INTERNATIONAL SITTICHKEIT: POLITICAL FREEDOM, SUBSTANTIVE WILL, AND MUTUAL RECOGNITION AS THE CORNERSTONES OF TRANSNATIONAL PUBLIC RULE

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The goal to be reached is the mind's insight into what knowing is.
Impatience asks for the impossible,
wants to reach the goal without the means of getting there.

(G.W.F. Hegel, *The Phenomenology of Mind*)

**Acknowledgement:** The thesis’ title *International Sittlichkeit* derives from Vincent’s “The Hegelian State and International Politics” and reads in the original version as follows: “Hegel is not rejecting Kant’s doctrine of universal reason and morality but is rather arguing indirectly that it must be based on concrete social customs and order. An international order would be realized if based upon universal concrete customs, in other words, international Sittlichkeit”, cf. p. 197.
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1. Transnational democracy and the political state

This thesis applies the political philosophy of G.W.F. Hegel to the field of International Political Theory. It mobilizes the concept of the political state for the study of transnational democratic regime-structures and asks the question to what extent cosmopolitan, deliberative, and agonistic models of global public rule are capable of completing the Hegelian ideal of political autonomy. More precisely, the analysis investigates on the question which type of democratic regime bears the potential of providing freedom as self-actualization through mutual recognition. Francis Fukuyama’s Hegel-interpretation and the resulting End of History-thesis will serve as the theoretical plateau from which the analysis departs. Two important qualifications have to be made in this respect: firstly, instead of focusing exclusively on the struggle for recognition the study applies a much broader reading of Hegelian political philosophy and takes the concepts of the political state and of political freedom on board as well - two aspects not explicitly addressed by Fukuyama. And secondly, for the purpose of providing an analysis that is as balanced as possible, the study will not limit itself to an exclusive focus on western interpretations of liberal democracy, but investigates in addition on the respective political rationale inherent to deliberative democracy and radical politics.

1.1. The End of History?

Twenty-four years ago Francis Fukuyama famously proclaimed the looming of the End of History: the end of mankind’s ideological evolution and its eventual crystallization in the figure of western liberal democracy. Fukuyama suggested that with the collapse of the second totalitarian regime of the 20th century, Communism, the dialectical process inherent to historical developments could come to an end, and sooner or later all societies would finally adopt liberal democracy as their political regime. In the understanding of Fukuyama, who based his argument on a Hegelian interpretation of History, only democracy in its liberal form is capable of dissolving the contradictions that drive historical development. In his reading History is not perceived as a random accumulation of events, but rather as an evolutionary process in whose course mankind passes through different stages of spiritual and societal developments, in order to finally arrive - in Fukuyama’s understanding - at a

2 ibid., Part I, para. 1 and Part III, para. 1.
modern democratic society of western coinage. Fukuyama identifies a struggle between ideational factors (a clash of ideals, so to say) as well as human’s continuous strive for self-actualization through mutual recognition (the *struggle for recognition*) as the ‘engine’ behind this developmental process: “as for all good Hegelians, understanding the underlying processes of history requires understanding developments in the realm of consciousness or ideas, since consciousness will ultimately remark the material world in its own image”. And further, about recognition and the dialectical process of History:

For human history and the conflict that characterized it was based on the existence of ‘*contradictions*’: primitive man’s question for mutual recognition, the dialectic of the master and slave, the transformation and mastery of nature, the *struggle for universal recognition of rights*, and the dichotomy between proletariat and capitalist.

Fukuyama argues that only liberal democracy is able to fulfill the conditions that would eventually allow for the dissolution of the *struggle for recognition* by granting the individual complete self-actualization in and through community. The political regime that would prevail at the End of History has to recognize and protect man’s universal right of freedom - hence it is a liberal. And will exist only with the consent of the governed - hence it is democratic.

### 1.2. Philosophical and empirical shortcomings

When Fukuyama came up with this thesis at the end of the Cold War the case seemed indeed clear: the two major totalitarian movements of the 20th century ceased to exist and the only global power left, the USA, embodied the principles of liberal democracy - the political regime Fukuyama deemed to be superior in contrast to all other forms of government. The culmination point seemed reached; the contradictions in historical development resolved; and the *struggle for recognition* has finally ended. End of the (Hi)story! Not quite, of course, because after the article (1989) and the book (1992) have been published they sparked controversial discussions and were subject to passionated critique. Though it is not the major purpose of this study to perform an in-depth analysis of the *End of History*, and add another layer of sediment to the myriad’s of critical comments, it is none the less useful to briefly touch upon the major shortcomings of Fukuyama’s thesis in order to

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3 ibid., Part I, para. 2.
4 ibid., Part II, para. 9 - emphasis added.
clarifying in which academic context the study positions itself. When talking about criticism it is applicable to distinguish sharply between *philosophical* and *empirical* arguments. While the former one refers to the question of the accuracy of Fukuyama’s Hegel-interpretation, the latter one tries to find prove (or disprove) for the *End of History*-thesis by evaluating events on the ground that could eventually verify that political reality is indeed witnessing an expansion of liberal-democratic regimes.

From a *philosophical* - and in this case this means a genuine Hegelian point of view - it appears as highly problematic to depict the liberal market society as the culmination point of ideological development and as the stage where mankind’s social evolution comes to an end. Nobody knows, of course, what the future might bring, and eventually a human order that is based on market capitalism and liberal constitutionalism might prevail. Yet, this would hardly go along with the philosophical argument developed by Hegel. For him the liberal society, or civil society as he termed it, is an entity based on contractual relationships that he was deeply critical of. In fact Hegel even urged not to confuse the *external state* (the one base on rational liberal principles and the civil society) with the *political state*. While the latter one is representing ethics in the form of *substantive will*, the former is a mere mechanism for providing security and protection of property. Hegel perceived the modern liberal society that is based on individualism and contractual relationships as a necessary stage in human development, but certainly not as the end-point of ideational progression, mainly because the liberal civil society is only representing *formal* and not *substantive recognition*. A second problem is Fukuyama’s interpretation of desire and the *struggle for recognition* (subsumed under the concept of *thumos* or *thymos*): “Fukuyama assumes that, thumos, the desire for recognition is free-standing. Individuals desire for recognition’s sake. It is formally differentiated in terms of whether for it is equality or superiority - isothymia or megaothymia”. What Fukuyama does particularly is to postulate that desire is essentially empty - a process with no purpose, exercised for its own sake. By forwarding this point he neglects the developmental capacity of complex self-consciousnesses that was explicitly emphasized by Hegel. Fukuyama assumes (borrowing from Kojève) that self-consciousness remains in its primitive stage and consumes

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everything around it.\footnote{10} Hegel on the other side denied this static understanding of self-knowingness and suggested that consciousness develops itself in a number of increasingly complex forms of freedom: natural, ethical, civil, and eventually political one. Complementary to the dynamic unfolding of the spirit society advances through a number of more and more complex types of communities: family, civil society, and finally the political state.\footnote{11}

When turning to the question whether Fukuyama’s argument could at least be proven right in empirical terms one has to acknowledge that the business of democracy is indeed a booming one. According to the latest figures of the Freedom House-index the number of ‘free’\footnote{12} societies has risen in the past 30 years from 54 to 87. In the same period the number of ‘not free’ communities dropped from 64 to 48. As at least ‘partly free’ one can describe 60 countries, compared to only 47 back in 1981.\footnote{13} Fukuyama seemed to have anticipated correctly that regimes based on democratic forms of governance have gained more and more importance in political practice. However, in the light of very recent events in the 1990s and early 2000s it is doubtful whether the thesis that democracies will necessarily become liberal is entirely justified. In fact, other hybrid-forms of democratic governance gained increasing momentum in the past few years. Zakaria notes that for too long time democracy and liberal constitutionalism have been thought together: “for almost a century in the West, democracy has meant liberal democracy - a political system marked not only by free and fair elections, but also by the rule of law, a separation of powers, and the protection of basic liberties of
speech, assembly, religion, and property”.

If countries abandoned authoritarian rule and moved towards democratic forms of government it was supposed that after a brief period of time they would eventually end up in a western style democracy. However, a considerable number of previously authoritarian countries that underwent this transition seem to feel quite comfortable in this provisional state and show little ambition to turn into full blown liberal regimes. The supposed interim state turned permanent and some countries ended up with a separation of democracy and constitutional liberalism: they became illiberal democracies. Kagan exemplifies this by evaluating the transitional stages in which Russia and China remain. Democracy ‘Russian style’ has been labeled by Putin as sovereign or managed democracy. It shows patterns of popular support, but suffers at the same time form illiberal practices. China, on the other hand, adopted market capitalism (something appreciated by Fukuyama), but is hesitant so far to combine it with far reaching liberal practices. Azar Gat even predicted a return of authoritarian great powers, and labeled the semi-democratic governments of Russia and China as the severest dangers to western liberal democracy. Croissant, Merkel, and Puhle called this countries in permanent transition ‘defective democracies’, a concept that describes a political regime that rests on popular support and inherits formal democratic institutions (elections, a parliament, etc.). At the same time, however, there is little/no balance of powers, civil liberties are circumcised, participation in the democratic process is restricted, the rule of law is ineffective, informal networks dominate, and dynastic structures are (re-)established.

In a series of articles in the 2000s Fukuyama tried to defend his thesis against critics. He proposed that the triumphal procession of liberal democracy is not at an end yet. Rather it takes time for people in different places in the world to learn to appreciate the advantages of the liberal model. After all, liberal democracy cannot be declared, but societies have to develop a naturally grown desire to adopt it as their mode of governance. In response to Samuel P. Huntington’s Clash of Civilizations-thesis Fukuyama explained that the clash cannot

17 ibid.
be compared to great-power politics in 19th century Europe, but has rather to be understood
as a “series of rearguard actions from societies whose traditional existence is indeed
threatened by modernization”.21 Equally, he was dismissing new hybrid-forms of democracy,
such as Chavismo, by explaining that on the long run such systems will fail due to their
corruptness and inefficiency.22 In general, Fukuyama refrained from relativizing his paradigm
too strongly. In his understanding “democracy and capitalism still have no real
competitors”.23 And further: “Despite recent authoritarian advances, liberal democracy
remains the strongest, most broadly appealing idea out there”.24 Whether Fukuyama it right
with his verdict will be seen in the future. However, one thing became very clear: the concept
of democracy as such has been separated from the idea of western liberalism, and new
criteria for interpreting what qualifies as public rule are on the table. This is not only true for
the academic realm, but for political practice as well.

1.3. Mobilizing Hegel: democracy as ‘political freedom’

In the light of this developments I would like to draw two conclusions that build the
basis from which the study will depart: firstly, in respect to the academic dimension of
Fukuyama’s work, it appears that he has applied a too narrow and quite selective reading of
Hegel. He starts off by forwarding an essentially liberal argument and reinforces it later with
Hegelian philosophy, instead of conducting a result-oriented study that would allow for
more diverging interpretations. Instead of using the Hegelian framework in a sound
methodological manner for an investigation on the question which regime-type might be
most capable of fulfilling the requirements for a good political order, Fukuyama turns the
analytical logic upside-down and exploits the framework for his very own neo-conservative
agenda. And secondly, by taking the above discussed empirical developments and political
dynamics of the post-Cold-War era into account, it is suggested that democracy as a system
of governance does indeed gain increasing importance. However, it does not follow that one
conflates democracy with liberal constitutionalism. Democracy might be the social practice
that leads to political freedom, but it might not necessarily follow a liberal path. Within the West

englishmatters.gmu.edu/issue6/911exhibit/emails/fukuyama_wsj.htm (04.06.2012).
www.washingtonpost.com/wp-dyn/content/article/2008/08/22/AR2008082202395.html (04.06.2008).
24 ibid.
the actual germ cell of liberal democracy - the rapid sequences of crises, such as the collapse of the sub-prime-market in 2008 and the resulting sovereign debt crisis of 2010, have increased people's demand for more participation in the political process. The Occupy-movement strives for new forms of direct and deliberative democracy and is only one very prominent example for this emerging trend. Intellectuals in the Arab world and leaders of states that are predominantly influenced by islamic values seek for a demarcation from the western model and opt in favour of an islamic democracy. This tendency has become very apparent in the course of the Arab Spring. The interim government of Egypt, for instance, has uttered that it will choose democracy as its regime, yet it has also remarked that the West should accept that Arab states might walk down a different ally and develop a distinct arabic or islamic interpretation of democracy. One that can be described as a cousin of western liberal democracy, but certainly not its clone.

1.3.1. Central research question

The study follows Francis Fukuyama and apply's Hegel's philosophy of History and his political theory to the field of International Political Theory. Two important qualifications have to be made in this respect: firstly, instead of focusing narrowly on the the struggle for recognition the analysis applies a much broader focus that contextualizes the mechanism and relates it to the idea of political freedom and the political state. Secondly, apart from investigating on western liberal democracy only, the study focuses on other forms of democratic regimes as well, notably cosmopolitan, deliberative, and agonistic approaches. The main research question that guides the analysis reads as follows: If Fukuyama's analysis has proven to be deficient from both, a theoretical and an empirical point of view, which type of democratic regime does then bear the potential of completing the Hegelian ideal of political freedom?

