günter Zöllner points out that Fichte was critical of the abstract and formalist nature of Kant’s moral philosophy, and had brought the perspective of Kant’s third *Critique* to bear in his own reinterpretation. G. Zöllner, *Fichte’s Transcendental Philosophy*, Cambridge: Cambridge University Press, 1998, pp. 63–5.

⁴ Hegel, *Phenomenology of Spirit*, §632 [2.484].

situations in morally salient terms that allow the *application* of the moral law in practice, but this presupposes some quasi-theoretical form of description of actions or situations in terms sensitive to their *intrinsic* normative status. This, however, is just what neither theoretical nor practical reason conceived on the Kant's strictly transcendental model were able to deliver. Theoretical knowledge, as conceived within the 'Transcendental Analytic' of the *Critique of Pure Reason*, is more or less identified with the knowledge constitutive of modern science—that resulting from the operations of 'the Understanding'—and describes a world 'indifferent' to morality. Practical reason, on the other hand, was formal and, as even as Kant himself had acknowledged,⁵ in need of something akin to the 'schemata' of theoretical reason for application in concrete situations.

It was to address this issue of the applicability of the moral law that Fichte, in *The System of Ethics According to the Principles of the Wissenschaftslehre* (1798), had put forward a theory of conscience.⁶ As Hegel portrays it in the *Phenomenology*,

⁵ '[J]ust as a passage from the metaphysics of nature to physics is needed – a transition having its own special rules – something similar is rightly required from the metaphysics of morals: a transition which, by applying the pure principles of duty to cases of experience, would *schematize* these principles, as it were, and present them as ready for morally practical use.' Immanuel Kant, *The Metaphysics of Morals*, ed. and trans. Mary Gregor, Cambridge: Cambridge University Press, 1996, §45 [6.468]. Here and elsewhere, in referring to Kant's texts, page numbers to the given translation will be followed, in square brackets, by volume and page numbers to Immanuel Kant, *Kants Gesammelte Schriften*, Berlin: Preussische Akademie der Wissenschaften, 1900-.

⁶ J. G. Fichte, *The System of Ethics According to the Principles of the Wissenschaftslehre*, ed. and trans. D. Brezeale and G. Zöller, Cambridge: Cambridge University Press, 2005. Here and elsewhere, in referring to Fichte's texts, page numbers to the given translation will be followed, in square brackets, by volume and page numbers from *Johann Gottlieb Fichtes sämtliche Werke*, ed. I. H. Fichte, Berlin: Veit, 1854. The discussion of conscience occurs mostly in 'Part III, Systematic application of the principle of morality, or ethics in the narrower sense'.

Kant himself discusses conscience in Part II of *The Metaphysics of Morals*, 'Metaphysical First Principles of the Doctrine of Virtue', as forming, along with moral feeling, love of human beings, and respect, '*subjective* conditions of receptiveness to the concept of duty'. Kant, *Metaphysics of Morals*, pp. 159–62 [6.399–403]. The link to this quasi-aesthetic feeling (which conscience is said to 'affect by its act', p. 160 [6.400]) is not present in Kant's earlier discussion in *Religion In the Limits of Reason Alone* (in I. Kant, *Religion and Rational Theology*, eds A. W. Wood and G. di Giovanni, Cambridge: Cambridge University Press, 1996), where the issues of *conviction* and *certainty* are most prominent. Fichte refers to Kant's discussion in *Religion* (Fichte, *The System of Ethics*, p. 159 [4.168]) but not to

conscience is a quasi-aestheticized form of moral consciousness in that an immediately *felt* assurance is taken as criterial for the goodness or purity of the will. Indeed, for Fichte, the feeling involved in conscience testified to the purity of the will in a way analogous to the way that feeling testifies to the beauty of some presentation in aesthetic experience. It is just this *immediate certainty* [*Gewissheit*] that attaches to the judgments of *conscience* [*Gewissen*] that characterizes the moral stance of Hegel's 'beautiful soul'.⁷ As has often been commented upon, with this notion Hegel alludes to moral positions expressed within literary works of his time, such as Goethe's *Werther* and Jacobi's *Woldemar*,⁸ but the account of 'conscience' lying at the core of the his account seems to be distinctly Fichtean.⁹ The 'beautiful soul' may not represent a straight-forwardly Fichtean moral stance, but it would at least seem to represent what Hegel understood as a certain romantic variant of it.

Fichte discusses conscience in a number of places in *The System of Ethics* in ways which overlap with aspects of earlier approaches such as that of Rousseau, who had

that in the 'Metaphysical First Principles of Virtue' which had appeared in August 1797, the year prior to the publication of *The System of Ethics*.

⁷ In the *Critique of Judgment*, Kant uses the phrase 'beautiful soul' [*schöne Seele*] in reference to the person whose selfless appreciation of natural beauty suggests the possession of a 'good soul'. I. Kant, *Critique of Judgment*, trans. W. S. Pluhar, Indianapolis: Hackett, 1987, pp. 165–7 [5.298–300].

⁸ In his *Lectures on Aesthetics*, Hegel himself associates the 'beautiful soul' with these works, most forcibly with Jacobi's *Woldemar*. *Hegel's Aesthetics: Lectures on Fine Art*, trans. T. M. Knox, Oxford: Clarendon Press, 1975, vol 1, pp. 241–2 [12.362]).

