

## CHAPTER TWO

# Moral Law, Conscience and Reconciliation Hegel on the Formalism of Morality

*Florian Ganzinger*

### Introduction

Hegel famously claims that Kant's moral philosophy is formalistic. But it is a matter of controversy as to whether Hegel's charge presents a serious obstacle to vindicate Kantian ethics.<sup>1</sup> To evaluate the strength of Hegel's argument requires us to understand what its main target is. Hegel's formalism charge has three targets: its first target is the *emptiness* of Kant's moral law because it cannot account for particular, positive duties or determinations of the good.<sup>2</sup> The second target is Kant's moral *rigorism* since for Kant to act morally is to act only from duty as such and not from a particular

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1 Cf. Iwasa (2013), Hahn (2011), Pippin (1991, 108ff.), Wood (1989) and Wood (1990). Cf. Korsgaard (1996b) for defending Kant against "Hegelian objections".

2 By "positive duties" I mean a specific end or purpose, i.e. what I want to do, which is also a duty, i.e. what ought to be done. The expression "determination of the good" is already to be understood in light of Hegel's own take on the idea of the good as the idea of how to act well where to act well can be conceived of first, to do what is right to do, i.e. to act in such a way that recognizes others as persons or as having a free will, and second, to do what is pleasurable/desirable to do, i.e. to act in such a way that promotes the happiness or well-being of others and/or oneself.

purpose.<sup>3</sup> The third target is Kant's moral *subjectivism* since he cannot answer the question of how to objectively determine on which particular duty one ought to act.

Most interpreters tend to take Hegel's *Philosophy of Right* and its account of ethical life as his most adequate solution to all three problems.<sup>4</sup> Instead, I will focus in this paper on Hegel's *Phenomenology of Spirit* enriched by his early theological writings in order to reconstruct Hegel's conception of reconciliation as his more neglected alternative answer to moral formalism.<sup>5</sup> Contrary to the standard interpretation, I will argue that Hegel's account of forgiveness and reconciliation is not only directed against moral rigorism, but also resolves the more general problem of how to objectively determine what ought to be done, and that Hegel's main target is thus moral subjectivism.<sup>6</sup>

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- 3 Wood (1990, 151-161) claims that the emptiness charge is unsuccessful, but Wood (1989) and Wood (1990, 167-72) argue that Hegel's rigorism objection presents a serious obstacle to Kant's ethics. Pippin (1991, 113-122) seems to distinguish between weak and strong readings of the emptiness and rigorism charge, and regards only the weak readings as justified. Cf. also Moyer (2011, Chap. 2, cf. especially 45-46, 63), and Ostritsch (2022, 180-183) for a discussion of the rigorism charge. Cf. in particular Moyer (2011, Chap. 5) for Hegel's critique of moral subjectivism.
- 4 Pippin (1991, 122-124), Pippin (2008, Chap. 7, 8, and 9), and Moyer (2011) present Hegel's concept of ethical life as his solution to all three problems of morality. While Hahn (2011, 152-153) seems to claim that Hegel's concept of ethical life simply presupposes practices or norms as given, Pippin (2008, Chap. 9) interprets mutual recognition as the principle for justifying the rationality of social intuitions (cf. 237, 241-242). In a similar vein, Moyer (2011) argues in Chap. 5 that mutual recognition, although not understood as a direct process but rather as an indirect relation, serves to justify the value of social practices and intuitions. Moyer understands this indirect recognition in terms of his "Complex Reasons Identity Condition" (CRIC) which states that "[i]n ethical action, an agent's motivating reasons stem from purposes that can be nested within broader purposes that provide the justifying reasons for the action" (74); and this nesting work is said to be *subjective* if performed by the agent herself and *objective* if done by other agents passing judgement on actions (75).
- 5 Cf. also Kobe (2024) in this volume for a different reading of Hegel's formalism charge against Kant which focuses on Kant's inability to account for the possibility of evil.
- 6 Cf. Brandom (2019, 550-592), Moyer (2011, 164-166), Ostritsch (2022, 180-183), Speight (2005, 305-308) for readings of forgiveness or reconciliation as primarily answering to rigoristic moral assessment. In particular, I take it that Brandom's naturalistic assessment of the agent's action is a version of rigorism since it construes the intention of the action in terms of sensual motives rather than moral reasons. Wood (1989, 468-477) also reads Hegel as mainly criticizing moral rigorism. Moyer (2011, 163-172) argues that ethical life as an indirect relation of recognition rather than confession and forgiveness, as a direct relation of recognition can solve the moral subjectivism of conscience by nesting one's standing purposes in a system of objective purposes.

My argument will proceed as follows: first, I will show how Hegel's three targets are not to be evaluated in isolation but rather as a progressive explication of the formality which besets moral consciousness. I will claim that Hegel charges not so much Kant's formula of universal law as empty, but rather his *contradiction in the conception test* as a specific way in which Kant's formula of the categorical imperative can serve as a procedure how to test whether a maxim is universalizable. Hegel objects that this test procedure in fact presupposes that a purpose is already given as morally good. Consequently, Hegel's further developed formalism charge must be directed against Kant's construal of the *contradiction in the will test* because this test procedure must involve *obligatory* purposes. This points to the question of whether pure reason itself can determine particular, obligatory ends.

