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§ 34

The will which is free in and for itself, as it is in its abstract concept, is in the determinate condition of immediacy. Accordingly, in contrast with reality, it is its own negative actuality, whose reference to itself is purely abstract – the inherently individual [in sich eingeschlossen] will of a subject. In accordance with the moment of particularity of the will, it has in addition a content consisting of determinate ends, and an exclusive individuality [Einhelligkeit], it simultaneously encounters this content as an external world immediately confronting it.

Addition (1). When I say that the will which is free in and for itself, as it is in its abstract concept, is in the determinate condition of immediacy, this should be understood as follows. The completed idea of the will is that condition in which the concept has fully realized itself and in which its existence is nothing but the concept's own development. Initially, however, the concept is abstract – that is, although all its determinations are contained within it, they are no more than contained in it: they have being only in themselves and have not yet developed into a totality in their own right. If I say that I am free, 'I' is still this being-within-itself [Ineigenes], without any opposition. Its morality, on the other hand, there is already an opposition; for in this sphere, I am present as an individual will, whereas the good is the universal, even though it is within me. Thus, the will already has here the distinct factors of individuality and universality within itself, and is consequently determinate. But such a distinction is not present initially, for there is no progression or mediation at the first stage of abstract unity, where the will has the form of immediacy, of being. The essential insight to be gained here, then, is that this initial indeterminacy is itself a determinacy. For indeterminacy consists in there being no distinction as yet between the will and its content; but indeterminacy itself, when opposed to the determinate, takes on the determination of being something determinate; it is abstract identity which here constitutes its determinacy; the will thereby becomes an individual will – the person.

§ 35

The universality of this will which is free for itself is formal universality, i.e. the will's self-conscious (but otherwise contentless) and simple reference to itself in its individuality [Einhelligkeit]; to this extent, the subject is a person. It is inherent in personality that, as this person, I
am completely determined in all respects (in my inner arbitrary will, drive, and desire, as well as in relation to my immediate external existence [Dasein]), and that I am finite, yet totally pure self-reference, and thus know myself in my finitude as infinite, universal, and free.

Personality begins only at that point where the subject has not merely a consciousness of itself in general as concrete and in some way determined, but a consciousness of itself as a completely abstract ‘I’ in which all concrete limitation and validity are negated and invalidated. In the personality, therefore, there is knowledge of the self as an object [Gegenstand], but as an object raised by thought to simple infinity and hence purely identical with itself. In so far as they have not yet arrived at this pure thought and knowledge of themselves, individuals and peoples do not yet have a personality. The spirit which has been in and for itself differs in this respect from spirit in its appearance, for in the same determination in which the latter is only self-consciousness—consciousness of itself, but only in accordance with the natural will and its as yet external oppositions (see Phenomenology of Spirit, Bamberg and Würzburg, 1807, pp. 101ff. and Encyclopædia of the Philosophical Sciences, § 344o)—the former has itself, as abstract and free ‘I’, as its object and end and is consequently a person.

Addition (H): The will which has being for itself, or the abstract will, is the person. The highest achievement of a human being is to be a person; yet in spite of this, the simple abstraction ‘person’ has something contemptuous about it, even as an expression. The person is essentially different from the subject, for the subject is only the possibility of personality, since any living thing whatever is a subject. A person is therefore a subject which is aware of this subjectivity, for as a person, I am completely for myself: the person is the individuality of freedom in pure being-for-itself. As this person, I know myself as free in myself, and I can abstract from everything, since nothing confronts me but pure personality. And yet as this person I am something wholly determinate: I am of such an age, of such a height, in this room, and whatever other particular things [Particularität] I happen to be. Personality is thus at the same time the sublime and the wholly ordinary; it contains this unity of the infinite and the utterly finite, of the determinate boundary and the completely unbounded. The supreme achievement of the person is to support this contradiction, which nothing in the natural realm contains or could endure.

§ 36
1. Personality contains in general the capacity for right and constitutes the concept and the (itself abstract) basis of abstract and hence formal right. The commandment of right is therefore: be a person and respect others as persons.