⁹ In the discussion of conscience in the Heidelberg 'Lectures on Natural Right', Hegel explicitly links Fichte to the stance of the beautiful soul. 'The point we are now at is pure inner certainty. It is the concept of freedom in its negative relation to self, it is abstract activity, in which no action ensues. The universal element in subjectivity is the good. The Fichtean philosophy, which makes the ego the absolute principle, has in subjective form remained on one side; the objective side has always been given the side of negativity, but the identity [between the two sides] remained incomplete. Objectivity ought to be congruent with pure certainty of oneself, but has remained [self-] perpetuating. The highest standpoint of Fichte's philosophy is *striving*, *yearning*; the inner good has remained merely what ought to be, and what this philosophy amounts to is merely a yearning for what is supposedly good. Beautiful Souls, who have within themselves this infinite self-consciousness, this clarity, have held fast to this standpoint.' G. W. F. Hegel, *Lectures on Natural Right and Political Science: The First Philosophy of Right, Heidelberg 1817–1818, with additions from the lectures of 1818-1819*, as transcribed by Peter Wannenmann; ed. staff of the Hegel Archives; intro. O. Pöggeler, trans. J. M. Stewart and P. C. Hodgson, Berkeley: University of California Press, 1995, § 68 remark, p. 127. I am grateful to Jean-Philippe Deranty for pointing out this reference to me.

similarly established a link between sentiment and lawfulness with his notion of conscience as an ‘infallible judge of good and bad’ whose acts were not conscious judgments but rather innate sentiments.¹⁰ In §11 of *The System of Ethics*, Fichte talks of conscience as a higher ‘power’ or ‘faculty’ of feeling [*Gefühlsvermögen*], through which we reproach ourselves or, alternatively, are at peace with ourselves when we reflect on our empirical will.¹¹ Negatively, feelings of disapproval of the self range from a type of annoyance at oneself to stronger forms of self-reproach and self-contempt. In its positive form, it is the feeling of self-respect—a respect for one’s ‘higher character’ that gives courage and strength.¹²

In the discussion of conscience Fichte reprises the theme of absolute self-positing from his earlier *Wissenschaftslehre* of 1794-5.¹³ Conscience is effectively a summons to self-determination, an *immediate* form of self-consciousness in which we are conscious of our ‘higher nature and absolute freedom’, that ‘pure drive’ in which we strive after freedom.¹⁴ Unlike the lower faculty of desire, the pure drive for self-determination does not present itself as a simple feeling or affection of *being driven*, but as the intuition of *active striving*: it is expressed as an absolute demand for self-determination.¹⁵ In conscience, in contrast to those feelings bound up with the satisfaction or frustration of natural drives, I am in immediate intuitive contact with my higher, essential, self. While the sensuous pleasure which accompanies the satisfaction of natural drives, ‘tears me away from myself, alienates me from myself’, in conscience I am led *back into myself*.¹⁶ That the expressions of conscience provide

¹⁰ J.-J. Rousseau, *Emile: or, On Education*, trans. A. Bloom, New York: Basic Books, 1979, pp. 290 and 285. Earlier, the role of individual conscience within life had, of course, been made central by Luther. On Luther’s notion of conscience see M. G. Baylor, *Action and Person: Conscience in Late Scholasticism and the Young Luther*, Leiden: Brill, 1977.

¹¹ Fichte, *The System of Ethics*, p. 139–40 [4.147].

¹² *Ibid.*, p. 139 [4.146]. Fichte takes pains to dissociate the pleasure [*Lust*] involved in positive self-assessment from any sensory enjoyment [*Genuss*], but then goes on to suggest that the ‘repose’ or ‘peace’ of a good conscience should not even be considered as a *pleasure* at all. *Ibid.* p. 139–40 [4.146–7].

¹³ J. G. Fichte, *The Science of Knowledge with the First and Second Introductions*, ed. and trans. P. Heath and J. Lachs, Cambridge: Cambridge University Press, 1982.

¹⁴ Fichte, *The System of Ethics*, p. 137 [4.144].

¹⁵ *Ibid.*, pp. 137–8 [4.144–5].

¹⁶ *Ibid.*, p. 139 [4.146].

that within which one recognizes one's true identity is an idea carried through in Hegel.

The types of non-sensory pleasures and displeasures of conscience suggest Kant's notion of 'disinterested' aesthetic pleasure, and Fichte explicitly compares the particular feelings involved in conscience with those of *aesthetic* experience so conceived. Acting morally involves the determination of what it is that constitutes one's duty in specific circumstance—the recognition of some envisaged path of action as being the one to be followed. The moral law alone cannot do this. It is purely formal and tells us simply to act according to the 'conviction of our duty', but, as such it is itself incapable of determining any material content *for* duty, that is, incapable of determining what our duty actually amounts to.¹⁷ On the other hand, for its part, theoretical reason can represent and reason *about* actions, but cannot determine whether or not any particular action *is* required by duty.¹⁸ It is just this gap between theoretical and practical reason that conscience is to bridge.

It is the distinctively *polar* nature of the judgments of conscience, the feelings of approval or disapproval we have when considering, say, possible courses of action, that is relevant in the task of applying the moral law. We can bring possible actions before ourselves in imagination, and reason about them by the use of the theoretical faculty, but this process needs some *non-inferential* judgement that plays a role parallel to that played by perception in theoretical inquiry. Judgment based on the immediate moral feelings of conscience is what performs this task. The feelings of approval and disapproval experienced here are unlike the pleasures and displeasures that accompany the satisfactions and frustrations of the 'lower' faculty of desire which would be relevant to the determination of a purely instrumental—prudential rather than moral—action. But these feelings belonging to conscience can be compared to the aesthetic feelings: 'All aesthetic feelings are similar to the feeling that we have described here in that they arise from the satisfaction of a drive in accordance with a determinate representation.'¹⁹

¹⁷ Ibid., pp. 171–2 [4.180–1].