Second, I will sketch why Hegel's idea of the abstract good in the *Philosophy of Right* can be seen as capturing the essential features of Kant's account of particular, both negative and positive, duties in order to discuss the problem of objective determination which Kant's moral philosophy is facing. Hegel's main target will thus turn out to be the tension between Kant's claim that an action is only morally good if it is done for the sake of duty and not for any particular end, which constitutes the content of the maxim, and his claim that there are particular duties or obligatory ends. Accordingly, Hegel's charge concerns not merely rigorism construed as the tension between *duty* and *desire*, but also moral subjectivism understood as the tension between *duty as such* and *particular, obligatory ends*. Since Kant's contradiction in the will test cannot provide the subject with an objective determination of the good, its dialectical consequence is conscience which is understood by Hegel as the form of moral deliberation in which the subject itself determines what ought to be done.

Third, I shall analyse Hegel's account of conscience in the *Phenomenology* in order to show that conscience fails to solve the problem of determination. For Hegel, the conflict between the so-called acting and judging consciousness makes manifest the skeptical insight that in 'hard cases' one knows neither how to be able to act morally well, nor how to be able to judge others morally correct.<sup>7</sup> But this sceptical thrust of Hegel's argument against morality is not meant to be a plea for the ironic stance of anything goes, but instead for his conception of reconciliation, since in reconciliation each subject recognizes to be morally justified by others in renouncing its own conviction to be morally good. Reconciliation is Hegel's answer as to how to resolve genuine normative

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7 Cf. McDowell (1979, 340) for my use of the expression 'hard case'.

conflicts not by resorting to an abstract, universal law as ultimate arbiter, but to the mutual relation of confessing and forgiving which manifests the form of *concrete* universality.

## Law-Testing Reason and the Emptiness of Kant's Contradiction in the Conception Test

To begin with, I will seek to locate the target of Hegel's formalism charge against Kant's moral philosophy. I will argue that in the *Phenomenology* Hegel's critique targets the formula of universal law because he interprets it in terms of the *contradiction in the conception test*. From this discussion, it will transpire that the unfolded formalism charge concerns the *contradiction in the will test* because it contains a tension between Kant's insistence on acting from duty for the sake of duty, and the requirement to act on a particular, obligatory end.

In the *Groundwork of the Metaphysics of Morals*, Kant introduces the categorical imperative in terms of the *formula of universal law*: "act only in accordance with that maxim through which you can at the same time will that it become a universal law" (AA 4, 421). Kant argues that this formulation of the categorical imperative functions as a procedure to test whether a maxim qualifies as morally permissible, impermissible or obligatory. He distinguishes between the *contradiction in the conception test* and the *contradiction in the will test*: according to the former, to test whether a maxim is permissible or impermissible, we must see whether the maxim in question *can be thought of* as a universal law *without contradicting the maxim itself*. According to the latter, to test whether a maxim is obligatory or not we must ask whether it *can be willed* as a universal law *without contradicting the will itself* (cf. AA 4, 424). In terms of these two test procedures, Kant distinguishes between narrow (strict) and wide duties, which in turn roughly map onto the division between duties of right and duties of virtue.

In the *Phenomenology*, Hegel's choice of the title "Reason as Testing Laws" already seems to suggest that he is criticizing the formula of universal law as a *test procedure* in that section. The result of the preceding section "Reason as Lawgiver" has been that the universal law of practical reason cannot conform to its particular laws if there is no account of how the universal law determines itself. The particular laws like "love thy neighbour as thyself" must be contingent with respect to the universal law of reason. Hence, the practical reason

can only be “a standard for deciding whether a content is capable of being a law or not, i.e. whether it is or is not self-contradictory” (PhS, §428, 256). On the face of it, Hegel’s account of the formula of universal law in terms of the non-contradictoriness of a content seems to be guilty of a gross misinterpretation, since it appears to mislocate the logical contradiction: Hegel claims that all the formula does is to demand that a maxim or principle is not self-contradictory. However, the contradiction is clearly between a *maxim* and its *universalization*.<sup>8</sup>

Yet, this would be too hasty: first, looking at the examples Hegel gives for contents or particular laws in the previous section – “everyone ought to speak the truth” and “love thy neighbour as thyself” – it seems that these imperatives are generated from *maxims of purpose* which have the logical form “I will achieve purpose *P*” rather than from *maxims of action* which have the logical form “I will do action *A* in order to achieve purpose *P*”.<sup>9</sup> Second, Hegel casually remarks that non-property is contradictory if it is connected with the representation of an object “as a *necessary object of a need*” (PhS, §430, 258). The basic idea seems to be that once the principle has the hypothetical form of a maxim of action, connecting means and ends, the means can thwart the end. The maxim in question could be formulated as “everyone can take any object in possession in order to satisfy her needs”. Now, Hegel argues as follows:

But to provide for the need in such a completely arbitrary way is contradictory to the nature of the conscious individual who alone is under discussion. For such an individual must think of his need in the form of *universality*, must provide for the whole of his existence, and acquire a lasting possession. This being so, the idea of a thing being arbitrarily allotted to the first self-conscious individual who comes long and needs it, does not accord with itself. (PhS, §430, 258)

Here Hegel’s reasoning seems to run along similar lines as Korsgaard’s interpretation of the contradiction in the conception test as a practical contradiction.<sup>10</sup> For, Hegel is saying that if there is no property at all, which means that everyone can take possession of anything, one’s needs cannot be satisfied in their universality because their satisfaction could be merely contingent and

8 Cf. Korsgaard (1996b, 86).

9 Cf. Korsgaard (1996a, 57-58) for the distinction between maxims of action and maxims of purpose.

10 Cf. Korsgaard (1996b, 92-95); cf. for a different reading Moyar (2011, 121-122), who claims that the problem with the categorical imperative test is that it presupposes a “value-ordering” in order to give a result.

momentary. Construing non-property as a maxim of action, the means – here taking anything in possession – can thwart the end of satisfying one’s needs.