§ 37
2. The particularity of the will is indeed a moment within the entire consciousness of the will (see § 34), but it is not yet contained in the abstract personality as such. Thus, although it is present— as desire, need, drives, contingent preference, etc. — it is still different from personality, from the determination of freedom. — In formal right, therefore, it is not a question of particular interests, of my advantage or welfare, and just as little of the particular ground by which my will is determined, i.e. of my insight and intention.’

Addition (H): Since particularity, in the person, is not yet present as freedom, everything which depends on particularity is here a matter of indifference. If someone is interested only in his formal right, this may be pure self-interest, such as is often encountered in emotionally limited people [einem beschränkt Herz und Gemüt]; for uncultured people insist most strongly on their rights, whereas those of nobler mind seek to discover what other aspects there are to the matter [Sache] in question. Thus abstract right is initially a mere possibility, and in that respect is formal in character as compared with the whole extent of the relationship. Consequently, a determination of right gives me a warrant, but it is not absolutely necessary that I should pursue my rights, because this is only one aspect of the whole relationship. For possibility is being, which also has the significance of not being.

§ 38
With reference to mundane action and to moral and ethical relations, abstract right is only a possibility as compared with the rest of their content, and the determination of right is therefore only a permission or warrant. For the same reason [Grund] of its abstractness, the
necessity of this right is limited to the negative – not to violate personality and what ensues from personality. Hence there are only prohibitions of right, and the positive form of commandments of right is, in its ultimate content, based on prohibition.7

§ 39

3. The resolving and immediate individuality [Einzelfreiheit] of the person relates itself to a nature which it encounters before it. Hence the personality of the will stands in opposition to nature as subjective. But since personality within itself is infinite and universal, the limitation of being merely subjective is in contradiction with it and is null and void. Personality is that which acts to overcome [auszulöschen] this limitation and to give itself reality – or, what amounts to the same thing, to posit that existence [Dasein] as its own.

§ 40

Right is primarily that immediate existence [Dasein] which freedom gives itself in an immediate way,

(a) as possession, which is property; freedom is here the freedom of the abstract will in general, or, by the same token, the freedom of an individual person who relates only to himself.

(b) A person, in distinguishing himself from himself, relates himself to another person, and indeed it is only as owners of property that the two have existence [Dasein] for each other.7 Their identity in themselves acquires existence [Existenz] through the transfereence of the property of the one to the other by common will and with due respect of the rights of both – that is, by contract.

(c) The will which, as in (a), is differentiated within itself in its self-reference rather than distinguished from another person as in (b), is, as a particular will, different from and opposed to itself as the will which has being in and for itself. This constitutes wrong and crime.

The division of right into the right of persons and things [Sachen] and the right of actions [Aktions], like the many other divisions of this kind, aims primarily to impose an external order upon the mass of disorganized material before us. The chief characteristic of this division is the confused way in which it jumbles together rights which presuppose substantial relations, such as family and state, with those which refer only to abstract personality. Kant’s division of rights, which has since found favour with others, into the right of things, the right of persons, and personal right of a real [dinglich] kind7 is an example of this confusion. To enlarge upon the op-sidedness and conceptual poverty of the division into the right of persons and the right of things, which is fundamental to Roman law (the right of actions concerns the administration of justice and has no place in this classification), would take us too far. Here, it is clear at least that personality alone confers a right to things, and consequently that personal right is in essence a right of things – ‘thing’ [Sache] being understood in its general sense as everything external to my freedom, including even my body and my life. This right of things is the right of personality as such. But as for what is called the right of persons in Roman law, it regards a human being as a person only if he enjoys a certain status (see Heincius, Elementa iuris civilis [1728], § 75); hence in Roman law even personality itself, as opposed to slavery, is merely an estate [Staat] or condition [Zustand].7 Apart from the right concerning slaves (among whom children may virtually be included) and the condition of rightslessness (capitis dominatus),7 the content of the so-called right of persons in Roman law is concerned with family relationships.7 In Kant, moreover, family relationships belong to personal rights of a real kind.7 The right of persons in Roman law is therefore not the right of the person as such, but no more than the right of the particular person; it will later be shown that the substantial basis of family relationships is rather the surrender of personality. It must, then, inevitably seem perverse to discuss the right of the person in his particular determinacy before the universal right of personality. – For Kant, personal rights are those rights which arise out of a contract whereby I give something or perform a service – in Roman law, the ius ad rem which arises out of an obligatio.7 Admittedly, only a person is obliged to implement the provisions of a contract, just as it is only a person who acquires the right to have them implemented. But such a right cannot therefore be called a personal
right; rights of every kind can belong only to a person, and
seen objectively, a right based on contract is not a right over a
person, but only over something external to the person or
something which the person can dispose of, i.e. always a thing.