¹⁸ Ibid., p. 157–8 [4.166].

¹⁹ Ibid., p. 158 [4.167]. But, Fichte continues, 'aesthetic feelings are unlike the feeling that we are now discussing inasmuch as the drive underlying them does not absolutely *demand* satisfaction, but simply *expects* it, as a favor of nature'.

Not only are the moral sentiments of conscience like those of disinterested aesthetic judgment in their polarly opposed approvals and disapprovals, Fichte also appeals to the same faculty or ‘power’ of judgment for their employment. The ‘faculty of the free imagination’ involved in the search to determine one’s duty is able to hover between and contemplate alternative possibilities in its attempt to find the right way of characterizing these alternatives. ‘As soon as the power of judgment finds what was demanded, the fact that this is indeed what was demanded reveals itself through a feeling of harmony. The power of the imagination is now bound and compelled, as it is in the case of everything real. I cannot view this matter in any way other than in the way I do view it: constraint is present, as it is in the case of every feeling. This feeling provides cognition with *immediate certainty*, with which *calm* and satisfaction are connected.’²⁰

Crucially, like Rousseau, Fichte attests to the *infallibility* of the moral authority of conscience: ‘Conscience never errs and cannot err, for it is the immediate consciousness of our pure, original I, over and above which there is no other kind of consciousness; it cannot be examined nor corrected by any other kind of consciousness. Conscience is itself the judge [*Richter*] of all convictions, and acknowledges [*anerkannt*] no higher judge above itself. It has final jurisdiction and is subject to no appeal’.²¹ But the role of sentiment for Fichte is compatible with an essentially *cognitive* approach to the judgments of conscience as is clear in his treatment of what is entailed by *freedom of choice*.

Freedom of choice, Fichte points out, concerns the capacity to choose *among* alternative courses of action: for example, from the envisaged alternatives A, B or C, I might choose C, and the very idea of *freedom* in choice here implies, he claims, that there must be some *basis* or *reason* for this choice, otherwise the nomination of one of the alternatives would look random and a mere matter of chance.²² This in turn implies that the choice must be mediated by *concepts*: in choosing C from the range of alternatives A, B, or C, there must be some property F belonging to C that renders it *preferable*. But this implies a rule—what Kant had called a ‘maxim’—and it is this

²⁰ Ibid., p 159 [4.167–8].

²¹ Ibid., p. 165 [4.174].

²² Here he seems to have in mind the idea that a ‘choice’ so experienced would be experienced more as something that *happens* to the chooser, rather than something that *they do*.

maxim that is ‘the object of most immediate consciousness’.²³ It would seem then that what is given in an immediately felt preference must be able to be displayed as something like the conclusion of a syllogism the major premise or ‘rule’ of which displays the *grounds* of the preference. It is this ‘maxim’ rather than the merely chosen action that is the ‘immediate object’ of moral evaluation, and this has to do with the fact that what is being judged in conscience is not action *per se* but the quality of the moral character expressed *in it*.²⁴

Fichte remarks that the term ‘maxim’ is well chosen as the maxim is indeed the ‘highest’ or ‘maximum’ to be encountered in the pursuit of ‘grounds’. In the ‘Transcendental Dialectic’ of the *Critique of Pure Reason*, Kant describes the pursuit of grounds or conditions as a matter of prosyllogistically *ascending* a formal structure that in its formal logical interpretation is a *descending* (episylogistic) one.²⁵ As in theoretical reason this rule or maxim is then to be thought of as the ‘major’ premise of a syllogism, but whereas in theoretical reason the major premise can always be subordinated to a higher rule, here, as Fichte notes, we are dealing with the highest or ‘maximum’, and that it is this inner *ground* of the action that is judged in conscience links up with Kant’s discussion of maxims in the opening paragraphs of *Religion within the Boundaries of Mere Reason*. It is the purported moral maxim that is adopted by a person as the subjective ground of their action that is what we refer to, Kant tells us, when we use terms like ‘good’ or ‘evil’ of them. ‘We call a human being evil ... not because he performs actions that are evil (contrary to law), but because these are so constituted that they allow the inference of evil maxims in him’.²⁶ The affirmation of this subjective ground must *itself* be considered to be ‘an *Actus* of freedom (for otherwise the use or abuse of the human being’s power of choice with respect to the moral law could not be imputed to him, nor could the good or evil in him be called “moral”’).²⁷ Kant makes the same point that Fichte alludes to in his comment on the appropriateness of the word ‘maxim’: while it may look as if it

²³ Ibid., p. 171 [4.180].

²⁴ Michael Baylor also stresses the similarly *expressivist* significance that conscience had for Luther, who appealed to conscience to deflect evaluative focus from concrete particular actions to the *whole person* whose *faith in Christ* is to be expressed in their actions. Baylor, *Action and Person*, ch. 6.

²⁵ I. Kant, *Critique of Pure Reason*, ed. and trans. P. Guyer and A. W. Wood, Cambridge: Cambridge University Press, 1998, A330–1/B386–8.

²⁶ Kant, *Religion and Rational Theology*, p. 70 [6.20].