Hence, we should give a more charitable interpretation of Hegel’s less polemic reading of Kant’s formula of universal law.<sup>11</sup> Ultimately, Hegel is not saying that the formula of universal law cannot rule out some actions as wrong or impermissible.<sup>12</sup> Instead, he insists that the contradiction in the conception test has a very limited scope of application precisely because this procedure is indifferent with respect to the *end* which figures as *content* of the practical principle. This is why Hegel discusses the categorical imperative as a test procedure with respect to maxims of purposes which appears to be odd at first. His point is that what one ought to do can never be *duty as such* but must be a *particular duty* which cannot consist in the mere *pure form* of practical reason but must also have a *pure content* which is why it must represent an obligatory end. Without having an account of how to determine obligatory ends, it is not possible to give an account of positive duties.

Yet Kant is well aware of the fact, that contrary to negative duties, *positive duties* can only be determined with respect to *obligatory ends*.<sup>13</sup> Kant’s contradiction in the will test relies on such objectively necessary ends because it says that if universalized, a maxim cannot be willed without contradicting an obligatory end of the will which is not contained in the maxim itself. In the *Doctrine of Virtues*, Kant introduces *self-perfection* and the *happiness of others* as the two types of obligatory ends (AA 6, 385).<sup>14</sup> It can be argued that while the formula of universal law cannot account for arriving at these obligatory ends, the other formulas of the categorical imperative, especially the *formula of humanity*, “act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means” (AA 4, 429), can be considered as the source of these pure ends.<sup>15</sup>

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11 Cf. Moyar (2011, 121-122) for Hegel’s argument that property is as much contradictory as non-property. Moyar goes on to argue (123) that Hegel is proposing the objective form of CRIC as a solution to the formalism charge voiced in the section “Reason as Testing Laws”. On the contrary, Wood (1990, 154-161) maintains that Hegel has simply failed to understand Kant’s universal law test and his criticism does not succeed.

12 Cf. Pippin (1991, 109) and Pippin (2008, 69, footnote 4) for the interpretive option of seeing Hegel as arguing for a limited validity of the moral law.

13 Cf. Pippin (1991, 113-122) for this Kantian rejoinder, which emphasizes how in his moral philosophy, obligatory ends provide pure contents to the pure form of moral law.

14 Cf. Pippin (1991, 120).

15 Cf. Korsgaard (1996c).

In the following section, I will thus discuss how Hegel criticizes Kant's account of virtues for being unable to give a *unified* account of obligatory ends and his contradiction in the will test for being unable to provide a procedure to determine how to act well. To do so, I shall briefly sketch how Hegel himself arrives at the idea of the good and its determinations in the *Philosophy of Right*: right and happiness or well-being. While I take it that this account is already implicit in Hegel's discussion of morality in the *Phenomenology*, it is much more clearly treated in the *Philosophy of Right*. Subsequently, I will employ this idea of the good in order to shed light on Hegel's critique of moral conscience in the *Phenomenology*. I will argue that for Hegel by being unable to objectively determine what is good, and thus to act well, we come to understand that normative problems cannot be resolved morally but only by reconciliation in which each subject recognizes the other as an individual or whole person.

### Hegel's Idea of the Good and the Subjectivism of Kant's Contradiction in the Will Test

In the *Philosophy of Right*, the sphere of abstract right and the sphere of morality serve the aim of deriving the two determinations of the idea of the good which roughly correspond to Kant's duty of right to respect other persons and his duty of virtue to care for the happiness of others.

Hegel simply begins this treatment of abstract right with the legal imperative or duty of right "*be a person and respect others as persons*" (PR, §36). So for Hegel, just as for Kant, I act in accordance with the principle of abstract right if my external actions and thus my exercise of freedom of choice is compatible with the freedom of choice of all others. For, Kant's principle of right states that "[a]ny action is right if it can coexist with everyone's freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone's freedom in accordance with a universal law" (AA 6, 230). While Kant justifies his principle of right in terms of the categorical imperative, Hegel justifies his principle of right through his concept of free will and mutual recognition.<sup>16</sup> First, according to Hegel, the will is nothing other than the freedom of choice which is the capacity to determine one's action (*Handlung*) through itself by being the capacity to abstract from any particular end and thus to negate any particular desire or inclination (cf. PR,

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16 Cf. PR, §29: "*Right is any existence (Dasein) in general which is the existence of the free will*".

§5-7).<sup>17</sup> Second, since for others my actions (*Handlungen*) are given objective events (*Taten*), they cannot be an actualization of my freedom without being recognized by the other as free. But this recognition of my action as free would be no recognition *for me* if I were not to recognize the other as a free person at the same time.<sup>18</sup> The other, conceived as a mere force, cannot recognize my own freedom, i.e. freedom can only be recognized through itself. Only in recognizing the other agent as a free person do I know myself to be a free person.<sup>19</sup> Therefore, Hegel's duty of right just is the duty to mutually recognize each other as persons and thus as having a free will.

But this duty of right is only a part of what it means to act well. The concept of abstract right abstracts from the particular ends for the sake of which an action is performed. But since an action must have a *concrete content* or *particular end* it aims to achieve, there is also "the *right* of the *subject* to find its *satisfaction* in the action" (PR, §121, cf. §124). The particular side of an action's universal form, which can be given by general action-descriptions, is its particular interest or value for me. Ultimately, my interests and desires are subsumed under the universal end of happiness or well-being (*Wohl*) as the rational system of my desires.