1.3.2. Theoretical framework: why Hegel?

Before proceeding with the analysis a last question has to be tackled that concerns the choice of the theoretical framework, namely Hegelian political philosophy. Scholars of International Relations and International Political Theory might wonder why one should attempt to mobilize a thinker, that is predominantly known for its statist political philosophy, for the evaluation of modern 21st-century discourses about global democracy? Why Hegel, and why not, for instance, Kant's perpetual-peace-framework, which appears to be much more suitable for such an endeavor?
Three distinct answers can be given to this question: the first one concerns the flawed understanding of Hegel as a statist. In *The Hegelian State and International Politics* Vincent argues:

(... if one looks carefully at the structure of Hegel’s system, it is quite obvious that *the state is transcended* by the truly Hegelian method. Hegel argues that the state, with regard to the development of Spirit, is still but a stage characterized by imperfections, finiteness, incompleteness and contingency.\(^{25}\)

Vincent proposes that mainstream readings have not yet succeeded in taking the implications of a post-statist Hegelian philosophy into account. Further he suggests that a more thorough interpretation of the Hegelian position could even end up in a distinct cosmopolitan perspective that breaks with the vision of the international realm as an essentially state-centric entity.\(^{26}\) If developed adequately a Hegelian cosmopolitanism could potentially offer an alternative to the dominant narrative of the Kantian perpetual peace.\(^{27}\) While Kant derives his understanding of political justice from an abstract universal rationale, Hegel stresses the emergence of rationality through community-practices. By utilizing and further developing Vincent’s vision of a Hegelian cosmopolitanism the study approaches the question of transnational democracy from a novel, and so far relatively unappreciated, theoretical angle. It does not only ask the question to what extent modern democratic theories fit into the Hegelian framework, but shows additionally by what means Hegel might advance our understanding of the central building-blocs of transnational public rule.

The second reason for the application of a Hegelian framework in a study on transnational democracy derives from the fact that Hegel offers a potential blueprint for a realist-informed theory of conflict based on ideational factors.\(^{28}\) In *The Case for Hegel in International Relations Theory* MacKay and Levin stress that patterns of cooperative behavior, regardless of their motivation through material-rational or ideational-ideological factors, are already sufficiently theorized in the IR-field. The writings of Locke or Grotius, and the deriving liberal school of thought, serve as vivid examples. Further, conflict driven by material-rational momentums is explained by Hobbes, Thucydides, and the (Neo)Realists.\(^{29}\) What is


\(^{26}\) ibid., 191 f.

\(^{27}\) ibid.


\(^{29}\) ibid.
largely missing, however, is a theory of conflict based on ideational-ideological factors. The question why people fight, or more precisely, for what ‘reason’ they fight, is of immense importance when theorizing the contours of transnational democratic practices. If one wishes to establish a durable system of democratic accountability in a potentially border-transgressing environment, he has to understand the ideational motivations that drive people into political conflict. What are they fighting for, and what is the fabric that social conflict is eventually made of? Only if one is capable to adequately comprehend the ideational-ideological forces that could tear a transnational democratic regime apart, he will be able to formulate the conditions that have to be addressed by the system in order to prevent its implosion. In directing our attention to the struggle for recognition, which derives from humans desire for self-actualization (the precondition for political freedom), Hegel signals that political conflict is not (only) initiated by a material-rational rationale, but does have a strong ideational component as well. A Hegelian framework supports us in understanding how the struggle for recognition unfolds itself through micro-sociological processes. And it helps to answer the question whether contemporary models of democratic rule are adequately equipped for handling this janus-faced force, capable of destroying and disclosing the world at the same time.

Last but not least, the Hegelian framework bears the potential of making valuable contributions to emancipatory and radically agent-centered models of political justice. The agent-centered elements of the Hegelian theory (notably the struggle for recognition) imagine the individual as a kind of catalyzer: as an indispensable element that is necessary for the emergence of political rationality and the materialization of social justice in the first place. Political justice, and the order that derives from it, can never be deduced from a purely abstract principle, but arises necessarily through its fulfillment by the political agent. In this respect Hegelian philosophy saves the political agent from becoming an ‘employee of reason’. The consequences are evident when looking, for instance, at Rawls who claims that the shape of the good community can be determined through a process of mere rational investigation. The abstract ideal of public reason does already exist somewhere outside the social process and is simply waiting for its discovery by enlightened individuals. Eventually a community can be run by a philosopher king and does not rely on the prudence of the individual. Hegelian philosophy bears the potential of letting us imagine a planetary community of democratic practices which does not have to scarify agency and individual
judgement for the ideal of internationalism. In fact, both elements might even fit neatly together and become co-constitutive.

1.3.3. Plan of work

In order to answer the research-question the study proceeds in the following manner: Chapter 2 defines the elements of the Hegelian political theory that are deemed relevant for the analysis. The chapter investigates on the question how an appropriate definition of political justice could look like, and what specific criteria should be applied when evaluating the respective ‘rationality’ of a political regime along the lines of Hegelian thought. The chapter consists of three consecutive building-blocks: the first section focuses on meta-level-processes and the idea of universal History; the second section deals with micro-level-dynamics and lines out how the struggle for recognition leads to freedom understood as the attainment of genuine self-consciousness; the third section discusses macro-level-elements such as the different conceptions of freedom (natural, ethical, civil, political) and the related forms of human organization (family, civil society, political state). The chapter ceases with lining out a set of criteria that guide the analysis in the consecutive chapters. Chapters 3 - 5 will then apply the theoretical framework to three models of transnational democracy, namely: David Held's concept of cosmopolitan governance, John Dryzek’s deliberative approach to democracy, and last but not least Chantal Mouffe’s agonistic politics. All three regime-types undergo an analysis alongside Hegelian lines. This analysis investigates on the question whether one (or more) models of democratic rule are capable of fulfilling and completing the ideal of political freedom. The study ceases with Chapter 6 where a final comparison between cosmopolitan, deliberative, and agonistic democracy takes place, and a definitive conclusion is drawn.
2. Hegelian political philosophy: state, freedom, recognition

As already pointed out earlier Chapter 2 will now define the parameters to be used in the subsequent analysis. The primary objective of this section is to flesh out what the principle of political freedom exactly entails, and how it can be mobilized for the study of transnational democratic regime-structures. In order to get to this point the concept of universal history is thematized first, mainly because it gives an account through which different stages of ethical development a society moves and by what inherent forces historical change is driven (2.1.). Subsequently the connection between universal history, self-consciousness, and mutual recognition is subject to discussion (2.2.). In a final move it is explained how the political state emerges, what is signified by the concept, and in what way it relates to mutual recognition (2.3. and 2.4.).

2.1. Know thyself: world spirit and universal history

In a Hegelian reading the unfolding of History, and the historical process as such, have to be understood as a series of progressive and evolutionary events which receive their particular momentum from a ‘rational’ cause. History is not empty, so to say, but it has a distinct purpose, a telos. Humankind did not arrive at its current stage of development by accident - the status of the present, the appearance of the political order as we know it today, was not obtained through some sort of random, unordered, or contingent accumulation of events. Rather, the unfolding of certain social dynamics over the last couple of centuries and millennia had a clear underlying cause, and a supporting and guiding force that drives human development towards a certain finite point of development. This underlying force has molded the appearance of human community from its early stages onwards - the oriental and greek civilizations - until the modern times, where one can whiteness the actualization of History’s rationale in the form of the contemporary human community. The development of this human community does then occur through a teleological historical process where the sequences of civilizations, thought separated through the insuperable constraints of space and time, remain bound to each other as they pass on a certain type of ‘ethical DNA’. While older civilizations have ceased to exist and died a long time ago, their respective spirit is not dying with them but inherited by their ‘neighbors in time’, namely by the subsequent civilizations:

“Thus, although ancient Greece is long dead, it is not forgotten. Modern states

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30 Hegel, G.W.F.: Elements of the Philosophy of Right, §343.
31 ibid., §344.
far from the Mediterranean basin have assimilated its ideas, structures and institutions as their own (e.g. elements of deliberation, rhetoric, and democracy).”

However, when Hegel was thinking about the path of History, and its unfolding properties over time, he was not particularly concerned with the question of how certain traditions or distinct cultural features were passed from one society to another, just for arriving in present times. Rather, he situated his theory on the meta-level by investigating on the question what the driving force behind the teleological historical process might be and what the evolutionary qualities of that process are. Hegel’s answer to the question what History is, and what the purpose (telos) of History might be, is very clear: it is the successive unfolding of the universal spirit:

Since history is the process whereby the spirit assumes the shape of events and of immediate natural actuality, the stages of its development are present as immediate natural principles; and since these are natural, they constitute a plurality of separate entities [eine Vielheit außereinander] such that one of them is allotted to each nation [Volke] in its geographical and anthropological existence [Existenz].

History as such, namely the purposeful progression of human civilizations, is hence the materialization and manifestation of spirit, and nothing less than an indicator for its working in the world. But while the course of events has a very immediate and manifest appearance, spirit has not. It is acting through matter, through the consciousness of individuals, but in that way it is only mediated matter. One cannot find the spirit through immediate physical means by touching it, as it would have been possible with the quite depictive gods in Greek or Roman mythology. Spirit is present, but only as a principle-reality and not an actual one. Further, while spirit works in the world by delineating a kind of corridor that defines the emergent qualities of History’s unfolding, it ought not to be understood as some sort of manipulative force or a puppet master. The world spirit is not a distant authority, like an ancient godhead, that steers human development from a remote position - it is not something outside of human life that works like a tight determinism. It is rather a functional principle - in Hegel’s understanding the functional principle - of human development, destined to work its way through the sequences of events until if fully actualizes itself in a perfectly ‘rational’ human community.

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33 Hegel: Elements of the Philosophy of Right, §346.
At the core of this functional principle one will find the striving for freedom - freedom as an inwardly directed condition of finite self-actualization that is conditioned by genuine self-knowledge. The spirit itself is already freedom because it succeeded in achieving unity as such by exclusively existing in-and-with-itself.

Spirit is self-contained existence (Bei-sich-selbst-seyn). Now this is Freedom, exactly. For if I am dependent, my being is referred to something else which I am not; I cannot exist independently of something external. I am free, on the contrary, when my existence depends upon myself. This self-contained existence of Spirit is non other than self-consciousness - consciousness of one’s own being.

The essence of world spirit is hence “knowing thyself” - and this is the telos of history. However, since spirit is not the agent of historical progress but only its engine, the duty to achieve freedom as self-knowingness through self-consciousness falls to the individual: History is the process of attaining freedom through self-actualization - the “coming to a consciousness of itself”. Freedom is already present in the figure of the spirit as an abstract active principle. But since individuals are the materialized agents of historical change humans for themselves have to attain this degree of consciousness in order to comply with History’s (hence spirit’s) imperative principle - the attainment of true freedom:

In the process before us, the essential nature of freedom - which involves in it absolute necessity - is to be displayed as coming to a consciousness of itself (for it is in its very nature, self-conscious) and thereby realizing its existence. Itself is its own object of attainment, and the sole aim of Spirit. This result it is, at which the process of World’s History has been continually aiming; and to which the sacrifices that have ever and anon been laid on the vast altar of the earth, through the long lapse of ages, have been offered.

The unfolding of freedom through the principal force of spirit (the engine behind historical processes) is not an effortless process that would easily cleave its way through History in some deterministic and inevitably obvious fashion. Quite the contrary is the case: spirit reveals itself not through the mere presence of its principle, but rather through events and human practices that are essentially contradicting its very emergence - and with it the actualization of freedom through true self-knowingness. History then is not a stringent process, but a

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35 ibid.
36 Hegel: *Elements of the Philosophy of Right*, §343.
37 Hegel: *The Philosophy of History*, p. 17.
38 ibid., p. 19.
dialectical one.\textsuperscript{39} It is driven by the very practices that stand contrary to the universal spirit, and only by overcoming and transcending this deficient (means: less rational) stages of human organization newer and more rational forms of societal practices can emerge that allow for increased opportunities of achieving consciousness through actualizing oneself: “It is violent struggles for recognition [ed.: self-actualization is only possible through mutual recognition], at each stage of social development that permits the birth of larger, more systematically integrated, more fully self-conscious social orders (...)”\textsuperscript{40} The increasing unfolding of the spirit’s rationale will finally lead to a universal history. This history is universal in a way that it does no tell the (Hi-)story’s of particular human communities, but it rather embodies the world spirit and hence reason for itself:

\[ (...) \text{since spirit in and for itself is reason, and since the being-for itself of reason in spirit is knowledge, world history is the necessary development, from the concept of the freedom of spirit alone, of the moments of reason and hence of spirit’s self-consciousness and freedom. It is the exposition and the actualization of the universal spirit.} \textsuperscript{41} \]

Hegel’s understanding of universal history is admittedly slightly tautological at that point, because in his reading it is, on the one side, the exhibition of spirit, but simultaneously it has also to be understood as a process in which the spirit is working for the full embodiment of the knowledge that is already potentially in it - the spirit becomes then what it already is.\textsuperscript{42} Nevertheless, the stage of universal history is constituted by the most rational form of human community. This social practice has to be labeled ‘rational’ in its relation to the universal spirit. Due to the fact that this kind of community materializes the universal spirit’s fundamental knowledge, which is essentially self-knowledge that eventually results in freedom, it is rational because it ‘knows’ and practices in accordance with the ideal of the universal.\textsuperscript{43} Rationality is thus a relational concept, and one can only be rational in respect to the absolute (self-)knowledge of the world spirit.