²⁷ Ibid., [6.21].

could generate an endless prosyllogism of grounds in seeking further grounds for the individuals chosen maxim, ‘one cannot ... go on asking what, in a human being, might be the subjective ground for the adoption of this rather than the opposite maxim [*der entgegengesetzten Maxime*]. ... Whenever we therefore say, “The human being is by nature good”, or “He is by nature evil”, this only means that he holds within himself a first ground (to us inscrutable) for the adoption of good or evil (unlawful) maxims’.²⁸

From an Hegelian position we might anticipate where the problems afflicting conscience so conceived will lie. Inevitably for Hegel it will be the *givenness* and *finality* of the authority of a pure conscience untainted by finitude that will be found to be problematic, and equally inevitably it will be dealt with by being ‘negated’ but nevertheless ‘preserved’ within a further cognitive unity. There is, of course, already an internal moment of ‘*Anerkennen*’ present within conscience, as the quasi-judicial rulings of the ‘voice’ of the moral subject’s conscience are recognized as definitive by it. Such a voice will itself have to be shown to be equally marked by the finitude that accompanies objectivity, and Hegel will follow the now well-established pattern initiated in the original treatment of recognition in chapter 4 of the *Phenomenology*. That is, he will split the *conscientious* self into independent and dependent agencies, the judging conscience (the pure I) and the judged (actual or anticipated) acting empirical self, and it will be the *non-reciprocal* nature of this relation that will bring this formally ‘conscientious’ self undone.

The Lessons of the Beautiful Soul

The beautiful soul, who aspires to act on the purest of motives, comes to learn that others will not necessarily recognize its good intentions *in* the actual deed itself. Just as the nature of a force will be displayed in its effects, the essential nature of an action will be displayed in the effects it brings about in others. From this point of view, then, it is likely that an interpreter affected *by* the action of another is going to see the action in different terms to those operative in the agent’s own self-understanding.

Hegel’s discussion of action here broaches issues made explicit in twentieth-century analytic philosophy by Elizabeth Anscombe and Donald Davidson, who have

²⁸ Ibid., p. 71 [6.21] translation modified. Kant goes on to clarify in a remark that the proposition ‘The human being is (by nature) either morally good or morally evil’ is truly *disjunctive* and that there is no ‘middle position between the two extremes’.

stressed the significance of the description under which any action is attributed to an agent by others or herself.²⁹ While any ‘deed’ will be able to be described in a variety of ways, we only attribute to an agent as intentional an action described in ways such that the agent herself would recognize it as her doing. In the *Philosophy of Right* Hegel captures this idea by describing action as an ‘expression of the subjective will’, and by insisting on what he calls the agent’s ‘right of knowledge’.³⁰ The beautiful soul, then, having found that the act which he believed to be expressive of a good will could be interpreted by others as evil,³¹ will resort to attesting to the act’s underlying subjective grounds. That is, the agent now attests to the goodness of the *convictions* behind its potentially misreadable act. This move from the act itself to the subjective intention expressed in it underscores a difference that Fichte had insisted on with regard to practical reason. Where what is in question is primarily a matter of the rightness or otherwise of the intentional action performed, the matter is effectively a legal one, but where the issue is primarily about the quality of the maxim expressed in the action, the issue has become a properly moral one. Thus now it is the agent’s attested motivations, understood in their function of expressing something of the agent’s moral character, that comes to exist ‘for another’.³² For Hegel this is a crucial move. In grasping the importance of justifying his intentions by placing them in the ‘space of reasons’, the beautiful soul has found a properly ‘spiritual’ environment for them. Now they are expressed to others who are capable of challenging the agent’s self-interpretations from their own points of view. The beautiful soul has thus found the medium in which the felt convictions of his conscience are subject to a genuinely ‘higher’ judge—that of a promised intersubjectively achieved rational agreement.³³

The ‘aesthetic’ theme within the story of the beautiful soul is underlined with Hegel’s reference to ‘the moral *genius* which knows the inner voice of what it

²⁹ For an excellent account of these issues in Hegel see Michael Quante’s *Hegel’s Theory of Action*, trans. D. Moyar, Cambridge: Cambridge University Press, 2004.

³⁰ G. W. F. Hegel, *Elements of the Philosophy of Right*, ed. A. W. Wood, trans. H. B. Nisbet, Cambridge: Cambridge 1991, § 117.

³¹ Hegel, *Phenomenology of Spirit*, § 642 [2.491–2].

³² *Ibid.*, §§ 650–56 [2.498–502].

³³ C.f., A. Speight, ‘Hegel on Conscience and the History of Moral Philosophy’, in K. Deligiorgi ed. *Hegel: New Directions*, Chesham: Acumen, 2006, pp. 28–9.

immediately knows to be a divine voice'.³⁴ This idea might be regarded as pointing in two complementary directions. First, the Fichtean interpretation of conscience as the infallible supreme judge—'who acknowledges no higher judge above it' and whose jurisdiction is 'subject to no appeal'³⁵—equates the authority of conscience with that of a God who is entirely *within*. In the remark in the Heidelberg *Philosophy of Right* where Hegel links Fichteanism with the beautiful soul, he remarks that fear of the finitude that taints action means that beautiful souls 'remain enclosed within themselves, and revere their inner infinitude, all of which led them to make themselves, their ego, God'.³⁶ Added to this, the pantheistic twist given to Fichtean 'innerness' by the romantics could allow *feeling* to be interpreted as both natural and normative. In Kant's own aesthetic theory it was through the medium of genius that nature was said to 'prescribe the rule' to art.³⁷ This, however, had provided an open door for the more romantic of the post-Kantians to a kind of *aestheticized* and *naturalized* moral sense theory, and Hegel's allusion here to the inner 'divine voice' brings out the attendant divinizing of nature (as that which would 'prescribe the rule to' *morals* or life in general) implicit in such a move. The beautiful soul, then, would seem to be Hegel's characterisation of just such a composite romanticized Fichtean moral position, and while it was not a position Hegel shared with those contemporaries, it was one whose anti-dualistic motivations he could appreciate, and it was one which he regarded as a distinct advance on the earlier 'Kantian' conception of the moral worldview.³⁸

³⁴ Hegel, *Phenomenology of Spirit*, § 655 [2.501], emphasis added, to which Hegel adds 'and since, in knowing this, it has an equally immediate knowledge of existence, it is the divine creative power which in its Notion possesses the spontaneity of life'. (Ibid.)