Now, in the case of extreme, life-threatening danger, the abstract right is limited by the so-called *right of necessity*, i.e. the right to violate what is right, e.g. someone else's property rights, in order to preserve my life (cf. PR, §127). This reveals that the life of any subject as the totality of its particular ends also has a right to count as what is good. Therefore, Hegel introduces the abstract idea of the good as the unity of abstract right or the universal will and the well-being or the particular will. The abstract right is not the good without well-being as manifest in *the right of necessity* (*Notrecht*) but the well-being is not the good either without the abstract right as manifest in *the wrong* (*Unrecht*) (cf. PR, §130).

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17 The free will (cf. PR, §5-7) is not only the *negative* freedom or *freedom of choice* in the sense of the *abstract*, universal will which can step back from any particular purpose or inclination, but also the *positive* freedom in the sense of the *concrete*, singular, self-determined will which is determinate without thereby being determined from without.

18 Cf. Pippin (2008, 198): "[B]eing a free rational agent consists in being recognized as one, and one can only be so recognized if the other's recognition is freely given; and this effectively means only if I recognize the other as a free individual, as someone to be addressed in normative not strategic terms".

19 This formulation is meant to express that not only is my freedom just your recognition of my freedom and your freedom just my recognition of your freedom but these two acts are also *one single act* which is expressed by saying that I know myself to be free by recognizing you to be free, and you know yourself to be free by recognizing me to be free (cf. Rödl 2021, 629). In other words, mutual recognition is a relation in which *each subject of the relation* knows itself to be the *whole relation*.



In the light of this abstract idea of the good, it is clear that Hegel's account of objectively necessary or obligatory ends is in general agreement with Kant's account of positive duties or virtues. The disagreement concerns the tension between Kant's claim that a good will *must be indifferent to any matter or any particular ends* and Kant's claim that a good will *must have obligatory ends*. Therefore, Hegel objects not merely to Kant's rigorism which is concerned with the tension between *duty* and *desire* but also more generally to his moral subjectivism which concerns the tension between *duty as such* and *particular, obligatory ends*.<sup>20</sup>

Hegel sees this moral subjectivism epitomized in Kant's "empty rhetoric of *duty for duty's sake*" (PR, §135). Moral consciousness is said to have the *right of the subjective will* to know what is good and to will duty for the sake of duty (cf. PR, §132). We have seen that for Hegel, just as for Kant, each *action* must have a determinate *content* or *end* so that the good as such must be determined in order to be realized. Therefore, one cannot simply act from the abstract idea of absolute duty, but acting from duty requires to answer the question of what is duty or good, i.e. to determine the idea of the good (cf. PR, §133-134, cf. PhS, §605, 369-370). Since the idea of the good is the unity of right and well-being, acting from duty means either to act for the sake of doing what is right or for the sake of promoting well-being, be it one's own well-being or the well-being of others.<sup>21</sup>

However, the moral law understood in terms of the contradiction in the will test does not specify how to choose between different obligatory ends, but can serve only to see whether a maxim of action would contradict an obligatory end if universalized. It might be the case that a maxim of action – "I will do action *A* for the sake of providing for the poor" – is in agreement with the obligatory end of promoting the well-being of others, but in contradiction with the obligatory end of doing what is right. For Hegel the problem with the contradiction in the will test is that the idea of the good or the principle of duty is *indeterminate*:

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20 While Wood (1989) is right to insist that the primary target of Hegel's formalism charge against Kant is not the formula of universal law, I will argue that the problem is not merely rigorism but the determination of particular duties. I thus reject Wood's claim (e.g. 1989, 467) that for Hegel the end of an action must always be understood as particular interest or motive, because he also explicitly talks of "universal end" (cf. PR, §123), "objective ends" (§124) or "necessary ends" (§125).

21 In contrast to Kant, Hegel considers not only the well-being of others but also one's own well-being as an essential end and thus as a positive duty (cf. PM, §509).

For the sake of the indeterminate determination of the Good there are in general *manifold* goods and *many kinds of duties*, whose differences stand dialectically against each other and bring them into *collision*. At the same time they *ought* to stand in agreement for the sake of the unity of the good, and at the same time each is, though a particular duty, absolute as duty and as good. The subject *should* be the dialectic, which *resolves* (*beschließe*) a connection of the same with the exclusion of others and thereby with the sublation of this absolute validity. (PM, §508)

This passage already points towards conscience as the dialectical resolution of the problem of indeterminacy, because conscience determines or resolves what ought to be done. From the moral standpoint, this contradiction between acting from duty as such and acting from a particular duty is resolved by maintaining that universal and particular duty cannot come apart: in acting morally, one acts from the unity of duties. The moral subject simply knows in each particular instance what action is called for. For Hegel, conscience is a shape of moral deliberation according to which only the subject decides which particular content is to be subsumed under the universal determination of the good. This subsumption is not a matter of a practical inference but of immediate practical certainty: “Conscience [...] is simple action in accordance with duty, which fulfills not this or that duty, but knows and does what is concretely right” (PhS, §635, 386)

In the next section, I will discuss how in being radically subjective, moral conscience cannot be the adequate answer to the problem of the determination of the good.

## The Moral Subjectivism of Conscience

Conscience is moral self-certainty in that it immediately knows what duty is and simply acts from its moral conviction. A situation or case of action has *many sides*, each of which calls for a *particular duty*. “Conscience knows that it has to choose between them [duties; F.G.], and to make a decision; for none of them, in its specific character or in its content, is absolute; only *pure duty* is that” (PhS, §643, 390). Now, for conscience pure duty only consists in its own conviction of duty. But this conviction itself is just as empty as the duty understood as the moral law. Therefore, Hegel argues that the content of conscience can only be determined through its natural desires and inclinations, i.e. conscience can have no other source of determination of what ought to be done except its own sensibility. In other words, conscience determines its

content in virtue of a mere subjective ordering among particular duties. But at the same time, this content counts as moral duty according to the conviction of conscience.