In short: the most advanced form of human existence is achieved when individuals obtain freedom through the materialization of the spirit’s ideal of self-actualization.

Departing from that insight Hegel has identified four types of peoples and their respective regimes that are the manifestation of the spirit’s presence in the world: the

\begin{quote}
\textsuperscript{39} Hegel: \textit{Elements of the Philosophy of Right}, §340.
\textsuperscript{40} MacKay / Levin: “The Case for Hegel in International Relations Theory”, p. 13.
\textsuperscript{41} Hegel: \textit{Elements of the Philosophy of Right}, §342.
\textsuperscript{42} Hegel: \textit{The Philosophy of History}, p. 18.
\textsuperscript{43} ibid., p. 64.
\end{quote}
Orientals, the Greeks, the Romans, and the German nations. All of these human communities do in one way or the other contribute to the actualization of the ideal of freedom, yet they differ greatly in their respective degree of rationality. The early civilizations in the appearance of the Oriental's did not anticipate the knowledge of spirit because they only knew “that one is free [ed.: one person, presumably an absolute sovereign]”.

This less rational form of human community has been superseded by the Greeks and Romans, who had first developed a consciousness of the idea of freedom, but only one in which “some are free [ed.: slaves or women where not seen as political subjects in the Greek polis; children had the status of slaves in the Roman empire]”.

The (preliminary) last stage of ideological development is constituted by Europe's German nations. This community has managed it, through the influence of Christianity, to obtain a quite rational reading of the spirit's ideal, namely “that man, as man, is free: that is the freedom of Spirit which constitutes its essence”.

2.2. Mutually constitutive subjects and the emergence of self-consciousness

For Hegel, a free society can only be a society of mutual recognition. In such a setting freedom is not only provided through formal regulations, such as laws, but goes deeper into the inter-subjective relations. The free society is a society in which the ethical subjects recognize each other as such. Deriving from this basic philosophical argument, namely that the most rational form of human community is a community that is based upon mutual recognition, one can make the statement that the necessary ideological development of mankind is completed when humans succeed in developing a political regime that is capable to guarantee freedom through mutual recognition. Or, to put it in other words: only the social order that is capable to provide mutual recognition (means: the realization of one ethical subject in and through another ethical subject) in formal and substantive terms will provide a stable and enduring social order.

While the previous section took a look at the meta-level-processes, namely the working of spirit in History, it is now necessary to look closer at the micro-level and the realm of inter-personal relationships. It has already been pointed out that Hegel did sharply distinguish between the engine of historical developments, and the agents that are carrying out this developments. As engine - the meta-level-mechanism - Hegel identified the universal spirit

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44 ibid., p. 18.
45 ibid.
46 Hegel is uses the plural here and speaks of “nations”. He does not refer to a German nation but is most likely speaking of European nations in general.
which signifies complete knowledge (complete rationality) and embodies freedom through genuine self-knowledge. Human spirit, the subjective or individual spirit so to say, is as well inspired and enwrought by this principle, and if it wants to attain complete freedom it has to achieve full self-knowingness, hence effectively resembling what universal spirit already is. In the process of arriving at this stage of consciousness the self goes through several phases of ideational realization. The process starts with the development of a relatively simple sensory consciousness: there, the individual has no genuine understanding of the self and is not able to perform a comprehensive distinction between its own identity and the physical world that surrounds it\(^{48}\) - it lacks the consciousness of the self and has no knowledge of the spirit’s truth. Only if the individual develops towards this critical knowledge of self it is following the spirit’s path and moves towards freedom.\(^{49}\) In this important process of development one must distinguish between the early stages of primitive or incomplete self-consciousness, which is pure negativity and mainly driven by a negating desire, and the final and most advanced level of genuine self-consciousness where certainty of oneself is established through the certainty of the other via mutual recognition.

In the stage of primitive self-consciousness - the state of nature and natural freedom - the self is already capable do distinguish between the ‘I’ and the ‘other’ as external objects. Self-consciousness is a complex form of relational perception, and as such it is never completely independent (it is not a perpetual motion machine that works isolated from external factors) but needs to define itself always in contrast to what is not essentially itself\(^{50}\): the outside world, external objects, the ‘other’. This bifurcation of ‘self’ that wants to be essentially autarkical and alloyed, but can only achieve this through relating to what is not itself, gives simultaneously rise to an existential contradiction, namely that the “very otherness of the objects I encounter inevitably prevents me from relating wholly to myself”.\(^{51}\) The primitive self-consciousness perceives the outside world not as a foil on which it can project itself, eventually witnessing its true identity in the reflection. Rather, the mere otherness of the outside world is a provocation for the self and an existential threat for its yet fragile consciousness. By seeing what is not essentially ‘I’, and by realizing its fundamental otherness, the integrity of the self feels seriously disturbed. The only appropriate reaction is the


\(^{49}\) ibid., §167.


\(^{51}\) ibid., p. 12.
negation, destruction, and absorption of the not-I for the purpose of reassuring the (preliminary) complete integrity of the own identity.\textsuperscript{52} The self sees external objects and identifies then as essentially not-I - it develops desire and wants to consume and absorb what lies outside of itself - by satisfying the desire it makes the outside ‘other’ to be a part of ‘self’ and restores for the time being its equilibrium:

But in point of fact self-consciousness is the reflection out of the being of the world of sense and perception, and is essentially the return form otherness. As self-consciousness, it is movement; but since what it distinguishes from itself is only itself as itself, the difference, as anotherness, is immediately superseded for it; the difference is not, and it [self-consciousness] is only the motionless tautology of: ‘I am I’ (...).\textsuperscript{53}

In consuming an object the self is by no means attempting to fill a void. The consumption of otherness is not a process that would have the purpose of completing something that is perceived as being incomplete.

Rather the contrary is the case: the primitive desire-driven consciousness is crowded to overflowing with ‘self’ - the ‘I’ is the vocal point of its entrenched universe and its relationship towards the outside world comes close to megalothymia\textsuperscript{54}: “it regards everything around it as there for it alone. In so doing, desire considers the other to be nothing but an opportunity for desire itself to negate it”.\textsuperscript{55} The self that is “certain of the nothingness of this other”\textsuperscript{56} develops an instrumental relationship towards everything that is not-I. Through

\begin{center}
\textbf{Image 1: primitive self-consciousness}
\end{center}

\textsuperscript{52} ibid.
\textsuperscript{53} Hegel: \textit{Hegel’s Phenomenology of Spirit}, §167.
\textsuperscript{54} A concept also used by Fukuyama (cf. \textit{The End of History}, Part III) - it describes the uneven relationship between subjects where one perceives itself to be superior towards the other and hence demands adoration or worship towards its person - on the contrary Isothymia is the concept of equal and mutual recognition.
\textsuperscript{56} Hegel: \textit{Hegel’s Phenomenology of Spirit}, §174.
this exploitative and instrumental relationship the desiring and primitive self-consciousness supersedes this not-F, effectively removing the antithesis to the self for the purpose that “identity of itself with itself becomes explicit for it”. Though the excessive desire might please the primitive self-consciousness for a while, the process of permanent negation, consumption, and supersession is a futile and effectively empty one. The negative relationship of the self-conscious towards the object is not destined to end at some point in genuine self-consciousness. It is rather an illusionary process and desire will force the ‘self’ again and again to produce and negate objects for pleasure - the self is trapped in a Sisyphean task so to say. Genuine self-consciousness - the rationality of the spirit that is absolute knowledge and eventually freedom - can hence not be achieved if the self is driven by a negating desire towards objects.

The only way in which a desiring self-consciousness can really actualize itself is through relating to another desiring self-consciousness. Only if the self is “able to preserve its certainty of itself in its very awareness of the independence of things” true self-knowingness, an essentially relational property, is possible. The pivotal point here is that objects can easily be negated and consumed, so there is something else needed that withstands this negation and supersession. This ‘thing’ has to fulfill a twofold purpose. First, it needs the ability to negate itself in order to be consumed by the desiring self-consciousness, but second, it has to be durable and lasting enough to prevent its complete eradication.

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57 ibid.
58 ibid., §167.
59 ibid., §175.
60 ibid.
61 ibid.
This *Phoenix*-like element that is, on the one side, capable of negating itself and being consumed for the pleasure of the other, yet does still not cease to exist but keeps and possesses its quality over an eternal period of time can only be another *self-consciousness*. Hence, the vicious circle of negation and consumption of external objects for the sake of inevitably incomplete self-actualization and self-consciousness can only be stopped if the desiring self with its insatiable hunger for living through things that are outside of itself (hence different, and an obstacle to assumed/imagined self-actualization) relates itself to another desiring self that embodies the same features as itself does. As Hans-Georg Gadamer puts it: “only consciousness is able to (...) cancel itself in such a fashion that it does not cease to exist”.\(^{63}\) *Individual spirit* is genuinely independent and irreducible otherness - that is why it can fulfill this task: “Self-consciousness achieves its satisfaction only in another self-consciousness”.\(^{64}\) Only the willingness of the other to negate itself in order to allow me to fully actualize myself through him (the willingness to negation is already an act of recognition), and the simultaneous impossibility of this self-consciousness’s total negation, together with its permanent renewal, will allow the self to fully actualize itself:

What still lies ahead for consciousness is the experience of what Spirit is - this absolute substance which is the unity of the different independent self-consciousness which, in their opposition, enjoy perfect freedom and independence: ‘I’ that is ‘We’ and ‘We’ that is ‘I’. It is in self-consciousness, in the Notion of Spirit, that consciousness first finds its turning-point, where it leaves behind it the colorful show of the sensuous here-and-now and the nightlight void of the supersensible beyond, and steps out into the spiritual daylight of the present.\(^{65}\)

Deriving from this insight one has to acknowledge that humans are born as fundamentally social beings. Their respective ethical consciousness - their *individual spirit* - is developed in community. However, and this is also important to know, it is not constituted by community: the *spirit* as the driving force behind historical developments is always already present in every human, it is an *a priori* condition, that awaits its particular self-actualization via the constitution of self-knowingness through others. Hegel makes clear that the life of an hermit cannot be the purpose of human existence since it would be detrimental for the development of genuine *self-consciousness* through mutual recognition. Solitude eventually deprives the individual to fulfill the spirit’s nature of attaining freedom through self-knowingness: “I

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\(^{64}\) Hegel: *Hegel’s Phenomenology of Spirit*, §175.

\(^{65}\) ibid., §177.
cannot fully understand who I am, if I remain alone by myself with only the objects of nature to attend to. I gain proper consciousness of myself only when my self-understanding is recognized and confirmed by others”. The essence of this insight is that self-consciousness is always social consciousness, and self-knowingness is always other-relatedness.

2.3. The unfolding of political freedom

While the development of the historical process at the meta-level is guided by the unfolding of spirit, the agents of change are individuals. The inevitable and fundamental sociability of the individual brings us then to the development towards freedom in the human community (the macro-level). If mankind wants to resemble the nature of the spirit, that is essentially the being in oneself through knowing oneself, they have to achieve this via mutually recognizing each other as independent ethical subjectivities.

Only the mutual recognition of one another allows them to obtain genuine self-consciousness, which is the absolute knowledge of the spirit and hence complete rationality. The rationality of the universal spirit is also present in each individual through particular spirit - and it is gradually unfolding there towards more and more rational forms of societal organization with an increasing capability of providing mutual recognition (freedom’s prerequisite). Rationality, as already lined out in 2.1., is a relational concept that needs to be understood as being anchored in the spirit’s already achieved status of self-knowledge. Since self-knowledge on the agent-level is always “know thyself” through the other, History has to be understood as the process where the universal spirit reveals itself in increasingly rational forms of human community for the purpose of achieving freedom.

In the course of this process one has to distinguish between four types of freedom's that unfold themselves in a consecutive manner: natural, ethical, civil, and eventually political freedom. Each type is more complex, more rational, than its predecessor; but in the same way each manifestation of freedom is insufficient if compared with its successor; that is why it becomes eventually superseded by the next and more rational form in the course of the dialectical process of historical developments.