Section 1

Property

§ 41
The person must give himself an external sphere of freedom in order to
have being as Idea. The person is the infinite will, the will which has
being in and for itself, in this first and as yet wholly abstract
determination. Consequently, this sphere distinct from the will, which
may constitute the sphere of its freedom, is likewise determined as
immediately different and separable from it.

Addition (11). The rational aspect of property is to be found not in the
satisfaction of needs but in the superseding of mere subjectivity of per-
sonality. Not until he has property does the person exist as reason. Even if
this first reality of my freedom is in an external thing (Sache) and is thus a
poor kind of reality, the abstract personality in its very immediacy can
have no other existence (Dasein) than in the determination of immediacy.

§ 42
What is immediately different from the free spirit is, for the latter and
in itself, the external in general – a thing (Sache), something unfree,
impersonal, and without rights.

The word 'thing' (Sache), like the word 'objective', has two
opposite meanings. On the one hand, when we say 'that's the
thing', or 'the thing, not the person, is what matters', it signifies
what is substantial. On the other hand, when contrasted with
the person (as distinct from the particular subject), the thing is
the opposite of the substantial; it is that which, by definition
Philosophy of Right

[seinem Bestimmung nach], is purely external. – What is external for the free spirit (which must be clearly distinguished from mere consciousness) is external in and for itself; and for this reason, the definition [Begriff/bestimmung] of the concept of nature is that it is the external in itself.

Addition (1): Since a thing [Sache] has no subjectivity, it is external not only to the subject, but also to itself. Space and time are external in this way. As an object of the senses, I am myself external, spatial, and temporal. In so far as I have sensuous intuitions, I have them of something which is external to itself. An animal can imitate, but the soul of the animal does not have the soul, or itself, as its object [Gegenstand], but something external.

§ 43

As the immediate concept and hence also [as] essentially individual, a person has a natural existence [Existenz] partly within himself and partly as something to which he relates as to an external world. – It is only these things [Sachen] in their immediate quality, not those determinations they are capable of taking on through the mediation of the will, which are at issue here in connection with personality, which is itself still in its initial immediacy.

Intellectual (geistig) accomplishments, sciences, arts, even religious observances (such as sermons, masses, prayers, and blessings at consecrations), inventions, and the like, become objects [Gegenstande] of contrast; in the way in which they are bought and sold, etc., they are treated as equivalent to acknowledged things. It may be asked whether the artist, scholar, etc. is in legal possession of his art, science, ability to preach a sermon, hold a mass, etc. – that is, whether such objects are things. We hesitate to call such accomplishments, knowledge [Kenntnisse], abilities, etc. things; for on the one hand, such possessions are the object of commercial negotiations and agreements, yet on the other, they are of an inward and spiritual nature. Consequently, the understanding may find it difficult to define their legal status, for it thinks only in terms of the alternative that something is either a thing or not a thing (just as it must be either finite or finite).