Although the moral law cannot be the standard of objectivity for conscience anymore, conscience cannot simply reject its own claim to objectivity either. Otherwise, it would have the paradoxical logical form “I’m convinced that one ought to do such and such, but one ought not to do such and such”. So, conscience must think that every other moral consciousness would recognize its action to be dutiful precisely because it is convinced that its action is duty as such. For conscience, the standard of truth of its action is thus the “the moment of being *recognized* and *acknowledged* by others” (PhS, §640, 388; cf. PR, §112). Therefore, the conscience is Hegel’s name for a form of moral deliberation which is bound up with a form of moral assessment, which provides its standard of truth.

Against this background, Hegel presents conscience as a form of moral consciousness which interprets its action as fulfilling duty by holding fast to *one side* of the concrete action which is purported to be the *essential side* of the action being its end (cf. PR, §140R). Conscience can interpret its action, which violates one particular duty, in such a way that the same action realizes another particular duty and thus rather counts as good. “There thus arises a conflict of determinations, for one of them suggests that an action is good, whereas others suggest that it is criminal” (PR, §140R). Given the self-certainty of conscience, this conflict of duties is at first *external* to the form of conscience itself. In the *Phenomenology*, Hegel gives the following illustration of such an external conflict:

An individual increases his property in a certain way; it is everyone’s duty to provide for the support of himself and his family, and no less to have regard to the possibility of being useful to his fellow men, and of doing good to those in need. The individual is aware that this is a duty, for this content is directly contained in his certainty of himself; furthermore, he perceives that he fulfils this duty in this particular case. Others, perhaps, hold this specific way of behaving to be humbug; *they* hold to other aspects of the concrete case, *he*, however, holds firmly to this aspect, because he is conscious of the increase of property as a pure duty. Thus, what others call violence and wrongdoing, is the fulfilment of the individual’s duty to maintain his independence in face of others; what they call cowardice, is the duty of supporting life and the possibility of being useful to others; but what they call courage violates both duties. (PhS, §644, 391)

This passage already indicates that for Hegel conscience not only takes the form of judging one's own actions, but also as passing judgement on the actions of others. An action (*Handlung*) as a *deed* (*Tat*) is an *objective event* which is open for the acting conscience as much as for the other subjects to assess as good or wrong (cf. PR, §112). But insofar each the acting conscience and the other recognizing moral consciousness are equally unbound by any particular content of duty, the determinate action expressing merely the particular self must count as evil rather than good. In other words, others must take the conscience as evil since it gives only subjective reasons why one duty is to be given priority over another in cases where obligatory ends collide. Hegel gives many examples of this collision of duties: stealing in order to provide for the poor, deserting for the sake of my duty to live or to take care of my family, murder in order to take revenge, i.e. to restore what is right, and so on (cf. PR, §140R).

Now, this conflict seems to be resolvable by modifying the form of conscience in terms of reconceiving the relation between its action and its conviction. Instead of taking the action itself as the object for evaluation by others, the conviction that one's action is duty is made into the object to be assessed by declaring one's conviction in a public act of speech. In avowing its conviction, conscience presents its action to the other moral consciences as consisting not really in its *deed* but rather in its *act of speech*. The language itself now serves as the medium for the objectivity of conscience. Hegel writes that

[t]he content of the language of conscience is the *self that knows itself as essential being*. This alone is what it declares, and this declaration is the true actuality of the act, and the validating of the action. Consciousness declares its *conviction*; it is in this conviction alone that the action is a duty; also it is valid as duty solely through the conviction being declared. (PhS, §653, 396)

Therefore, the discussion of conscience, leads to the so-called 'good heart' (PR, §140R) which is just the *self-conscious form* of conscience because it explicitly holds that whether an action is good only depends on its subjective avowal and the recognition of this avowal. Hegel characterizes this conscience as "the moral genius which knows the inner voice of what it immediately knows to be a divine voice" (PhS, §655, 397). The standard for objectivity of conscience can thus only consist in the recognition of each other's conviction which Hegel ironically describes as a community of beautiful souls in which the subjects are acknowledging each other's actions as good by merely assuring each other of their morally pure convictions.

We can summarize Hegel's dialectic in terms of a dilemma: either there is conflict between different, particular moral consciousnesses which is why none of them can receive recognition and thus moral validation, or there is the harmony of beautiful souls which is why not the particular action itself receives recognition but merely the empty conviction and thus the mutual validation is self-congratulating. Conscience is *infallible* concerning its *form* since it is the case that one's action ought to be in agreement with one's conviction of what ought to be done. But conscience is *fallible* concerning its *content* for it is not the case that any action, which one is convinced that it ought to be done, ought to be done. In short, conscience either forsakes the *determinacy* or the *objectivity* of its conviction.

In the next section, I will reconstruct Hegel's dialectic between acting and judging consciousness as forms of moral deliberation and assessment in order to show why the problem of moral subjectivity can only be overcome in reconciling these forms of moral consciousness in terms of an act of reconciliation.