The first stage of freedom, namely natural one, is not yet rational in a way that it would eventually lead to a sociable human being, capable of erecting and sustaining and lasting political order. It is rather a primitive and isolated type of freedom, lacking thick

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67 Hegel: Elements of the Philosophy of Right, §343.
patterns of sociability, and representing a state of nature. This stage of development is, however, necessary because the individual develops the ability to distinguish between itself and the outside world through cultivating a primitive sense of self-consciousness (as already discussed in 2.2.). At this stage the “particularization of the ego” takes place and the “ego [is] giving itself differentiation, determination and positing a determinacy as a content and object”. Together with the ego - the knowing that I am - there is also will forming out - the knowing what I desire. This desire it not complex, and the rationality is limited to utilitarian reasoning, impulses, and egocentric behavior.

Natural freedom is eventually superseded by ethical freedom in the next stage of the dialectical evolution of History. The social order that is based on ethical freedom constitutes something like a rudimentary or ‘stump’-society, where utility-maximizing individuals adhere to a minimal set of rules and conventions: the abstract right. The institutions governing the social realm are not very sophisticated, but at least they are capable of safeguarding the life of the individual, and the means necessary for survival and minimal self-determination (protection of property, integrity of contracts, etc.). The term ‘ethical’ has to be understood in relation to the idea of Sittlichkeit, that is, generally speaking, a code of interaction and the sum of institutions that has grown within a human community and that governs its interpersonal relations. The development towards ethical freedom is the looming of Sittlichkeit. More specifically, Sittlichkeit is the ethical reality of the community, it is clotted social practice, and it is the only means by which the subject can obtain real freedom. It transforms the desiring and isolated individual into an ethical being that is on its way of achieving genuine self-consciousness by adhering to the moral codes and norms of the community where he is recognized as an independent self. The ethical freedom - the first form of Sittlichkeit - lays the foundation stone for this development of self-actualization, but it is not capable to bring it to an end yet, mainly because a community that is based exclusively on ethical freedom cannot be regarded as fully rational, due to the abstract nature of its governing rights.

The next stage of development can then be found in civil freedom, which has to be understood as the formalization of the customs and habits of ethical freedom. Civil freedom is formal freedom and can be found in law. While ethical freedom gave rise to the very idea of Sittlichkeit in the form of the ethical conduct that protects the minimum rights of the

69 ibid., p. 65 f.
70 ibid., p. 66.
71 ibid.
individual, civil freedom is now elaborating more on these rights and establishes an autonomy through law. The codification of Sittlichkeit is in a way necessary because social order becomes increasingly complex: people acquire duties and rights by choosing a profession, they belong to an estate, and they strive to find their place in society by various means. In such a setting freedom cannot longer be the abstract right of ethical freedom to live and to be unhurt, but it becomes very concrete in the explicit recognition of each person’s individuality. The needs of this person become universally accepted in this order:

Needs and means, as existing in reality [als reelles Dasein], become a being [Sein] for others by whose needs and work their satisfaction is mutually conditioned. That abstraction which becomes a quality of both needs and means (...) also becomes a determination of the mutual relations [Beziehung] between individuals. This universality, as the quality of being recognized, is the the moment which makes isolated and abstract needs, means, and modes of satisfaction into concrete, i.e. social ones.72

The society governed by civil freedom is primarily defined by a “system of needs”73 and is constituted by “elements of particularity and subjectivity”.74 The civil freedom has foremost to be understood as ”various civil and economic rights, the right of association, the right to a trial by jury, the right to promote group interest through corporations, and the right to public assistance and protection again misfortune or the vagaries of the market”.75 The main problem is that it can still not be a regarded as a fully rational principle, mainly because it is predominantly driven by isolated and particularist interests, like in the realm of ethical freedom, and only the rules that are governing it have become more elaborated and codified. Recognition among individuals is only a formal one - it is only a contractual society, held together by mutual materialist need, and dominated by an instrumental relation between subjective spirits. There is no immediate recognition between the ethical subjects through each other, but it is a mediated relationship where subjects perceive the other as contractual partner, and not as ethical being in itself. The realm of civil freedom is then characterized by particularity (interests) that is limited by universality (law).76

Real and actual freedom can finally be obtained when humans move from organizing themselves in a setting of civil freedom towards a form of community that embodies political

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72 Hegel: *Elements of the Philosophy of Right*, §192 - emphasis added.
73 ibid., §189 ff.
74 Pelczynski: “Political community and the individual freedom in Hegel’s philosophy of state”, p. 70.
75 ibid.
76 Hegel: *Elements of the Philosophy of Right*, §182.
freedom. In a stage of civil freedom the recognition of each person’s wills and interests is already achieved formally through the universality of law, but as noted above, there is still a gap between the particular interests of utility-maximizing man (the particular) and the external state that functions as a sort of vessel for containing multiple egoisms. Due to this opposition between the intrinsic constitution of the individual and the external constitution of the state the dialectical process - the engine behind History’s progression - cannot come to an end yet. The realm that is still governed by civil freedom remains to be a society that is not based on genuine will, but that is rather held together by the system of needs. Self-conscious subjects are not living together because they recognize each other as irreducible ethical subjectivities, but because they developed an instrumental relationship towards each other and benefit from the structure of the community in material ways.\(^{77}\) Under conditions of political freedom the hard border between who I am and what I desire, and what others are and what they desire, is blended smoothly and eventually disembogues into an organically grown ethical universality - a Sittlichkeit that is not disrupted anymore between the particular and the universal. It is the ‘I’ that is ‘We’ and the ‘We’ that is ‘I’.\(^{78}\)

But concrete freedom requires that personal individuality [Einzelheit] and its particular interests should reach their full development and gain recognition of their right for itself (…), and also that they should, on the one hand, pass over their own accord into the interest of the universal, and on the other, knowingly and willingly acknowledge this universal interest even as their own substantial spirit and actively pursue it as their ultimate end.\(^{79}\)

And further:

The effect of this is that the universal does not attain validity or fulfillment without the interest, knowledge, and volition of the particular, and that individuals do not live as private persons mere for these particular interests without at the same time directing their will to a universal end (…) and acting in conscious awareness of this end.\(^{80}\)

The community that represents political freedom should not be misinterpreted as a totalitarian social order where the person would have to surrender its individuality to an oppressing source of power. Rather, in a stage of political freedom, the tension between the

\(^{77}\) Pelczynski: “Political community and the individual freedom in Hegel’s philosophy of state”, p. 70.

\(^{78}\) Hegel: Hegel’s Phenomenology of Spirit, §177.

\(^{79}\) Hegel: Elements of the Philosophy of Right, §260.

\(^{80}\) ibid.
particular and the universal is resolved and the single will wants what the general will desires, while the general will is simultaneously part of that particular desire. In this stage the ethical subjectivity of each citizen is recognized substantively - it is mutual recognition: the genuine acknowledgement that one is oneself, and the others are themselves. This self-awareness through others embodies the spirit’s rationality (self-knowledge) and can be obtained by humans through mirroring themselves in an opposite subjective spirit. This unmediated mirroring can be fully achieved in the political community, what brings with it the implication that only political freedom is genuine freedom. Eventually the struggle for recognition and the teleological process of historical developments can come to an end, mainly through the achievement of unobstructed mutual recognition in the political community.

increasingly complex and rational forms of freedom

natural freedom ‘state of nature’

ethical freedom abstract recognition

civil freedom formal recognition

political freedom substantive recognition

increasingly complex and rational forms of community

primitive self-consciousness

development of complex consciousness in community

family

civil society

political state

freedom through self-knowledge

self-knowledge through mutual recognition

community as the realm for recognition
2.4. Momentums of freedom: family, civil society, and the political state

When the different forms of freedom unfold themselves they successively supersede the less rational manifestations of recognition that have existed before them. Ethical freedom will eventually be replaced by civil freedom, because the former one is only capable of providing recognition as an abstract right, while the latter one institutionalizes right/law and provides formal recognition. Civil freedom gets superseded by political freedom, since it is unable to resolve the tension between the particular and the universal - a contradiction that is finally resolved under conditions of political freedom.

In the course of the unfolding of freedom it materializes itself in a number of moments - different forms of communities - that embody ethical actualities and allow for freedom through belonging to this ethical actualities.\(^{81}\) Immediate or natural ethical spirit is achieved in the family. Self-sufficient individuals gather in an external state that embodies formal ethical spirit in the form of civil society. The ethical actuality that represents substantive spirit is the political state. This state is, however, not abolishing the family or civil society, but is incorporating them into its very own structure.

For Hegel the family already resembles the principles of an ideal state - but of course in a small format. In being a member of a family one is not just an individualized person, but one has a consciousness of this individuality by being part of a community. The substantive ethical principle that binds this relationship is love:\(^{82}\)

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\text{Love means in general the consciousness of my unity with another, so that I am not isolated on my own \[für mich\], but gain my self-consciousness only through the renunciation of my independent existence \[meines Fürsichseins\] and through knowing myself as the unity of myself with another and of the other with me.}^{83}\]

Through love the family is able to provide mutual recognition in its substantive form (as already discussed in section 2.2.). The individual has the opportunity to perceive itself as an irreducible ethical substance through the recognition of the other who is willing to negate itself in this process. Vice versa the other gets recognized as well as the irreducible subjective spirit, mainly because the self willingly performs its negation for the sake of unconditioned recognition.

\(^{81}\) ibid., §151-153.
\(^{82}\) ibid., §158.
\(^{83}\) ibid., §158 Add.
The next momentum in human development is then constituted by the emergence of civil society that incorporates (but not supersedes) the family. Civil society is both, an advancement and a setback if compared to the family: it is an advancement, because it moves beyond the very constrained borders of the immediate social environment and applies a broader understanding of community. And it is a setback, since it is not capable to provide the substantive recognition that was prevalent within the family, but only a formal and instrumental relationship among individuals. It has already been mentioned in section 2.3. that the civil freedom - the freedom that is present in civil society - is based upon a system of needs where each person is its own end. "People enter into contractual relationships, not in order to share themselves with someone else or to create some new reality larger than themselves, but for the sake of the personal advantages they will gain. The heart of the contractual posture is simply, I'll scratch your back if you'll scratch mine". Whereas in the family plurality and universality are thought together and constitute a whole, civil society's primary feature is the plurality of utilitarian individuals, constrained by the universality of law, that is destined to prevent the severest excesses and most negative spin-offs of rational egoism. In such a setting the community - the external state - is the result of a mere cost benefit analysis: the institutionalization of individual ends. One is not a member of the state as one was a member of the family due to a feeling of substantive belonging. Rather, the affiliation with a particular order becomes a rational choice where one can swap between civil societies, like one is changing his insurance company. The civil society did indeed achieve that laws guarantee formal recognition, but it is not capable to provide substantive recognition.

Substantive recognition is finally achieved in the political state. When Hegel talks about this ‘state’ he does not have the external state in mind that is characterized by sovereignty, and attributes such as territoriality, a permanent population, and governmental authority. Hegel does also not think about a civil state that simply contains aggregated and narrow self-interests. In his understanding the state is an entity whose existence goes beyond these physical and formal manifestations: the political state is more like a super-organism that

84 ibid., §182.
86 Hegel: Elements of the Philosophy of Right, §183 and §184 Add.
87 Westphal: Hegel, Freedom, and Modernity, p. 41.
88 ibid., p. 42.
possesses a corporate identity and a collective consciousness - a social realm constituted by its members, yet one that is essentially larger than the sum of its parts. It can be regarded as being balanced in itself, because the disposition of its citizens and the nature of its laws allow the individuals to exercise their subjective spirit's under the umbrella of the social totality. Hegel might have called it the balance of *subjective spirits* for the sake of the *universal will*. The political state can hence be described as the totality of social life, and it has to be regarded as an *ethical* institution, mainly because it embodies the *ethical* interests of its members: “The state is the actuality of the ethical ideals - the ethical spirit as substantial will, manifest and clear to itself (...).” In this radically idealistic understanding of community the question of what is *right* (and what is set as law) should not be ad odds with what the individual perceives as *right* and as ethically desirable. In such a social setting the citizen “finds ethical import in the institutional structure of the state” and the “truly subjective, the intrinsic desire and needs of the individual citizens, is rooted in the objective world of institutions”. The ‘I’ as a ‘We’, and the ‘We’ as an ‘I’, to recite a passage from section 2.3. Regarding the connection between recognition, freedom, law, customs, and how this is reflected in the political/ethical state, Hegel notes:

What dominates in the State is the spirit of the people, custom, and law. There man is recognized [anerkannnt] and treated as a rational being, as free, as a person; and the individual, on his side, makes himself worth of this recognition by overcoming the natural state of his self-consciousness and obeying a universal, the will that is in essence and actuality will, the law, he behaves, therefore, towards others in a manner that is universally valid, recognizing them - as he wishes other to recognize him - as free, as persons.