74

Abstract Right

§§ 42–44

sciences, talents, etc. are of course attributes of the free spirit, and are internal rather than external to it; but the spirit is equally capable, through expressing them, of giving them an external existence [Dasein] and disposing of them (see below), so that they come under the definition [bestimmung] of things. Thus, they are not primarily immediate in character, but become so only through the mediation of the spirit, which reduces its inner attributes to immediacy and externality. – In accordance with the unjust [nichtrechtmäßigen] and unethical determination of Roman law, children were, from the father’s point of view, things. The father was consequently in legal possession of his children, although he also stood in the ethical relation of love to them (which must, of course, have been greatly weakened by the wrong referred to above). Thus, there was in this case a union – albeit a totally unjust one – of the two determinations of being a thing and not being a thing. – Abstract right is concerned only with the person as such, and hence also with the particular, which belongs to the existence [Dasein] and sphere of the person’s freedom. But it is concerned with the particular only in so far as it is separable and immediately different from the person – whether this separation constitutes its essential determination, or whether it receives it only by means of the subjective will. Thus, intellectual accomplishments, sciences, etc. are relevant here only in their character as legal possessions; that possession of body and spirit which is acquired through education, study, habituation, etc. and which constitutes an inner property of the spirit will not be dealt with here. But the transition of such intellectual property into externality, in which it falls within the definition [bestimmung] of legal and rightful property, will be discussed only when we come to the disposal of property.

§ 44

A person has the right to place his will in any thing [Sache]. The thing thereby becomes mine and acquires my will as its substantial end (since it has no such end within itself), its determination, and its soul – the absolute right of appropriation which human beings have over all things [Sachen].

75
That so-called philosophy which ascribes reality — in the sense of self-sufficiency and genuine being-for-and-in-itself — to immediate individual things [Dinge], to the non-personal realm, as well as that philosophy which assigns us that spirit cannot recognize truth or know what the thing-in-itself is, is immediately refuted by the attitude of the free will towards these things [Dinge]. If so-called external things have a semblance of self-sufficiency for consciousness, for intuition and representational thought, the free will, in contrast, is the idealism and truth of such actuality.

Addition (1). All things [Dinge] can become the property of human beings, because the human being is free will and, as such, exists in and for himself, whereas that which confronts him does not have this quality. Hence everyone has the right to make his will a thing [Sache] or to make the thing his will, or, in other words, to appropriate the thing and transform it into his own; for the thing, as externality, has no end in itself, and is not infinite self-reference but something external to itself. A living creature (the animal) is also external in this way and is to that extent itself a thing [Sache]. The will alone is infinite, absolute in relation to everything else, whereas the other, for its part, is merely relative. Thus to appropriate something means basically only to manifest the supremacy of my will in relation to the thing [Sache] and to demonstrate that the latter does not have being in and for itself and is not an end in itself. This manifestation occurs through my conferring upon the thing an end other than that which it immediately possesses; I give the living creature, as my property, a soul other than that which it previously had; I give it my soul. The free will is consequently that idealism which does not consider things [Dinge], as they are, to be in and for themselves, whereas realism declares them to be absolute, even if they are found only in the form of finitude. Even the animal has gone beyond this idealism philosophy, for it consumes things [Dinge] and thereby proves that they are not absolutely self-sufficient.

§ 45
To have even external power over something constitutes possession, just as the particular circumstance that I make something my own out of natural need, drive, and arbitrary will is the particular interest of possession. But the circumstance that I, as free will, am an object (gegenständlich) to myself in what I possess and only become an actual

will by this means constitutes the genuine and rightful element in possession, the determination of property.

In relation to needs — if these are taken as primary — the possession of property appears as a means; but the true position is that, from the point of view of freedom, property, as the first existence [Dasein] of freedom, is an essential end for itself.

§ 46
Since my will, as personal and hence as the will of an individual [das Einzelne], becomes objective in property, the latter takes on the character of private property; and common property, which may by its nature be owned by separate individuals, takes on the determination of an inherently [von sich] divisible community in which it is in itself [für sich] a matter [Sache] for the arbitrary will whether or not I retain my share in it.