## Reconciliation as the Resolution of Moral Subjectivism

Hegel introduces the so-called 'acting consciousness' as personifying a *hypocritical form of deliberation* which knows that although one's actions ought to be in agreement with one's conviction of what ought to be done, this does not entail that one's action, which one is convinced ought to be done, ought to be done from a third-person point of assessment.<sup>22</sup> Therefore, Hegel describes the acting consciousness as a form of moral deliberation which knows, on the one hand, that its action is not necessarily a duty for others since it has a particular purpose, and on the other hand, declares that its action is dutiful since its action is conscientious (cf. PhS, §659, 400-401). Put differently, the hypocritical conscience knows that its conviction, what it is convinced it ought to do, and its duty, what it ought to do, can come apart from a *third-person perspective* of 'universal consciousness', but claims that they do not by giving priority to its *first-person perspective* on the relation between its conviction and its action (cf. PhS, §660, 401).<sup>23</sup>

22 Cf. Moyar (2011, 90-91) for reading hypocrisy as a form of detachment which wrongly infers from the *complex duty* "not to believe X is wrong and do it oneself", that "if one believes X is wrong, then one has a duty not to X oneself", and Wood (1990, 188) for the claim that hypocrisy consists in the misrepresentation of conscience's fallibility.

23 Cf. Ostritsch (2022, 177) on the distinction between first- and third-person perspective on subjective duty.

Contrary to acting consciousness, the so-called ‘judging consciousness’ describes a *form of moral assessment* which gives priority to the universal consciousness of duty over its own individuality. This form of moral consciousness judges the acting consciousness to be evil because its action serves a particular duty and not duty as such, and even deems it to be hypocritical as the acting consciousness nonetheless claims its action to be dutiful. Already in *The Spirit of Christianity*, Hegel can characterize conscience as hypocritical not only because its action can be interpreted to be done for the sake of selfish or sensible reasons, but also because “it is a representation whose content is made up of the virtues, [...] whose matter is limited, and which therefore are one and all incomplete, while the good conscience, the consciousness of having done one’s duty, *hypocritically claims to be the whole*” (ETW, 220, my emphasis).

In what follows, I shall reconstruct Hegel’s dialectic of acting and judging consciousness in order to bring out why for Hegel in hard cases of moral conflict there can be no objective determination of what it means to act well, and thus that the conflict can only be resolved by an act of reconciliation understood as the mutual act of confession and forgiveness. In doing so, I shall not only give a reading of Hegel’s account of reconciliation in the *Phenomenology* but also marshal Hegel’s reflections on reconciliation as resolving the problem of moral formalism in his early theological writings.

The opposition between both forms of moral consciousness is resolved by coming to see the judging consciousness to be equally a form of hypocrisy. First, the judging consciousness is marked by the same mismatch between what it actually does and what it says it is doing. In refraining from acting itself, the judging consciousness does not face the difference between the particular case and universal duty which opens up in action. Nevertheless, the judging consciousness demands that its act of judging is to be taken as an actual deed. In the acting as well as in the judging consciousness the speech-act does not agree with actual action, either because the actual action is done for a particular end or duty, or because it does not act at all (cf. PhS, §664, 403). We can also understand the hypocrisy of the judging consciousness with respect to the practical question of how to determine the particular duty. While the acting consciousness answers this question by determining the universal duty through its particular ends, the judging consciousness merely makes negative verdicts on the answers put forward by acting consciousness, and thus it can be in agreement with duty as such only by criticizing any particular action as violating duty. But this talk of duty is

hypocritical precisely because its indeterminacy is just another expression of refraining from concrete action.

Furthermore, the acting consciousness realizes its identity with the judging consciousness in conceiving of its judgement not as merely negative, but, as Hegel emphasizes, “a positive act of thought” which has “a positive content” (PhS, §665, 403). This stress on positivity is vital, because it shows that it cannot evade the practical question but indeed chooses to regard that end as particular rather than universal by criticizing the acting consciousness. Hegel points to the fact that the judging consciousness can decry any action as immoral, since it can always interpret the action in question as being done for the sake of selfish desires or a particular duty rather than being done for a noble end or duty as such. Accordingly, Hegel claims that “[j]ust as every action is capable of being looked at from the point of view of conformity to duty, so too can it be considered from the point of view of the particularity [of the doer]; for, *qua* action, it is the actuality of the individual” (PhS, §665, 404). The hypocritical nature of this judging consciousness is captured in Hegel’s use of the proverb “no man is a hero to his valet” (PhS, §665, 404), because the valet knows very well how to introduce a gap between a seemingly good action and its truly undutiful reasons. In short, the main fault of judging consciousness is that “it divides up the action; producing and holding fast to the disparity of the action with itself” (PhS, §666, 405) and thus “moral reflection can invent collisions [of virtues; F.G.] for itself wherever it likes” (PR, §150R). The up-shot of this discussion is that neither acting nor judging consciousness can determine the good objectively.<sup>24</sup>

Hegel argues that since the judging consciousness has proven to be hypocritical itself, the acting consciousness can see itself not merely different from the judging consciousness but rather identical to it. Appreciating that the other is just as hypocritical as it is itself, acting consciousness confesses its own hypocrisy. It needs to be stressed that Hegel understands ‘confession’ not in terms of a logical form which involves submitting oneself to the authority of another normative standard by surrendering to the verdict of the judge.<sup>25</sup> On the con-

24 Cf. Moyar (2011, 126): “The problem is that from the perspective of moral reflection there is no way to decide when conflict counts as genuine and when not. To check this tendency to “invent collisions,” we need a shift in perspective away from the individual agent as the sole basis of justification”; and Moyar (2011, 141): “Conscience sets the formal deliberative structure, but each individual on his own cannot secure the conditions of value and cannot determine the correct priority relations”.

25 Cf. in particular Stern (2021) for insisting on the fact that for Hegel to confess does not mean surrendering to the authority of the judging consciousness but rather seeing it “as a fellow sinner” (611). Cf. also Disley (2016, 128) for a like-minded interpretation of forgiveness as

trary, confession is conceived through the idea that by recognizing the judging consciousness to be hypocritical it is seen to be characterized by the same logical disagreement between its avowal of conscientious judgement and its actual act of judging. Confession is thus to be conceived as the *negative conviction* in which one distances oneself from one's action not in order to vindicate it but in order to admit that it is wrong. The situation is the reversal of the community of beautiful souls in which each hold fast to each other's positive conviction. It is, what could be called, a community of sinners, in which each declares their wrongness.