In principle terms this form of human community has to be described as the most rational way of societal organization, mainly because it succeeds in granting substantive recognition and allows for the self-actualization of the individual in and through community - similarly to the membership in the family. The political state is rational because it allows the greatest freedom possible through a *Sittlichkeit* that does not give rise to a discontinuity between the particular and the universal, and which is simultaneously present in the will of the citizen and the law of the state:

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90 Hegel: *Elements of the Philosophy of Right*, §257.
92 ibid.
The state is the actuality of substantial will, and actuality which it possesses in the particular self-consciousness when this has been raised to its universality; as such, it is the rational in and for itself. This substantial unity is an absolute and unmoved end in itself, and in it, freedom enters into its highest right, just as this ultimate end possesses the highest right in relations to individuals [die Einzelnen], whose highest duty is to be members of the state.\textsuperscript{94}

This substantive will of the political state, that Hegel calls absolute knowledge, is loyal to the universal ends of the community as such. It stands in strong contrast to the individual will of the civil state that embodies only individual knowledge and strives towards particular ends.\textsuperscript{95} With this understanding of the good community Hegel distances himself explicitly from an understanding of the state as imagined by Rousseau, as he dismisses the idea of the volontee generale, mostly in terms regarding the understanding of will. While ‘will’ in Rousseauean terms is still a contractual concept that constitutes the demos, Hegel perceives it as a substantive relationship that is already present before materializing itself in any form of agreement. Hegel is, however, careful enough to let his vision of universality not grow into a totalitarian regime or a Leviathan that would oppress and subordinate individuality entirely.

\textbf{Image 4: elements of political freedom}

\begin{itemize}
\item freedom recognized as right and materialized in law
\item right/law
\item right/law
\item right/law
\item materialized/formal dimension
\item Sittlichkeit - the spiritual bond of the community
\item freedom - ‘know thyself’ knowing oneself through relating to another self-consciousness
\item substantive recognition - in and through community mutual recognition as the prerequisite for self-knowledge
\item objective freedom requires law
\item law derives from a community’s ethics
\item substantive
dimensions
\end{itemize}

\textsuperscript{94} Hegel: \textit{Elements of the Philosophy of Right}, §258.
\textsuperscript{95} ibid.
Deriving from this rationale he argues explicitly agains Plato’s republic where “subjective freedom is not yet recognized (...) [and] individuals still have their tasks assigned to them by the authorities”. Hegel places himself in equidistance to Rousseau and Plato and seeks to establish a via media that acknowledges individuality by relating it to the respective Sittlichkeit of the community. The Sittlichkeit binds them together as an ethical entity in which the citizens grant each other mutual recognition through universal laws.

A last remark has to be made about this law, and the changing nature of the concept that occurs when society moves from the civil to the political state. In the external state the law possesses constitutive character and was decisive for ‘making’ the agent. This has happened through formal recognition that granted every citizen the right of possessing property or choosing a profession. In this case recognition came from outside: only after introducing the law people recognized each other formally as equal. In the political state law changes its character and becomes an epiphenomenon of recognition and political freedom: under the condition of political freedom humans recognize each other not as equals through law, but as equals through a shared Sittlichkeit. It is the civic disposition of people in a community that is already governed by mutual recognition which constitutes recognition - but in this case substantive one. Law emerges in a second movement, at a point when ethical integration has already been achieved, and has the sole purpose of codifying the consensus.

2.5. Analytical framework: the building-blocks of political freedom

In conclusion it can hence be said that mankind’s primary goal is the strive for, and the arrival at, the stage of political freedom. The process that leads towards this goal, the decisive force behind the passing from one societal momentum into another, is the struggle for recognition. This struggle has a twofold objective: first, it exposes inherent contradictions in the ethical development of mankind, and second, by exposing these contradictions, it attempts to facilitate a reconciliation among subjective spirits which do eventually strive for freedom as self-knowledge through mutual recognition. On the basis of this assumptions it is now possible to formulate two criteria that can be used for determining a regimes rationality from the perspective of a Hegelian understanding of political freedom. These criteria, which both have to be met at the same time, line out the necessary conditions that need to be fulfilled by a political system in order to complete the vision of freedom as self-knowledge. Further, they

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96 ibid., §262.
97 Pelczynski: “Political community and the individual freedom in Hegel's philosophy of state”, p. 9.
allow for a nuanced judgement on the respective ‘rationality’ of a demos by determining to what extent, under what conditions, and by what means a specific understanding of political freedom ought to be achieved. I suggest that this conditions should be termed substantive-will-criterion and recognition-criterion. They are defined as follows:

2.5.1. Community-subject-nexus: the substantive-will-criterion

In order to provide genuine political freedom a regime-structure must, first of all, be able to establish a sort of meta-narrative in the form of substantive will that allows for the emergence of a notion of sophisticated Sittlichkeit. Substantive will is predominantly concerned with the vertical structure of a society and establishes a nexus between the overarching communal setting and the individual members of a demos.

Every political order does necessarily require a certain degree of sociability. A random accumulation of subjective wills would not be enough for a durable state or society, mainly because the requirement of substantive recognition would not be achievable. Further, a political community cannot be build on a purely accumulative notion of will as signified by universal will. Universal will - the quantitative accumulation of subjective wills - does of course play an important role in the development of the community since it constitutes the intermediate momentum between the family and the political state. However, a demos build exclusively around the logic of a purposive association (purposive understood as ‘instrumental’, i.e. the association of need) will only be capable to provide formal, but no substantive recognition.

Only if a human association is capable to provide a meta-narrative in the form of substantive will - which functions as a reconciling factor for isolated subjective will and accumulative universal will - it does not longer follow the logic of necessity (and the instrumental relationships that come with it) but starts harboring the logic of affection. In this setting citizens relate towards each other because they share a common ethical commitment, a common Sittlichkeit. The first criterion for a rational political community is then the formulation of this meta-narrative - of the substantive will - which bears the potential of reconciling individual and universal wills: it is the ‘I’ as ‘We’ and the ‘We’ as an ‘I’ that is require, provided by an “actuality of the substantial will, an actuality which it possesses in the particular self-consciousness when it has been raised to its universality”. 99

The substantive-will-criterion presupposes then that the fully rational political community does neither consist of the unencumbered self, nor that it subordinates the subjective will

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99 Hegel: *Elements of the Philosophy of Right*, §258.
under the universal will. Rather it has to strive for a comprehensive reconciliation on certain ethical grounds. Individuals are not members to a political community for the community’s sake but rather for their own: only by finding impact in the rationality of the community through a linkage of the ‘I’ and the ‘We’ via substantive will (or political Sittlichkeit) they can obtain freedom as self-knowledge. The community as such must then be able to harbor the plethoras of individual wills, not in an accumulative fashion, but by providing a unity through an ethical momentum. This condition shall hence be termed the substantive-will-criterion.

2.5.2. Subject-subject-nexus: the recognition-criterion

In order to enable political freedom a second prerequisite exists that has to be fulfilled by a political association: the facilitation of mutual recognition. Mutual recognition is largely concerned with the horizontal structure of a community and attempts to establish a nexus among the individual subjects of a demos.

Mutual recognition goes beyond simple or formal recognition, as it presupposes a consciousness of the ethical integrity of the other. Realizing this sophisticated form of other-relatedness must entail an ethical, a substantive, component. The other is then perceived not only as a vessel that contains desires and needs, but as an irreducible totality in itself. As shown earlier mutual recognition is the basic requirement for self-knowledge and self-actualization. Individuals can only be free if they know themselves - in this reading freedom is understood as self-knowledge through other-relatedness, exercised by an individual that has realized that it cannot be without an ‘other’. Self knowledge becomes a deeply relational concept that can only be achieved if individuals connect towards each other in an ethical and not only in an instrumental way. Eventually citizens must develop a specific attitude towards each other that allows them to connect in a meaningful way, for eventually realizing their own potential as free subjects. This genuine self-knowledge can be achieved only if one subjective will mirrors itself in another subjective will.

Eventually a fully rational political community must then be capable to foster mutual recognition among its political subjects in order to resolve the dialectical contradiction which is the main driver behind historical processes. The second criterion, the recognition-criterion, that derives from this insight is: that a transnational community must connect political subjects in a meaningful way - a way in which citizens do mutually recognize each other as irreducible substantive ethical wills.
3. Cosmopolitan democracy

The first analysis investigates on the question whether David Held’s model of cosmopolitan democracy is capable of satisfying the previously developed substantive-will- and recognition-criterion. The chapter is structure accordingly: 3.1 introduces Held’s cosmopolitan model, it thematizes in which socio-political context cosmopolitan governance is situated, and it finally lines out what shape of the global demos is desired. 3.2 looks at the cosmopolitan theory form the perspective of the substantive-will-criterion and the recognition-criterion. In respect to the substantive-will-criterion the analysis investigates on the question whether cosmopolitan law, and the deriving nexus between community and political freedom, are able to formulate the meta-narrative that is required for a reconciliation of individual and universal will. As of the recognition-criterion a special emphasize is put on the question what the ontological basis of cosmopolitan law is, and which type of ethical disposition among political subjects is specifically advanced.

3.1. A rights-based approach to transnational democracy

On the following pages the core-principles of Held's cosmopolitan model are lined out. The chapter is divided into three subsections: section (A) explains the socio-political consequences that emerge from globalization's dynamics. Further it reveals the rationale behind Held's position according to which economic and cultural integration should be followed by a political convergence as well. Section (B) briefly introduces and explains a number of central theoretical core-concepts of cosmopolitan governance, namely autonomy, democratic public law, and entitlement capacities. Section (C) highlights the functional implications of transnational liberal democracy and introduces the system of cosmopolitan multilateralism.

(A) Globalization and the border-transcending nature of socio-political practices. Held couches his model of cosmopolitan governance in a globalization-narrative and claims that increasing processes of economic, social, and political integration give rise to new global threats and challenges that cannot be adequately addresses in the current multilateral system. Consequently he argues for a new type of governance-practices - ideally one that introduces liberal democratic principles in the form of cosmopolitanism to the global realm - which are described as follows: “The aim of modern cosmopolitanism is the conceptualization and generation of the necessary background conditions for a ‘common’ or ‘basic’ structure of
individual action and social activity”. The process of globalization that makes this kind of systemic changes necessary is characterized as follows: on the functional level it enlarges the realm in which human interaction takes place and gives rise to various patterns of organizational practices on the transcontinental and inter-regional level. Examples are political regimes such as the UN and the EU, but also transnational corporations in the area of business. Secondly, on the relational level, the closer functional intertwinenement of socio-political networks has a corrosive effect on the place-boundedness of national and regional policy making processes. Decisions taken in a specific constituency do not stay there, but are very likely to have an effect on the life-chances of men and women in other parts of the world: “day-to-day activities are increasingly influenced by events happening on the other side of the globe and, on the other, that practices and decisions of local groups or communities can have significant global reverberations”.

As sites of functional and relational integration Held identifies the economy, media, culture, the environment, international law, security, and defense policies. The effect of this political, economical, and cultural globalization is the decentralization of decision making power, which cannot be localized any longer exclusively in the figure of the sovereign state. Rather it is exercised by a multiplicity of forces, as act-authority gets increasingly scattered and disperses itself in plethoras of non-statist centers of power. In this setting the self-determining polity cannot any longer be defined by state boundaries. The state is not withering away, as socialist and communist theorists have imagined, but exclusive sovereignty as its assertive feature is more and more questioned due to novel socio-political practices. In a world in which political actors generate new patterns of belonging and re-think their identities foci, and in a climate where national jurisdiction and domestic normativity compete with transnational one, an order with “overlapping authority and multiple loyalties” rises. This leads to the emergence of a boundary problem: the majority of political decisions might still be taken in confined national settings (legitimated by democratic institutions), but their impact does not stay there and can be felt elsewhere (eventually lacking legitimacy and immediate accountability). Decisions are not only taken for ones own community, but cut

102 ibid.
103 ibid., p. 20-26.
104 ibid., 26 f.
across boundaries and raise the question of responsibility and accountability in overlapping spheres of influence.\textsuperscript{105}

Held’s line of argumentation suggests that the process of globalization goes beyond the economic realm and the idea of an integrated market. Framed in more broader terms it does also bring novel forms of cultural, political, and normative phenomenons with it. States are, in this narrative, suffering form an incapability of reacting appropriately to newly emerging challenges: nations become decision takers, they serve no longer as exclusive vessels for identity-patterns, and they fail to provide comprehensive security for citizens. Yet, most importantly, the state appears as an increasingly unattractive locus for democratic governance. Held has identified multiple areas of integration, and he arrives at the conclusion that all these newly emerging patterns are not legitimized by democratic practices: they suffer from a lack of accountability towards the (global) common good. A wide range of socio-political phenomenons did successfully transcend the spatial limitations of the nation. What is, however, still trapped within state boundaries is democracy, and with it the practice of democratically legitimating authorities that wield power. Faced with this democratic deficit of transnational dimensions Held suggests to rethink the question of socio-political boundary lines. Subject to this re-examination of the demos’ nature shall be the concept of the political community, representative mechanisms, the form and scope of political participation, as well as institutional settings.\textsuperscript{106} If the process of decision making is increasingly concerned with transnational affairs, it follows that democratic legitimation has to develop boarder-transcending mechanisms as well. Through an expansion of democratic rule Held intents to install a system of transnational governance, legitimated by cosmopolitan democracy.