³⁵ Fichte, *The System of Ethics*, p. 165 [4.174–5].

³⁶ Hegel, *Lectures on Natural Right and Political Science* § 68. An addition to the Berlin lectures from the winter semester 1818-19 has Hegel describing conscience as 'the highest seat of judgment [*der höchste Richtestuhl*], the highest place of innerness [*Innerlichkeit*], something holy'. G. W. F. Hegel, *Die Philosophie des Rechts: Die Mitschriften Wannermann (Heidelberg 1817/18) und Homeyer (Berlin 1818/19)*, Herausgegeben, eingeleitet und erläutert von K.-H. Ilting, Stuttgart: Klett-Cotta, 1983, p. 246, §70, addition.

³⁷ Kant, *Critique of Judgment*, § 46 [5.308].

³⁸ For Hegel, the reason that the beautiful soul marks an advance over Kantian moral self-consciousness has little to do with nature itself and much to do with the fact that the beautiful soul has learned to express its 'inner' states within a properly *spiritual* space – the discursive space of reasons and justifications – rather than in the

The *romantic* beautiful soul grasps itself and its community of like-minded souls as ‘natural’ and divinizes this nature by regarding it as the source of normativity. Thus ‘this solitary divine worship is at the same time essentially the divine worship of a *community (Gemeinde)*’.³⁹ This fundamentally religious conception of community involved here is crucial for Hegel. But just as nature has to be *taken* as ‘giving the rule’ to our normative practices, so too can it be regarded as divine only *in so far as it has been divinized* by those who act according to rules. That is, for Hegel ‘the divine’ resides *not* in nature itself but rather in a particular normative practice within which ‘natural’ immediate feelings are afforded a particular but fallible normative role. And just as pantheism in general comes to grief on the problem of evil, so too does this form of pantheism. The romantic community so constituted has yet to come to terms with the consequences of the perspectival difference that had earlier expressed itself in the discovery that *well-meant* actions can be *taken for* ‘evil’. The beautiful soul has yet to acknowledge the fact that such ‘evil’ potentially attributed by the other is *not* simply a function of the other’s subjective *misrecognition* of the intention of an action, but is more deeply grounded: it inheres in the real antitheses between particularly embodied and individuated agents and the purported universality of the intentions upon which they claim to act.⁴⁰ The beautiful soul therefore has to get beyond such naïve innocence and be brought to the point where it acknowledges the ‘evil’ that is irreducibly attendant on its necessary moment of singularity and

‘natural’ space of actions. In a certain sense Hegel thinks of feelings and their expression as natural, but it is the propensity for their expressions to be put into words and so raised to the level of conceptuality that makes them the most immediate form of something ‘spiritual’.

³⁹ Hegel, *Phenomenology of Spirit*, § 656 [2.501]. Hegel describes this community within which concrete moral consciousness subsists as marked by a type of collective narcissism: ‘On account of this utterance in which the self is expressed and acknowledged as essential being, the validity of the act is acknowledged by others. The spirit and substance of their association are thus the mutual assurance of their conscientiousness, good intentions, the rejoicing over this mutual purity, and the refreshing of themselves in the glory of knowing and uttering, of cherishing and fostering, such an excellent state of affairs’ (ibid. [2.502]). Nevertheless, this is going to provide an immediate form of the developed moral community which he will identify as that which does allow an adequate moral intentionality.

⁴⁰ Hegel notes that the antithesis into which conscience enters when it acts not only expresses itself internally (in the judgments of others) but is ‘at the same time a disparity on its outer side in the element of existence, the disparity of its particular singularity against another singular [*die Ungleichheit seiner besonderen Einzelheit gegen anderes Einzelnes*]’ Ibid, § 660 [2.506].

difference from others, an evil that Kant had captured in his doctrine of ‘radical evil’ and that had been expressed in the Christian doctrine of original sin.⁴¹ And to achieve this the beautiful soul must be brought before a harsh judge capable of unmasking the attested universality of its will.