The judging consciousness, however, does not reciprocate the confession and thus it does reject standing in community with the acting consciousness. This metaphorical expression is meant to bring out the difference between the logical point of view of judging and of the acting consciousness.<sup>26</sup> While the acting consciousness can see the judging consciousness as hypocritical prior to its confession, the judging consciousness cannot do this. This is because the acting consciousness can come to see the judging consciousness not just as judging but as acting, whereas the judging consciousness cannot immediately come to see the acting consciousness not as acting but as judging by distancing itself from its action in confessing. Therefore, to understand the acting consciousness as judging, the universal consciousness presupposes its confession, whereas to understand the judging consciousness as acting, the particular consciousness does not have confession as a condition.

The 'hard heart' of the judging consciousness breaks in forgiving the confessing, acting consciousness. Just as confession, forgiveness is not construed as coming to see the other's point of view as authoritative, but rather the judging consciousness "renounces the divisive thought, and the hard-heartedness of the being-for-itself which clings to it, because it has in fact seen itself in the first" (PhS, §670, 407; trans. slightly modified).<sup>27</sup> In coming to see the acting consciousness *as universal* consciousness in confessing its action to be wrong, the judging

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transcending any authority-responsibility picture of mutual recognition. Cf., amongst others, Brandom (2019, 592-594) for the mistaken reading of confession as an act in which the acting consciousness submits to the naturalistic standard of assessment by the judge.

26 Most interpretations, cf. (e.g. Stern 2021, 612, Houlgate 2013, 172, Moyer 2011, 165-166), seem not to provide an argument for the necessity of the "hard heart" as a form of moral consciousness.

27 According to Speight (2005, 299) Hegel's concept of forgiveness combines two key ideas according to: "(1) an *overcoming of resentment* that is based on a *revision of judgment* and (2) a recognition of conditions affecting both agency and judgment in general," such as the fallibility, the self-interest of motives, and the potential for evil.



consciousness forgives the other which means that it “acknowledges that what thought characterized as bad, viz. action, is good; or rather it abandons this distinction of the specific thought and its *subjectively* (*fürsichseiendes*) determining judgement” (PhS, §670, 408; trans. slightly modified). As in his *The Spirit of Christianity*, Hegel criticizes the judging consciousness by appropriating Jesus exhortation “judge not”.<sup>28</sup> In learning not to judge, the judging consciousness learns to take the action of others to be “only a *moment* of the whole” (PhS, §669, 407), and thus instead of dividing the whole action into a particular and universal side through its judgement, it learns to bear the individual *as a whole* (cf. ETW, 222-223) “[f]or the sinner is more than a sin existent” (ETW, 238).

The reconciliation between acting and judging consciousness consists of the acts of confessing and forgiveness through which each of the subjects lets go of their particular action or particular judgment. First, an act of confession or forgiveness depends on being recognized as confession or forgiveness. Therefore, one’s confession is the other’s recognition of my confession, which just is the other’s forgiveness, and one’s forgiveness is the other’s recognition of one’s forgiveness, which just is the other’s confession. However, these are not two different acts but aspects of *one single act*, which is why one’s confession is just one’s recognition of the other’s forgiveness, and one’s forgiveness is just one’s recognition of the other’s confession. In other words, in letting go of one’s claim to be morally good one recognizes being vindicated by the other’s act of letting go of their claim to be morally good. Hegel’s argument can thus be seen to capture the rational core of Jesus’s dialectic teaching that “whosoever will save his life shall lose it: and whosoever will lose his life for my sake shall find it” (Mtt. 16:25; cf. Joh. 12:25).<sup>29</sup>

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28 Cf. ETW, 237-238, my emphasis: “Judge not that ye be not judged; with what measure ye mete, it shall be measured to you again.’ The measuring rod is law and right. The first of these commands, however, *cannot mean: Whatever illegality you overlook in your neighbor and allow to him will also be overlooked in you. A league of bad men grants leave to every member to be bad.* No, it means: Beware of taking righteousness and love as a dependence on laws and as an obedience to command *instead of regarding them as issuing from life.* [...] You are then setting up for yourself and for others an alien power over your deed; you are elevating into an absolute what is only a fragment of the whole of the human heart”. Therefore, Stern’s reading goes astray in conceiving of forgiveness in terms of the realization that I could have acted as badly as you have done (cf. 2021, 611). We will see that the judge renounces her authority on what counts as good not because she is *as wrong as* the acting consciousness but rather because she sees that in confessing the acting consciousness is *identical with* the universal consciousness which the judging consciousness is supposed to be.