The utilization of elementary objects is, by its nature, incapable of being particularized in the form of private possession. — The agrarian law of Rome embody a conflict between community and private ownership of land; the latter, as the more rational moment, had to retain its supremacy, albeit at the expense of other rights. — "Einzelnd family property contains a moment which is opposed to the right of personality and hence of private property. But those determinations which concern private property may have to be subordinated to higher spheres of right, such as a community or the state, as is the case with private property when it becomes the property of a so-called corporate person [vereinliche Person] or property in moetain. Nevertheless, such exceptions cannot be grounded in contingency, private arbitrariness, or private utility, but only in the rational organism of the state. — The Idea of Plato's republic contains as a universal principle a wrong against the person, inasmuch as the person is forbidden to own private property. The idea [Vorsicht] of a piece or friendly or even compulsory brotherhood of men with communal property and a ban on the principle of private property may easily suggest itself to that disposition which misjudges the nature of the
freedom of spirit and right and does not comprehend it in its
determinate moments. As for the moral or religious dimen-
sion, when Epicurus' friends planned to establish such an
association with communal property, he prevented them from
doing so for the simple reason [Graec.] that their plan dis-
played distrust, and that those who distrust one another are
not friends (Diogenes Laertius, c.x.6).

Addition (F). In property, my will is personal, but the person is a specific entity [von Drezl]; thus, property becomes the personal aspect of this specific will. Since I give my will existence [Dasein] through property, property must also have the determinateness of being this specific entity, of being mine. This is the important doctrine of the necessity of private property. Even if exceptions may be made by the state, it is nevertheless the state alone which can make them; but frequently, especially in our own times, private property has been restored by the state. Thus, for example, many states have rightly dissolved [aufgelöst] the monasteries, because a community does not ultimately have the same right to property as a person does.

§ 47

As a person, I am myself an immediate individual [Einzelner]; in its further determination, this means in the first place that I am alive in this organic body, which is my undivided external existence [Dasein], universal in content, the real potentiality of all further-determined existence. But as a person, I at the same time possess my life and body, like other things [Sachen], only in so far as I will it.

The fact that, from the point of view that I exist not as the concept which has being for itself but as the immediate concept, that I am alive and have an organic body, depends on the concept of life and on the concept of the spirit as soul — moments which are taken over from the philosophy of nature (Encyclopedia of the Philosophical Sciences, §§ 25ff.; cf. §§ 161, 164, and 298) and from anthropology (ibid., § 388). I have these limbs and my life only in so far as I will it; the animal cannot mutilate or destroy itself, but the human being can.

Addition (G). Animals are indeed in possession of themselves: their soul is in possession of their body. But they have no right to their life, because they do not will it.

§ 48

In so far as the body is immediate existence [Dasein] it is not commensurate with the spirit; before it can be the spirit's willing organ and soul-inspired instrument, it must first be taken possession of by the spirit (see § 57). — But for others, I am essentially a free entity within my body while I am in immediate possession of it.

It is only because I am alive as a free entity within my body that this living existence [Dasein] may not be misused as a beast of burden. In so far as I am alive, my soul (the concept and, on a higher level, the free entity) and my body are not separated; my body is the existence [Dasein] of freedom, and I feel through it. It is therefore only a sophistical understanding, devoid of any idea, which can make a distinction whereby the thing-in-itself [Ding an sich], the soul, is neither touched nor affected if the body is abused and the existence [Existenz] of the person is subjected to the power of another. I can withdraw into myself from my existence [Existenz] and make it external to me — I can keep particular feelings outside myself and be free even if I am in chains. But this is my will, for others, I am in my body. I am free for the other only in so far as I am free in my existence [Dasein]: this is an identical proposition (see my Science of Logic, Vol. 1 [first edition, 8th ed.], pp. 49ff.).' Violence done to my body by others is violence done to me.

Because I feel, contact with or violence to my body touches me immediately as actual and present. This constitutes the difference between personal injury and infringement of my external property; for in the latter, my will does not have this immediate presence and actuality.

§ 49

In relation to external things, the rational aspect is that I possess property; the particular aspect, however, includes subjective ends, needs, arbitrariness, talents, external circumstances, etc. (see § 43). It