We might think of this ‘hard-hearted’ judge as giving voice to just that infallible authority that Fichte’s ‘conscience’ is supposed to possess. But throughout the *Phenomenology* Hegel has been intent to point out that such ultimate sources of authority *always* require mediation. Thus the discussion of recognition in chapter 4 had concluded with an account of the ‘unhappy consciousness’, a shape of self-consciousness which identified the divine law as its final authority but which required the mediation of the priest who represented God to the unhappy consciousness in the way that the lord represented the power of death to the bondsman. But lords, priests, and other representatives of authority are also themselves individual human beings, and so will be whoever it is that plays the role of harsh judge for the beautiful soul. Thus, despite their implicit claim to be representing the universality of moral law, the conscientious judge must have *his* actions and intentions, and hence *his* judgments, marked by the same isolating singularity. The hard-hearted judge in his very activity of judging must therefore be himself caught up in the dissembling that had marked the acts of the acting conscience when he claimed to be acting on purely universal principles. So too, in turn the judge must also ‘confess’ to the first confessor, similarly acknowledging the irreducibly evil aspect of his own intention, marked as it is by his own essential singularity. The ‘reconciliation’ which can emerge from this interaction of mutually confessing and forgiving moral agents is of profound importance for Hegel: it is *this*, not nature itself as pantheists would have it, that is the presence of the divine in the world. ‘The word of reconciliation is the *objectively* existent Spirit, which beholds the pure knowledge of itself *qua* universal essence, in its opposite ... a reciprocal recognition which is *absolute* Spirit’.⁴² The speech act of mutual forgiveness, the ‘reconciling *Yea*, in which the two ‘I’s let go their antithetical [*entgegensetzten*] *existence*’, says Hegel, ‘is the *existence* of the ‘I’ which has expanded into a duality, and therein remains identical with itself, and, in its complete externalization [*Entäusserung*] and opposite [*Gegenteile*], possesses the certainly

⁴¹ Kant, *Religion and Rational Theology*, pp. 69–97 [6.18–53].

⁴² Hegel, *Phenomenology of Spirit*, § 670 [2.514].

[*Gewissheit*] of itself: it is God manifested in the midst of those who know themselves in the form of pure knowledge'.⁴³ Thus the source of normativity that transcends the instituting act of any individual, that which is grasped from the religious point of view as divine, is the dynamic process of reciprocal recognition itself that is inherent in a community of agents who deal with the *evil* consequences of their own ineliminable singularity by the mutual confessing and forgiving of such evil, in the context of holding each other to mutually acknowledged norms. In this form of recognition each is now *certain* of his or her singular self *not* as a perfect essence embedded in an imperfect individualized shell—a soul in a body or its Fichtean counterpart, an unlimited 'I' in an inessential finite particular context—but in such a way that their finite aspect is as equally essential as the infinite.

Morality in the *Philosophy of Right*

In a discussion of 'the moral standpoint' and conscience in 'Part 2' (headed 'Morality') of the *Philosophy of Right*, Hegel alludes to a distinction which can help us to understand the nature of the resolution of the dialectic of the beautiful soul. There he differentiates the same *formal* conscience that we see at work in the beautiful soul from true (or truthful, *wahrhaftige*) conscience. Formal conscience is, it would seem, a false or somehow inadequate or one-sided form of true conscience. In fact, (formal) conscience seems to be the *isolated* 'for-self' aspect of an orientation that is to be understood as it is 'in and for itself'. True conscience is described as a disposition or character [*Gesinnung*] that is itself 'contained in' *ethical* [*sittlichen*] character: it is the character 'to will what is good in and for itself'.⁴⁴ In contrast, (formal) conscience is the isolable 'for self' aspect of such a true conscience, the *certainty* that it is what it *claims* to be in its 'assertion (*Behauptung*) that what it knows is truly right and duty'.⁴⁵

While in the *Phenomenology*, the topic of morality is followed by that of religion, in the *Philosophy of Right*, the discussion of conscience concludes in the transition to ethical life—*Sittlichkeit*—the immediate form of which is the family. In both places,

⁴³ Ibid., § 671 [2.516].

⁴⁴ Hegel, *Elements of the Philosophy of Right*, § 137. Following Hegel I will simply refer to 'formal' conscience as conscience and the contrasting essential form as *true* conscience.

⁴⁵ Ibid., § 137 remark.

then, the message seems to be that the *truth* of that authority which conscience *claims* to have, is to be found not ‘within’, but in the concrete conditions of social dependence. In both religion and the family, there is a reliance of the individual on external authority which contrasts with the inner authority claimed by conscience. But this is not to be understood as if Hegel is advocating some lapse back into the decidedly unfree state of taking one’s moral authority from the external world in which one finds authority ready made. Both family and religion are only ‘immediate’ forms of spirit, and spirit *qua* substance in which an individual subject necessarily dwells is, as is claimed in the preface to the *Phenomenology*, also *subject*. Thus the ‘romantic’ community of beautiful souls would seem to prefigure a new type or region of *Sittlichkeit* which combines the authority of conscience with communally given norms of social life, a genuinely moral community in which conscience can appear in its *true* form and not in the distorted self-divinizing form from which it started. For its part, the objective ethical life from which conscience in the *Philosophy of Right* must draw its substantive content necessarily incorporates the abstractly individualistic structures of civil society for the principle of subjectivity to penetrate through it.⁴⁶

Hegel describes conscience as a distinctly *modern* phenomenon,⁴⁷ but also notes that this one-sided type of conscientious *claim*, the claim based on the assumption of having a source of infallible moral authority inside one, typically arises in epochs when subjects lose faith in the moral fabric of the society in which they live, mentioning the examples of Socrates and the Stoics.⁴⁸ Typical of all forms of ‘self-certainty’, the formally conscientious subject claims autonomy from all externally given sources of moral authority, the claims of which are to be struck down by appeal to its own infallible criterion. We might suppose, then, that the type of moral community providing the ‘substance’ for true conscientiousness must itself be a modern phenomenon, a little like the community of ‘beautiful souls’, but one in which the idea of conscience as *infallible* has been replaced by one marked by *fallibility*. Here, the individual rulings of the highest judge itself, *conscience*, can be called into

⁴⁶ Allen Speight stresses the parallels between conscience and private right in ‘Hegel on Conscience and the History of Moral Philosophy’, pp. 29–30.