(B) Cosmopolitan democracy: autonomy, democratic public law, and entitlement capacities. It has become clear by now why Held derives his idea of cosmopolitan governance from modern liberal-democratic thought. The liberal project departs from the assumption that humans have a status as political agents with the capacity to actively shape the environment of their association. They can determine in what kind of social setting they want to live and take over responsibility for their actions within this very setting.\textsuperscript{107} At the center of the liberal democratic tradition one can find the strive for equal membership in political communities, a

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\begin{quote}
\textsuperscript{105} ibid.
\textsuperscript{106} ibid., p. 27-30.
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demand that finds its materialization in the principles of self-determination and limited government. Departing from this assumption Held extracts four principles that he would like to see realized on the global level, that is “[p]rotection from the arbitrary use of political authority and coercive power”, the “involvement of citizens in the determination of the conditions of their association through the provision of their consent in the maintenance and legitimation of regulative institutions”, the “creation of the best circumstances for citizens to develop their nature and express their diverse qualities”, and last but not least an “expansion of economic opportunity to maximize the availability of resources”. For Held it is clear that cosmopolitan governance must rest on two pillars: that is autonomy, as the main principle for securing the individual’s capacity to act, and democratic public law, as the formalization of the principle of autonomy in a societal context, enabling autonomy in the first place and protecting it from violations.

(i) Autonomy: In Held’s understanding autonomy ought not to be understood as an individualistic principle that would grant political actors the right to act as they please. Rather it is a structural imperative that wishes to promote genuine self-determination within and through the political community. Agents do not act in a parochial and selfish mode, trying to maximize their individual gains, but witness the development of the ‘self’ by being part of an association that defines rules (defines what is right, writes down law) for a commonly determined public life. Autonomy, then, is a mutually constitutive concept, upheld by commonly agreed law, which defines the standards for desired and undesired behavior within community. Only by subscribing to this standards agents can become truly autonomous: “Autonomy is, thus, dependent on mutually enabling and constraining conditions; it has to be supported and restricted in its own name. People can, in principle, become autonomous over time if they recognize their equal interest in the principle of autonomy and their mutual dependence”.

(ii) Democratic public law: Maintaining autonomy is the fundamentally legitimizing principle for political power, mainly because it allows the political subjects to determine the shape of their political association by their own means. The best type of governance

108 ibid.
109 ibid., p. 150.
110 ibid., p. 156 - Held follows Kant who described the best form of human association as governed by “A constitution allowing the greatest possible human freedom in accordance with laws which ensure that the freedom of each can co-exist with the freedom of all others (…)”, cf. Held: Democracy and the global order, p. 221.
111 ibid., p. 222 - emphasis added.
112 ibid., p. 153.
capable to maintain autonomy within a common political structure is then a legal state (a Rechtsstaat) dominated by democratic public law. The commonly agreed framework for political action that emerges from the legal state has, paradoxically, the purpose to delimitate the scope of popular public rule:

The demos must govern, but within the framework of a set of fair social, political and economic conditions which make possible the very nature of democratic life itself. The demos must rule, but within the framework of a legal order which is both empowering and limiting. This is the sense in which democratic autonomy lies between state and popular sovereignty.\textsuperscript{113}

Which shape the political community should take in order to uphold the principle of autonomy is determined by Held through a democratic thought experiment. In order to maintain objectivity and neutrality the thought experiment should be carried out behind a ‘veil of ignorance’. Held departs from the virtual question what force people would choose to govern them if asked impartially.\textsuperscript{114} What is the most rational framework of governance, and what framework could be called neutral and legitimate, simply because nobody could reasonably raise objections against it? If reason is applied in a consequent fashion, the framework determined would not be corrupted by individual interests but does rather do justice to the individual live-plans of each and every citizen. That means that every person enjoys equal rights and obligations within the political framework that influences their live-chances. Forces that attempt to undermine this egalitarian principle would then get delimited and eventually filtered out in the political process.\textsuperscript{115}

(iii) Entitlement capacities: Taken together autonomy and democratic public law culminate in entitlement capacities. Entitlement capacities are different from mere rights. While the latter is a passive property that defines the status of the individual within its political and social environment, the former one has an active nature as it turns the individual into a citizen: a political subject with agent qualities. The entitlement capacities in cosmopolitan governance give the ideal of democratic law a very practical appearance and allow the members of a political community to actively engage in a public deliberative process - entitlement capacities do then secure the potential to make rights count in practice\textsuperscript{116}: “The idea that people should be free and equal in the ‘determination’ of the

\textsuperscript{113} ibid., p. 222.
\textsuperscript{114} ibid., p. 160 ff.
\textsuperscript{115} ibid., p. 153 f., p. 222.
\textsuperscript{116} ibid., p. 154.
conditions of their own lives means that they should be able to participate in a process of deliberation, open to all on a free and equal basis, about matter of public concern”.117 What Held is aiming for can hence be described as a legal state with a global dimension (a cosmopolitan Rechtsstaat).118

(C) Functional implications of cosmopolitan multilateralism. Held’s cosmopolitanism departs from the assumption that every person holds a significant ethical relevance in the political community and deserves equal worth and dignity through reciprocal recognition: “each person stands in ‘an ethically significant relation’ to all other people”.119 The citizens of the global demos are characterized by active agency, personal responsibility, and accountability for their actions.120 From an institutional perspective it is important to translate this individually initiated activity into a framework that sets standards for interactions, but equally allows for sanctions in cases of defection. The framework has to be based on a consensual and non-coercive political process by all those significantly affected. As such it must come into existence through public and collective agreement (legitimacy and accountability must stem from a democratic process).121

On the functional level cosmopolitan governance prioritizes urgent needs of humans and is sensitive to resource conservation. Inclusiveness, the avoidance of serious harm, and subsidiarity should be its guiding principles.122 For solving the emerging problem of undeterminable constituency, and the question of the proper locus for political action, Held opts in favour of an all affected or affected by-principle:

Deliberative and decision-making centers beyond national territories are appropriately situated when those significantly affected by a public matter constitute a cross-border or transnational grouping, when ‘lower’ levels of decision making cannot manage and discharge satisfactory transnational or international policy questions, and when the principle of democratic legitimacy can only be properly redeemed in a transnational context.123

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117 ibid., p. 155.
118 ibid., p. 157.
122 ibid.
123 Held: “The changing contours of political community”, p. 28.
Through a political configuration that Held calls *cosmopolitan multilateralism* he attempts to foster a simultaneous centralization (transnational centers of decision making) and decentralization (subsidiary) of governance. The cosmopolitan polity would be an overarching network of public fora, cities, nation states, regions, and wider regional centers that allow for a direct involvement of the public in an extensive deliberative process.\(^{124}\) Institutions of cosmopolitan multilateralism would supplement, but not supersede, national decision making centers. Examples for new institutions are an authoritative global assembly (a kind of world parliament), a range of regional parliaments (following the example of the EU), and a cosmopolitan law-enforcement agency. Extended public deliberation could, for instance, take place through an opening up of functional international governmental organizations (e.g. World Bank, International Monetary Fund, etc.) or through referenda on trans-border issues.\(^{125}\) The ultimate goal of cosmopolitan governance is the establishment of a *cosmopolitan citizenship* enjoyed by all human beings. This pattern of belonging is not longer tied to the condition of being part of a spatially defined community: “At the heart of a cosmopolitan conception of global order is the idea that citizenship can be based not on an exclusive membership of a territorial community but on general rules and principles that can be entrenched and drawn upon in different settings”.\(^{126}\) Under such a regime people do not surrender their national citizenship, but are rather encouraged to develop the ability to mediate their respective identities between the cosmopolitan and the statist realm.\(^{127}\)

Image 5 provides as schematic depiction of the principles of cosmopolitan governance: vertically, multiple decision making centers below and above the nation state exist. Horizontally, people can be part of different communities at one time. Diagonally, political subjects are confronted with a multitude of affectedness that spans the realms of ‘belonging’ and of ‘governance’ at the same time. Patch (1) stands for issues that are best tackled on a transnational level of governance, with implications for the subordinated centers of political power (global commons, environmental degradation, etc.). Patch (2) refers to locally confined aspects of governance (economic policies, social security standards, etc.). Area (3) symbolizes that political subjects can be simultaneously affected by different policy issues at the same time, and become hence part of multiple discourses and deliberative processes, unregarded the place where they live at. The overarching principle is the idea of

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\(^{125}\) ibid.

\(^{126}\) Held: “Restructuring Global Governance”, p. 541.

\(^{127}\) Held: “The changing contours of political community”, p. 27 ff.
cosmopolitan law, and while patterns of top-down planning become visible, all processes require a democratic legitimation form the bottom-up.

3.2. Substantive will

Section 3.2. investigates on the question which elements of Held’s cosmopolitan theory are capable of completing Hegel’s ideal of political freedom. As a means of investigation two aspects will undergo an analysis alongside the substantive-will-criterion: first, Held’s framing of the individual person as a contextualized political agent that can exercise autonomy and freedom only within the institutional framework of a political association. The principles of autonomy and freedom have been chosen for an in-depth analysis since they constitute the normative cornerstones of the cosmopolitan project and determine decisively the ethico-political ontology of Held’s theory, with far reaching consequences for how the nexus between the individual and the whole is constructed. The second element under investigation is cosmopolitanism’s attempt of couching ethics within a framework of
universal ethical agreement. This part of the analysis focuses then on the epistemic dimension of cosmopolitan norms. It asks where the framework derives its respective understanding of political legitimacy from and whether it goes along with the requirements set out by the *substantive-will-criterion*.

3.2.1. Freedom and autonomy

The *substantive-will-criterion* requires that the desires and interests of the citizens should reach their full development in the political community where they “gain recognition of their right for itself”. In turn, however, the individuals should “pass over their own accord into the interest of the universal”, that is the political community as the ethical substance of citizens interaction, and “knowingly and willingly acknowledge this universal interests (...) as their own substantial spirit”. This process, which signifies the “‘I’ as a ‘We’, and the ‘We’ as a ‘I’”, describes a situation where the person can find moral and material impact in the ethical codes of his community, which does, reciprocally, recognize the individual will of the political agent.

A very similar understanding of the I-We-relationship can be encountered in Held’s theory, for whom the cosmopolitan polity is the only realm capable of protecting and providing rights and liberties to its inhabitants. The defining feature of this community can be found in its ability to grant a “promise of a community which is governed by a fair framework”. Citizens surrender their unconstrained and self-centered desires to this ‘fair’ framework. By becoming members of this mutually constitutive community they receive both, the right of recognition of their respective wills, but also the duty to accept the universal ethical conduct that ensures that the same rights are granted to the rest of the demos as well. In the cosmopolitan demos political freedom is predominately articulated through the principle of *autonomy* - a concept that is strongly connected to the community, which is both, the locus for granting and receiving autonomy. It is, similarly to the idea of *self-conscious*, not “an individualistic principle of self-determination, where ‘the self’ is the isolated individual acting alone in his or her interest” but has rather to be understood as a “structural principle of self-determination where ‘the self’ is part of the collectivity (...) enabled and

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128 Hegel: *Elements of the Philosophy of Right*, §260.
129 ibid.
130 Hegel: *Hegel’s Phenomenology of Spirit*, §177.
131 Held: *Democracy and the global order*, p. 145.
132 ibid.
constrained by (...) democratic life”. In order to shape a community on the basis of this distinct understanding of other-relatedness individuals have to be part of an entity which performs a twofold move: on the one side it ought to recognize the agent as an independent being with desires and interests (individualistic element: person recognized as relevant in itself), but equally it must be able to establish a shared understanding of other-relatedness that is essentially larger than the accumulation of the individual wills of all agents (collectivist element: person as ‘self’ acts and obtains meaning only in concert with others).  

Both entities, the ideal-typical political state which does already fulfill the substantive-will-criterion, and the Heldian cosmopolitan polity, do eventually succeed in maintaining a distinct ethical conduct where the wills of the individuals are reflected in the will of the whole, while, at the same time, the whole has to recognize the distinct subjectivity of each of its constituting member. It is the ability to harbor both, the individualistic and a collectivistic elements within the borders of the political state that is deemed to be superior in comparison to other forms of human organization: “The principle of modern states has enormous strength and depth because it allows the principle of subjectivity to attain fulfillment in the self-sufficient extreme of personal particularity, while at the same time bringing it back to substantial unity and so preserving this unity in the principle of subjectivity itself”. As already pointed out in Chapter 2 the answer to the question how the individual human can become a good person is by making himself the member of a community with good laws. The person then becomes a citizen, entitled with rights, but is equally constraint by the laws of the community: the entrenched individual finds actualization by subscribing to the normative reality of this community, and it finds ethical impact in the state’s substantive will. 