29 Hegel characterizes the forgiving consciousness as having “the highest freedom, i.e., the potentiality of renouncing everything in order to maintain one’s self. Yet the man who seeks to save his life will lose it. Hence supreme guilt is compatible with supreme innocence; the

The result of our discussion is that the practical problem of how to objectively determine what ought to be done is not solvable through a moral principle. Being universal, no moral principle can guarantee the unity of the particular duties or, as Hegel also calls them, virtues:<sup>30</sup>

*A living bond of the virtues, a living unity, is quite different from the unity of the concept; it does not set up a determinate virtue for determinate circumstances, but appears, even in the most variegated mixture of relations, untorn and unitary. Its external shape may be modified in infinite ways; it will never have the same shape twice. Its expression will never be able to afford a rule, since it never has the force of a universal opposed to a particular.* (ETW, 246; emphasis of the author)

This means that for Hegel virtue, or particular duty, is not to be understood in terms of an abstract moral principle prior to its determination. But, as we have seen, determination of virtue is also not achievable by conscience hypocritically silencing all other possibilities of how to act. The practical question cannot be solved but rather is *resolved* in coming to realise that in hard cases of action any actual action and judgement will turn out to be morally wrong in some way and that both can only be justified if each relinquishes its claim to be justified. Hence, the unity of virtue or duty is only negatively achievable by renouncing one's particular, one-sided conception of the good in a mutual act of confession and forgiveness.<sup>31</sup> Hegel makes this point in his early theological writings as follows:

Only when no virtue claims to subsist firmly and absolutely in its restricted form; only when every restricted virtue renounces its insistence on entering even that situation into which it alone can enter; only when it is simply

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supreme wretchedest fate with elevation above all fate" (ETW, 236).

- 30 I take it that Hegel's use of "virtue" includes not only Kant's duties of virtue but also the duties of right in Hegel's sense such that virtue is to be understood as *particular* duty in contrast to duty *as such*, although for Hegel duty as such must itself also be conceived of as a particular duty. But Hegel sometimes (cf. PM, §516) also uses the word "duty" to mean objective norms governing forms of ethical life and the term "virtue" to mean an individual's action conformity to these ethical standards. In the present discussion, however, I will treat them as synonymous.
- 31 Hegel's view of the unity of virtue resembles the view in McDowell (1979) insofar as both reject the idea of a universal moral principle which could be articulated through an abstract concept instead of a living conception (cf. 336-342). However, they differ with respect to whether this living conception can be positively understood in terms of moral "sensitivity" (cf. 332-334) as a capacity to understand what is morally "salient" in the context of a given situation (cf. 344), or whether it can manifest itself only in the light of moral conflict or "hard cases" (cf. 340), and thus through the very failure of any claims of moral sensitivity which is construed in quite a similar way to the failure of conscience's moral self-certainty. In contrast to McDowell, Hegel's unity of virtues is understood only in the act of reconciliation and thus by letting go of one's determination of what ought to be done.

the one living spirit which acts and restricts *itself* in accordance with the whole of the given situation, in complete absence of external restriction, and without at the same time being divided by the manifold character of the situation; then and then only does the many-sidedness of the situation remain, though the mass of absolute and incompatible virtues vanishes. (ETW, 245)

In this passage, Hegel links the collision of virtues with the idea that only certain aspects of a context of action are perceived to be morally salient, since to perceive a situation is already to perceive it as calling for something and as answering to the question of what ought to be done in a given case (cf. PhS, §401, 240, §643, 390).<sup>32</sup> Consequently, forgiveness involves reconstruing the intention and context of action in such a way that the action is justified on this new interpretation. This reinterpretation does not need to answer to the original interpretation of the acting consciousness precisely because in confessing it has relinquished its authority. Therefore, the problem of how to objectively determine what ought to be done can be overcome in reconciliation, because by confessing to the other to not have acted from duty as such, one therein recognizes that one is forgiven for having acted from this duty and not from another duty, and by forgiving the other for having acted from this duty and not from another duty one therein recognizes the other to confess to not having acted from duty as such.

While it is beyond the scope of this paper to compare the concept of ethical life and reconciliation as Hegel's two answers to moral subjectivism, I shall conclude by claiming that he still leaves room for the role of conscience and thus by extension to reconciliation within ethical life. For although "rectitude" can be considered as the virtue of ethical life, Hegel holds that

[w]ithin a given ethical order whose relations are fully developed and actualized, *virtue in the proper sense* has its place and actuality only in extraordinary circumstances, or where the above relations come into collision. But such *collisions* must be genuine ones, for moral reflection can invent collisions for itself wherever it likes. (PR, §150R)

Genuine normative conflicts can still arise within ethical life, because they concern "extraordinary circumstances" (PR, §150R). Such genuine normative conflicts cannot be solved by the objective norms of ethical life – which demand that the agent simply gives precedence to broader purposes, such as social roles, in cases in which they conflict with one's own or other's particular interests – but must rather be resolved in an equally *concrete* act of reconciliation.

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32 Cf. McDowell (1979, 335, 345).

## Conclusion

In this paper, I have shown that Hegel conceives of reconciliation not only as the answer to moral rigorism, but also to the more general problem of moral subjectivism he sees epitomized in Kantian moral philosophy. Consequently, I have rejected the standard interpretation as too narrow, and defended a broader reading which highlights that Hegel also seeks to dissolve the problem of how to determine the good objectively. First, I have argued that Hegel's formalism charge targets not so much the *emptiness* of Kant's contradiction in the conception test, but rather *indeterminacy* of Kant's contradiction in the will test and thus Kant's subjectivism understood as the tension between acting from pure duty and acting on a particular, obligatory end. For Hegel, Kant's moral philosophy thus dialectically requires conscience as the form of moral consciousness, which is certain of how to determine what the good is. For this reason, Hegel's objections to Kant's moral philosophy are ultimately bound up with his rejection of grounding ethics in moral conscience. The subsequent discussion of acting and judging consciousness has shown that both guises of moral consciousness suffer from the problem of determining the action-description in such a way that it must appear to be good or wrong. We have seen that for Hegel the self-conceit and self-righteousness of moral conscience is superseded in reconciliation by letting go of their fancy of moral purity. In conclusion, I have argued that for Hegel the question of what ought to be done is to be answered in terms of reconciliation understood as a mutual relation of confessing and forgiving, in which the good is known negatively by renouncing one's particular conception of what ought to be done in case of moral conflict.

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