⁴⁷ Conscience ‘represents an exalted point of view, a point of view of the modern world, which has for the first time attained this consciousness’. Hegel, *Elements of the Philosophy of Right*, § 136 addition.

⁴⁸ *Ibid.*, §138 remark.

question, opposed by their contraries, and asked for justification. Clearly this could not mark a return to a more traditional form of *Sittlichkeit*. Perhaps Hegel here has in mind something like the form of sociality that Kant had called ‘moral friendship’ that entails ‘the complete confidence of two persons in revealing their secret judgments and feelings to each other, as far as such disclosures are consistent with mutual respect’.⁴⁹ The important thing is that whatever this form of *Sittlichkeit* might take, it must be such that the subject could find in its interactions a form of individual identity that is both contentful (like the *immediate* identity gained in the family) but that preserves the ‘singularity’ that otherwise characterizes the *form* of modern subjectivity at the expense of content.

In one suggestive remark in the *Philosophy of Right*, the verb ‘*anerkennen*’—to recognize or acknowledge—is used twice in discussing conscience: conscience ‘recognises the good *only* in what it knows’, and ‘*is recognized* as ... holy [*als ein Heiliges ... anerkannt wird*]’ by the individual whose conscience *it is*.⁵⁰ These two acts of recognition referred to here are described as operating within the internal dynamics of a single conscientious agent, but in the *Phenomenology of Spirit*, the resolution of the unbridgeable moments of the beautiful soul is, of course, achieved by the most developed form of recognition found in that work, the reciprocal recognition of mutual forgiveness that *is* ‘*absolute Spirit*’.⁵¹ We might then see Hegel’s treatment of the Fichtean concept of conscience as his answer to the problem set by Fichte’s 1794–5 *Wissenschaftslehre*.

In Part III of that work Fichte had invoked the primacy of the *moral* subject in reconciling the difference between the I’s essential freedom on the one hand and its limitedness by the not-I on the other, and in the *Foundations of Natural Right* of the following year had used the notion of recognition to show how, in a legal context, we might understand the limitation marking individual subjectivity as resulting from its own act of *self*-limitation in the face of the demands of another.⁵² For Fichte,

⁴⁹ Kant, *The Metaphysics of Morals*, §47 [6.471]. Such relationships as characterized by Kant are marked by *neither* the intimacy of familial ones (as the distance of *respect* balances the closeness of love (ibid., § 46 [6.470]) nor the pragmatic character of those mutually advantageous relationships of civil society.

⁵⁰ Hegel, *Elements of the Philosophy of Right*, § 137 remark.

⁵¹ Hegel, *Phenomenology of Spirit*, §670 [2.514].

⁵² J. G. Fichte, *Foundations of Natural Right*, ed. F. Neuhouser, Cambridge: Cambridge University Press, 2000.

however, the notion of recognition is effectively restricted to the context of *legal* self-limitation, morality being handled in terms of the notion of the effectively solipsistic notion of conscience. But, as Robert Pippin has suggested, Hegel extended this approach by treating ‘*all* normative claims as claims of, attempts at, mutuality of recognition’.⁵³ It is not unexpected, then, that he treats the claims of *conscience* in this way as well.⁵⁴ But with this extension of Fichte’s limited concept of recognition Hegel attempts to do justice to just those aspects of conscience thematized by Fichte himself—its profound connection to a dimension of identity that is distinctly modern. On the one hand the voice of conscience is to be grasped as expressing the core of one’s moral identity in all its singularity, on the other, this voice must itself be grasped as mediated by that of some other moral agent, some ‘moral friend’ perhaps, to whom it is addressed.

Brandom’s Pragmatics and Hegel’s ‘Expressivism’

Among the recent attempts to use the notion of ‘recognition’ to present Hegel’s thought in a way that frees it from charges of a ‘dogmatic’ pre-critical metaphysical content, Robert Brandom’s suggestion that we read Hegel as putting forward a pragmatic ‘inferentialist’ account of meaning provides one of the most suggestive ways of inserting Hegel into contemporary debates. In Brandom’s pragmatics, however, exclusive focus is placed on the form of recognition in which the content of an agent’s action is assessed in terms of that agent’s ‘entitlement’. Thus a theoretical action, an assertion, is a move in a language game to be ‘scored’ by an interlocutor who assesses the move *qua* change in the asserter’s ‘doxastic’ commitments and entitlements.⁵⁵ *Practical* action, the traditional home of the notion of ‘entitlement’, is handled in a parallel way. In the action of assertion, an agent can be criticised for lacking justification for the content of their belief—entitlement to that which they *take* to be true; in practical action, the agent can be criticised for lacking entitlement

⁵³ R. B. Pippin, ‘What is the Question for which Hegel’s Theory of Recognition is the Answer?’, *European Journal of Philosophy*, 2000, vol. 8, 158, emphasis added.

⁵⁴ Fichte’s contrast to Hegel here attests to Zöllner’s claim that ‘rather than constituting a social ontology outside of individual consciousness and its transcendental conditions’, for Fichte ‘interpersonality emerges *within* the confines of his transcendental theory of the subject’. Zöllner, *Fichte’s Transcendental Philosophy*, p. 7.