Held formulates these principles for his cosmopolitan community and emphasizes that only a duality of individual will and substantive will can be capable of granting the greatest amount of autonomy. He opts for a “constitution allowing the greatest possible human freedom in accordance with laws which ensure that the freedom of each can co-exist with the freedom of all others”. Autonomy does then constitute the basis for common political action and functions as the provider of a similarly constraining and enabling framework that

133 ibid., p. 156.
134 Hegel: Elements of the Philosophy of Right, §260 - and Held: Democracy and the global order, p. 145.
135 ibid.
136 Hegel: Elements of the Philosophy of Right, §260 - emphasis added.
137 ibid., §153.
138 Held: Democracy and the global order, p. 221.
permits the pursuit of individual and collective goals. Similarly to the political state where the ‘I’ is conscious of the ‘We’, and the ‘We’ recognizes the ‘I’, Held’s common realm would consequently serve the aspirations of the individual citizens, but only under the condition that this aspirations are not violating the common good: “Such a structure is inconsistent with, and if applied systematically, would need to filter out, those ends and goods, whether public or private, which would erode or undermine the structure itself”.

Held forwards an understanding of a community that is not only a functional agreement, but requires some sort of commitment: that is that the individual relates to the whole, and the whole relates to the individual. The community is constituted by its members, but it is not reducible to them. Rather it is essentially bigger than the sum of its parts and has the purpose of equipping the individual with the ethical software - with a Sittlichkeit - for communal live which allows him to obtain the material hardware.

Cosmopolitan governance does hence have a similar understanding of the concept of freedom and how it can be obtained as demanded by the substantive-will-criterion. Freedom is viewed as relational principle, and humans can only be free if they relate to each other in a community that reconciles subjective and universal wills under the meta-narrative of autonomy, which eventually functions as the mediating principle of substantive will.

3.2.2. Universal ethical agreement

The second element of Held’s cosmopolitan theory that will undergo an evaluation along the lines of the substantive-will-criterion is the understanding of freedom and autonomy as ideal normative agreement. In order to make a point for this ideal normative agreement Held utilizes the democratic thought experiment. In this experiment he asks the question under what conditions a political order is perceived as legitimate by constructing a hypothetical situation of unobstructed, universal, and impartial deliberation. The exercise has the purpose to flesh out “the conditions of an ideal autonomy, that is, the conditions, rights and obligations people would accept as necessary for their status to be met as equally free members of their political community”. The outcome of this reasoning should be an order that every party could agree on (that no party could reasonably reject) if the deliberation is done properly and all instances of force or coercion are removed. By seeking for a potential agreement among

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139 ibid., p. 222.
140 ibid., p. 153 f.
141 ibid., p. 159 f.
142 ibid., p. 161 - emphasis added.
143 ibid., p. 164.
the political subjects Held reinforces his statement that autonomy is a relational and structural principle: when determining the conditions under which common political actions ought to be pursued it is not sufficient to conduct a “dialogue between me and myself” - I am not existing in isolation and solitude - rather it is necessary to enlarge the way of ones own reasoning by being conscious of the presence of others which are, in turn, the prerequisite of my own existence as a political subject.\textsuperscript{144}

In order to determine the compatibility of this approach with the requirements of the substantive-will-criterion a brief excursion is necessary that develops a Hegelian condition for legitimacy. Although Hegel does not perform a ‘thought experiment’, he is similarly asking the question of legitimacy. His method is, however, only implicitly active via his dialectical understanding of History and the unfolding of spirit over the times. We recall chapters 2.1. and 2.2. where it has been said that the universal spirit is History’s engine, and that this spirit has already obtained freedom through genuine self knowledge.\textsuperscript{145} Analogous to the universal spirit the subjective spirits - that are the individual human beings - strive as well for complete self-knowledge (‘know thyself’) through mutual recognition.\textsuperscript{146} Eventually History will come to an end when all ethical subjects receive mutual recognition and grant it towards each other - that means if they achieve freedom as self-knowledge through mutual recognition. Legitimacy in the reading of the substantive-will-criterion depends then on a political order’s capability to grant universal recognition to its members. Hence the conclusion: the more members are recognized as irreducible ethical totalities, the more legitimate is the order.\textsuperscript{147} Complete legitimacy of a political order has been achieve when History’s progression comes to end, that means when the struggle for recognition ends, due to the fact that all subjective spirits have found ethical impact in the political community, and see themselves reflected in the universal will of the state, for which reason they have no further incentive to question the status quo and push towards a higher, more rational form of human organization. This is the prerequisite of legitimacy: a political order that satisfies the substantive-will-criterion, since the end of the struggle for recognition is the prove of the highest degree of political rationality. To speak the thoughts of Hegel using the vocabulary of Held: the condition of true freedom is achieved through mutual recognition, under conditions people would accept, as their status as equally free members of the cosmopolitan polity is met.

\textsuperscript{144} ibid.
\textsuperscript{145} Hegel: The Philosophy of History, p. 17.
\textsuperscript{146} Hegel: Hegel’s Phenomenology of Spirit, §175.
\textsuperscript{147} Hegel: The Philosophy of History, p. 64.
When moving back to Held’s democratic thought experiment one will realize that it knows several potential outcomes on which legitimacy can be based on. This different stages of agreement, and the varying groundings for legitimacy, can also be found in the different moments of societal organization through which the political community evolves on its way towards universal knowledge (as shown in section 2.3. and 2.4.). The similarities look as follows:

Held starts with conditions of instrumental acceptance (conditional agreement) where citizens might be dissatisfied with the order they live in, but by keeping their personal advantage in mind they still go along with it. Instrumental acceptance can be understood as ethical freedom, that is, as shown in 2.3., constituting a ‘stump’-society were utility-maximizing individuals adhere to a minimal set of rules and conventions (abstract right).

The second possible motivation for legitimacy can be found under conditions of practical normative agreement where political subjects perceive the principles of their association as ‘right’ or ‘correct’, but their reasoning is still obstructed by their attempts to pursue mere individual ends. This corresponds to civil freedom (in civil society) where law does already secure limited autonomy through formal recognition, but where citizens remain bound together by a system of needs rather than by true affection (a utility maximizing rationale).

However, only under conditions of ideal normative agreement, the third possible choice, people put their individual ends, interests, and social positions aside and can achieve the highest degree of autonomy. At this stage a political order is fully legitimate, because only if citizens are capable to formulate and acknowledge ideal normative agreement the otherwise entrenched political subject refrains form parochially recognizing its own interests and wills (subjective will), and is ready to put its own existence into the larger context of communal life. Only by realizing that freedom is a reciprocal concept that relies on mutual recognition among political subjects people can really be free and achieve genuine, unobstructed autonomy. The same precondition for genuine freedom is established under conditions of political freedom which is required by the substantive-will-criterion - as outlined in the brief excursion on the previous page political freedom constitutes the highest degree of legitimacy achievable in the Hegelian framework. At this stage people leave civil society’s system of needs and abandon their instrumental relationships towards each other. Eventually they live

149 Pelczynski: “Political community and individual freedom”, p. 66.
150 Held: Democracy and the global order, p. 161.
151 Hegel: Elements of the Philosophy of Right, §189 ff. - and Pelczynski: “Political community and individual freedom”, p. 70.
152 Held: Democracy and the global order, p. 161.
together and recognize each other as irreducible ethical subjectivities. The community has then adopted the above mentioned position that ‘no one can reasonably object’, simply because it allows each individual the unconditional participation into public life and the pursuance of its individual ends - but in concert with others that are also irreducible in their demands.

When then looking at the origins of Held’s concept of *autonomy* its compatibility with the *substantive-will-criterion’s* understanding of political freedom becomes clear. The element that lets the Heldian cosmopolitan theory satisfy the requirements of the *substantive-will-criterion* is that *autonomy* stems from an *universal ethical agreement* on the ontological foundations of the community - an understanding that goes along with the legitimacy-condition for *political freedom*. Ideal normative agreement is not an individualistic principle - that means it is not representing subjective will only - but it does rather have be understood as a synonym for *substantive will* - the meta narrative that holds the community together as it harbors the plethoras of subjective wills under one ethical roof.

### 3.3. Mutual recognition

The second part of the analysis applies the *recognition-criterion* to Held’s cosmopolitan theory. This subchapter is again divided into two sections: section 3.3.1. thematizes liberal-rational ethics and the process of law formation. As shown in 3.2.2. Held uses the epistemic method of universal ethical agreement for determining the normative cornerstones of cosmopolitan governance. Section 3.3.1. looks at the more practical implications of this method. It asks the question through what specific processes cosmopolitan law comes eventually about and whether it is compatible with the requirements formulated by the *recognition-criterion*. The consecutive section 3.3.2. deals with the effects of this particular understanding of law formation and highlights the specific role assigned to political culture, as well as the effects that emerge from a contractualization of social relations.

#### 3.3.1. The origins of cosmopolitan law

From the perspective of the *recognition-criterion* the formulation of a state’s law is a complex, predominantly social, and essentially conflictual process whose driving forces can be found in the universal spirit. It lies in the nature of this abstract-active principle that it does already represent the stage of essential self-knowledge towards which humankind still
strives: spirit represents freedom as self-knowledge.\textsuperscript{153} Although spirit is the engine behind man’s social evolution, it does not function as a strong determinism. It does not steer the development of political communities towards a very particular ending where freedom through self-knowledge could be obtained effortlessly by all political subjects. Rather the contrary is the case. The unfolding of spirit in the world manifests itself in a dialectical process\textsuperscript{154}, involving the different moments of societal organization on the macro-level, and the struggle for recognition at the micro-level.\textsuperscript{155} Political subjects have to struggle for being free, that means they need to engage in a potentially intense conflict for the purpose of fully actualizing themselves and getting recognized as irreducible particular spirits.

Driven by their genuine desire to obtain freedom as self-knowledge humans as essentially political beings develop - in a try-and-error like fashion - increasingly rational forms of existence that have only one single purpose: namely to grant substantive recognition to as many members of the community as possible. If the community fails to fully acknowledge its members as irreducible ethical subjects, and grants, for instance, only formal but not substantive recognition, the struggle does not come to an end. The prevailing order is eventually toppled and superseded by a more rational form of association. In this volatile environment the question of what is ‘right’ and what counts as law can’t be set \textit{a priori} as a fixed dimension. Rather it is subject to an ongoing process of negotiation where the subtleties and conditions of political interaction are permanently under dispute. Law as such can then not have a presumably independent or abstract existence, that means it cannot exist apart for the very social practice from where it originates. What is right and set as law has rather to be understood as a very immediate ethical manifestation and as an epiphenomenon of a distinct \textit{Sittlichkeit}.\textsuperscript{156} While freedom requires law in order to codify the conditions of autonomy, law as such does not make agents free. Agents become free by substantively recognizing each other as irreducible individual wills, and by relating towards each other through the spiritual bond of \textit{Sittlichkeit}. Law and right, then, do only codify this agreement, but the distinct moment of agreement takes place earlier - not when law is declared but in the process when right is socially constructed. In effect, law is born out of conflict, and the negotiation of conflict gives birth to law. Law and right do not emerge out of abstract

\textsuperscript{153} Hegel: \textit{The Philosophy of History}, p. 17.
\textsuperscript{154} Hegel: \textit{Elements of the Philosophy of Right}, §340.
\textsuperscript{155} \textit{ibid.}, §151 ff.
\textsuperscript{156} \textit{ibid.}, §211.
reasoning, but out of the distinct *Sittlichkeit* that formulates the codes of interaction within a society.\textsuperscript{157}

When applying this perspective to the cosmopolitan theory of Held one will encounter a process of law-formation that looks slightly different. The germ-cell of the cosmopolitan ideal *cannot* be found in the arena of intense and immediate political struggle, it does not have its origin in the particular *Sittlichkeit* of a people, but emerges in the realm of *abstract reasoning* immanent to the democratic thought experiment. When it comes to the formulation of the core-principles of the cosmopolitan demos Held shows a clear tendency towards a top-down formulation of law and right. In fact, he is utterly suspicious against any type of bottom-up emergence of this guiding principles. He notes that the radical democratic project of Rousseau, and also the Marxist tradition that forms the basis of the modern ideal of participatory democracy, “tend to leave the complex relations among individual liberty, distributional matters and political processes to the *ebb and flow of democratic decision*.”\textsuperscript{158} Eventually he rejects every attempt to formulate the governing principles of a demos from the bottom up, as “these models all overly rely upon a ‘democratic reason’ - a wise and good democratic will - for the determination of just and positive political outcomes”.\textsuperscript{159} The main weakness that Held diagnoses is that “they do not ask systematically whether an essentially democratic demos can be depended upon; whether the ‘democratic will’ will be wise and good; and whether ‘the general will of the majority’ is a sufficient basis for non arbitrary government ”.\textsuperscript{160} In order to protect his cosmopolitan demos from the potential terror of the masses and the fragile arbitrariness of the majority’s will, Held argues that the abstract imperative of *ideal normative agreement* (the principle of governance that nobody can reasonably object\textsuperscript{161}) can also be utilized for determining the genuine nature and the condition of autonomy.