⁵⁵ Brandom’s most complete account of this approach is set out in Robert B. Brandom, *Making It Explicit*, Cambridge, Mass.: Harvard University Press, 1994.

to that desired *goal*—to that which they intend to *make* true. But, as we have seen, there is another, crucial, layer of recognition in Hegel’s account of the conditions of self-consciousness, beyond that of the quasi-legal concept of ‘entitlement’.

For Hegel, following and *extending* Fichte, the recognition involved in the *moral* realm has a different structure to that involved in legality, and what is at issue in the practice of the asking for and giving of reasons in the interchanges between the beautiful soul and his interlocutors differs from that which is at issue in the context of contested claims to *right*. The *moral* perspective I adopt with respect to my own action differs from a legal one in that the former grasps it in terms of what it *expresses*, by way of its purported ‘maxim’, about my moral character, while the latter grasps it in terms of the conformity of the action so described to some universally applicable law. Kantian morality is often discussed as if it amounts simply to something like an ‘internalisation’ of the external law governing the ‘rights’ of members of a polity, and Hegel himself often discusses Kantian morality in this way. But if we view Fichte’s account of conscience as a development of that dimension of Kant’s approach to morality which focuses on its *subjective* conditions, then we see a quite different conception of morality emerge, and with this, a quite different conception of its difference to legality. From this perspective morality is not just ‘internalized’ legality: rather, morality is fundamentally concerned with one’s being, we might say, *who one must* be, rather than one’s *doing* what one *ought* to do. It is this approach which is behind the claims of the beautiful soul as to its *worth* or *value*, claims about the ‘goodness’ of its expressed will, and not simply to the ‘rightness’ of its acts.

Modern morality will be presented as categorical because of the way normative considerations have in modernity penetrated beyond the circle of *particularity* (their instantiation of a social role) to the individual considered in their utmost *singularity*, and hence in their radical differentiation from others, and it is this that is given expression in Fichte’s conception of conscience through which Hegel wants to pass. Stanley Cavell has lucidly brought out this dimension of the categorical nature of morality in and after Kant. Pointing to the limits of the ‘moves in a game’ analogy in understanding action, Cavell claims that ‘[w]hat you say you *must* do is not ‘defined by a practice’, for there is no such practice until you make it one, make it *yours*. We might say, such a declaration defines *you*, establishes your position. ... This is the way an action Categorically Imperative feels. And though there is not The Categorical

Imperative, there are actions which are for us categorically imperative, so far as we have *a will*'.⁵⁶

Brandom's legalistic approach to practical reasoning goes along with his scepticism towards what he calls the 'romantic expressivist' tradition from which he wants to isolate Hegel. Traditional romantic expressivism, he says, had taken 'as its paradigm something like the relationship between an inner *feeling* expressed by an outer *gesture*',⁵⁷ but Hegel gives 'pride of place to *reasoning* in understanding what it is to say or do something',⁵⁸ and with his '*rationalistic*, inferentialist' version of expressivism 'holds out the promise of ... an alternative paradigm'.⁵⁹ This rationalistic version of expressivism looks much like what we might call the 'rule expressivism' that results from Sellars's reinterpretation of early twentieth-century 'emotivism'.⁶⁰ Like the emotivist, Sellars had claimed that we should indeed think of ethical judgments as *expressing* something about the judge, rather than saying something about the world being judged—in the case of ethics, expressing something about the action being judged. But what is *expressed* in the judgment is not some non-cognitive state, the type of brute feeling that the expressivist has in mind, but the *norm* or *rule* in terms of which the action can be justified. And like Brandom after him, Sellars here sees the issues in the 'legal' terms of conformity of an action to a law, rather than in the moral terms concerned with the agent's *character* that is being expressed in the action's maxim.

⁵⁶ Stanley Cavell, *The Claim of Reason: Wittgenstein, Skepticism, Morality, and Tragedy*, Oxford: Clarendon Press, 1979, p. 309. Allen Wood has stressed the way in which 'Fichte's theory strongly anticipates twentieth-century existential conceptions of a "situation ethics", except that it utterly rejects the metaethical noncognitivism and normative agent-relativism with which such views have typically been conjoined'. 'The 'I' as Principle of Practical Philosophy', in Sally Sedgwick, ed. *The Reception of Kant's Critical Philosophy: Fichte, Schelling, and Hegel*, Cambridge: Cambridge University Press, 2000, p. 106.

⁵⁷ Robert B. Brandom, *Articulating Reason*, Cambridge, Mass.: Harvard University Press, p. 16.

⁵⁸ *Ibid.*, p. 34.

⁵⁹ *Ibid.*

⁶⁰ See, for example, W. Sellars, "Language, Rules and Behavior," in Sidney Hook (ed), *John Dewey: Philosopher of Science and Freedom*, New York: Dial Press, 1950, reprinted in Wilfrid Sellars, *Pure Pragmatics and Possible Worlds: The Early Essays of Wilfrid Sellars*, ed. and intro. J. F. Sicha, Atascadero: Ridgeview, 1980, p. 134.

It is incontestable that at various points Hegel set himself at odds with those typically ‘romantic’ contemporaries like Schelling, Schleiermacher, and Friedrich Schlegel, but does Hegel’s opposition to romanticism warrant interpreting him in terms of Brandom’s anti-romantic and ‘rationalistic’ expressivist alternative? The account of ‘conscience’ and ‘the beautiful soul’ given in the *Phenomenology of Spirit* suggests not.⁶¹

⁶¹ I am very grateful to Jean-Philippe Deranty, Simon Lumsden, Robert Sinnerbrink, Nick Smith and, especially, Günter Zöllner for very helpful feedback on an earlier version of this paper.