While this move is impermissible from the perspective of the *recognition-criterion*, it is permissible in the Heldian framework. Held is in no ways interested in explaining how *social* processes lead to a particular *Sittlichkeit*, and how this processes affect formalized laws. The abstract reasoning on autonomy and freedom is for Held a tool that justifies the democratic *Rechtstaat* - the democratic legal state of planetary dimension - and a particular set of rights as *entitlements* that should govern the cosmopolitan demos: “entitlements to pursue action and

\begin{itemize}
\item[\textsuperscript{157}] Pelczynski: “Political community and individual freedom”, p. 9.
\item[\textsuperscript{158}] Held: *Democracy and the global order*, p. 149 - emphasis added
\item[\textsuperscript{159}] ibid.
\item[\textsuperscript{160}] ibid.
\item[\textsuperscript{161}] ibid., p. 164.
\end{itemize}
activity without the risk of arbitrary or unjust interference”. The idea of entitlement is further advanced into *entitlement capacities*, since “unless entitlements translate into a capacity to act (...) the efficacy of rights cannot be linked to any ability to make them count in practice”. By following the classical liberal ideal Held is predominantly concerned with the question of how to protect the rights of individuals against potentially threatening forces, such as the state or other agents. By borrowing from Kant Held aims to establish “a constitution allowing the greatest possible human freedom in accordance with laws which ensure that the freedom of each can co-exist with the freedom of all others”.

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**Held - Cosmopolitan Rechtsstaat**

- autonomy
- abstract theoretical reasoning - democratic thought experiment
- secure entitlement capacities - can be granted to citizens

**Hegel - Political State**

- ethical purpose
- emergence
- function of law

**Hegel:** immediate and necessary connection between the ethical purpose of law, its emergence, and its function in the political community

**Held:** connection between the ethical purpose and the emergence of law exists - but no immediate connection between law-making as such and its eventual function in society

*Image 6: the formation of law*

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162 ibid., p. 154.
163 ibid.
164 ibid., p. 221.
However, instead of letting a particular *Sittlichkeit* grow within the political community, he is afraid of the potentially negative effects of the public will, and decides to retreat to the realm of abstract reasoning, from which he draws the legitimacy for his entitlement capacities. Eventually this leads to a separation of the source/origin of what is perceived as ‘desirable’ or ‘ethical’ and what is eventually set as law.

In order to fulfill the recognition-criterion there must be an absolutely stringent connection between the idea of freedom (as the ethical goal of a community), the concrete social practice in the form of the struggle for recognition (essential for the emergence of norms), and the function of law (that is the materialization of a particular *Sittlichkeit*). In a Heldian reading this threat if frayed much along the line: the ethical purpose of community and law can be found in the idea of *autonomy*. Autonomy, however, does not obtain legitimacy from, and is not emerging through, a distinct social practice, but has its origins in the metaphysical realm of the democratic thought experiment. The entitlement capacities that stem from the process of metaphysical reasoning are hence laws from above that do not possess the same socially constructed quality of *Sittlichkeit*. In section 3.2.2. it was shown why the Heldian understanding of *autonomy* goes along with the substantive-will-criterion’s interpretation of freedom. However, a common understanding of *freedom* as a relational concept is not enough for satisfying the requirement of the recognition-criterion. While the substantive-will-criterion puts a major emphasize on the demo’s formal capability to unify diverging wills, the recognition-criterion asks the question how this outcome is actually achieved. The major point of criticism that has to be brought forward against the cosmopolitan principle concerns the origins of this outcome in the spheres of abstract reasoning: autonomy, and the cosmopolitan law that derives from it, do not grown as immediate ethical practice in the community that it is destined to govern. Rather, it represents ethics from above, and law constituted by a remote metaphysical principle. Cosmopolitanism then eventually fails to meet the recognition-criterion, since law, the source of law, and the process through which law is constituted are essentially separated from one another (as depicted in Image 6).

### 3.3.2. Impact of cosmopolitan law

Deriving from Held’s understanding of law formation three very distinct problems emerge. The first one is the subordination of community-practices under the cosmopolitan principle, which can result into a presuming consensus and the hinderance of the struggle for
recognition\textsuperscript{165} in the Heldian framework local associations have to submit themselves under the principle of cosmopolitan law. Held shows little faith in the ability of communities to determine the modes of interaction between political agents on their own. In fact, the bond of \textit{Sittlichkeit} that constitutes the fabric that holds political associations together gets stripped from its ethical content and turns into some sort of ‘lifestyle’. Held states that “a cosmopolitan democratic community does not require political and cultural integration in the form of a wide range of beliefs, values and norms”.\textsuperscript{166} It is sufficient if people adhere to the “meta-political narrative”\textsuperscript{167} of the cosmopolitan law in order to form a planetary demos. However, a bottom-up formation of belonging is not necessary as long as political subjects agree on the basic implications of autonomy. At this point the presumably universalist framework of cosmopolitan governance abandons its inclusive ideal as it takes away a community’s ability to decide on the principle issue of how to accommodate subjective wills in its wider social framework. The Heldian approach becomes insufficient from a recognition-perspective as it attempts to introduce only \textit{formal recognition} between political subjects and fails to line out how \textit{substantive recognition} can be achieved in very practical terms. Held’s framework fosters a, what Murray calls, ‘presuming consensus’: a superficial or fake-consensus on very fundamental and principled decisions on the \textit{Sittlichkeit} of a people. The presuming consensus is an immediate effect of the abstract process of law-formation: the ability of people to figure out a solution for how to deal best with the plethora’s of \textit{subjective spirit’s} struggle’s for recognition is simply bypassed. Instead Held declares every form of constitutive confrontation obsolete, due to the fact that the concept of autonomy - that is based on hypothetical ideal normative agreement - provides the greatest freedom for all, and nobody could reasonably object such a principle. From a logical point of view people might in fact have no reason to object. However, from an ethical perspective they have good reasons to do so, mainly because they where not given the chance to interpret the autonomy-principle in their own \textit{Sittlichkeit’s} way. Held does massively underestimate the effectiveness of political communities to function as catalyzers for value formation, and he treats them in an almost hylomorphic fashion by declaring them as arbitrarily moldable entities with no independent ethical significance.\textsuperscript{168} Hegel has uttered an intense warning about the arrogance


\textsuperscript{166} Held: \textit{Democracy and the global order}, p. 282.

\textsuperscript{167} ibid.

that arises from reasoning that barricades itself behind a presumed abstract or metaphysical rationality:

Consequently, when these abstractions were invested with power, they afforded the tremendous spectacle, for the first time we know of in human history, of the overthrow of all existing and given conditions within an actual major state and the revision of its constitution from first principles and purely in terms of thought; the intention behind this was to give it what was supposed to be purely rational basis.\textsuperscript{169}

Held’s framework shows patterns of top-down planning and social engineering and does actively seek to change local practices by streamlining them for the higher democratic good. Although Held claims that he is sensitive for local practices it becomes apparent that his concern is only valid for communities willing to merge with the cosmopolitan framework.\textsuperscript{170} His unawareness can lead to unexpected adverse effects in the process of community formation. Top-down planning can be effective if it is sensitive to the ethical structure of the social entity which it is supposed to govern. However, it can terribly fail if the value-base of the community and the ethical content of the law are divergent. In a worst-case scenario the struggle for recognition gets intensified between the alien law and the group that is supposed to adhere to the new right. Individuals then might not struggle for recognition among each other, but rather for the recognition of their ethical subjectivity in the new code of laws. Law and right that opposes the ethical desire of the individual does not lead to freedom but rather to oppression and a potentially intense ‘clash of ideals’. Held attempts to construct the planetary human community, that means he imposes a law on it that does not receive legitimacy from the heart of this community - the rational, free, and decent demos can then not emerge. Rather an alienation between law and community takes place that does not bring the dialectical process of History to an end, but rather accelerates and intensifies it.

Secondly, Held seems to be overly optimistic about the constitutive character of his cosmopolitan law. By following the legal positivism of Kelsen Held brings forward the claim that the cosmopolitan citizen can be declared and that there is no immediate need for letting this newly constituted agent emerge through distinct social practices informed by mutual recognition. Deriving from the subordination of local practices Held hence shows an overly optimistic attitude when it comes to the emergence of the new planetary citizen. Under conditions of cosmopolitan governance people should learn to mediate between the

\textsuperscript{169} Hegel: Elements of the Philosophy of Right, §258.
\textsuperscript{170} Held: Democracy and the global order, p. 205.
cosmopolitan and the statist realm and adopt their identity respectively.\textsuperscript{171} Held’s underlying assumption is that “new global institutions will produce a more globally conscious citizenry”.\textsuperscript{172} The origins of this newly emerging mode of belonging stems from a legal positivist understanding of law formation where law has causal properties over the agency of actors.\textsuperscript{173} By following the legal philosophy of Kelsen Held accepts a difference between \textit{Sittengesetz} (moral law) and \textit{Rechtsnorm} (formal law) and adheres to an understanding of \textit{autonome Rechtsschöpfung} (autonomous law making)\textsuperscript{174} - a process of law-making where the norm obtains an autonomous character and is not necessarily connected to the social and moral reality of the community. The legal positivist understanding of Held, and the idea that the cosmopolitan demos can simply be declared, is highly problematic from a Hegelian point of view. From the perspective of the \textit{recognition-criterion} the political community is an entity that exists beyond its mere physical manifestation. Laws written down in a constitution, the existence of a head of state, etc. are the material characteristics of a state, but they are not constituting it substantively. A political community has rather to be understood as some sort of super-organism with a collective consciousness that is balanced in itself - one might call it a \textit{balance of spirits}. Only if this integrity is achieved the laws that govern the demos obtain meaning. Lets assume that liberal cosmopolitanism has really found the formula that is necessary for establishing a fully rational community. The laws would, in principle, be perfectly balanced and grant every individual the freedom of subjectivity. Further, the formal order established is capable to guarantee mutual recognition (the prerequisite of freedom). Even in this case the laws would be empty and only worth the paper they are written on - but not much more. One has to be deeply critical and suspicious of societies that simply adopt constitutions.\textsuperscript{175} Constitutions are not only formal pieces of legislation that can be ‘good’ or ‘bad’ according to any objective standards. Rather they are documents that have emerged out of social struggles. They formulate the self-conscious ethical subject’s will to abandon individual desire in favour of mutual recognition towards other self-conscious beings. Previously to the actual process of \textit{writing} the constitution, \textit{formulating} laws, and \textit{defining} the respective modes of interaction, there is the \textit{struggle for recognition} going on in the society: the

\textsuperscript{171} Held: “The changing contours of political community”, p. 27 ff.
\textsuperscript{175} Vincent: “The Hegelian State and International Politics”, p. 192.
dialectical process at whose end the necessary agreement stands. Agreement on an institutional order cannot be achieved without this dialectical process. A constitution that has simply been adopted or declared - even if based on the seemingly best principles - cannot be durable and will not be the foundation for a rational state, since it came from outside and did not undergo its shaping through society’s forces of will.

Thirdly, the ‘all affected’-principle attempts to restructure the concept of constituency - but it does also degrade fellow citizens to mere functional friends that do not necessarily have to relate towards each other in the meaningful way characterized by mutual recognition. A fluent constituency does not provide the same understanding of affectedness that can be found in the political state’s Sittlichkeit. Rather it is resembling civil society’s system of needs that is based on formal and not on substantive recognition. As demonstrated in section 2.4.

History progresses through different momentums of societal organization, and prior to the emergence of the fully rational political state humankind will find itself in the momentum of the civil state: this forum did already succeed in granting formal recognition through law (protecting property through property-rights) and is bound together by the system of need.\footnote{Hegel: Elements of the Philosophy of Right, §182.}

The state, however, is only of an external quality and there is no immediate unity between the citizen’s and the state’s will. The state is seen as something that can be found outside of the person’s ethical disposition and the individual’s subjective will. The underlying rationale behind the civil state is the idea of securing material gain, subsumed under the principle that “I’ll scratch your back if you’ll scratch mine”.\footnote{Westphal, Kenneth R. (ed.) (2009): The Blackwell Guide to Hegel’s Phenomenology of Spirit, 1st ed., Chichester: Wiley-Blackwell, p. 40.} As the mode of belonging is formal, and not substantive, it is, in theory, possible to swap between multiple civil sates and civil societies like one changes his insurance provider.\footnote{ibid., p. 42.} When looking at the functional level of Held’s cosmopolitan model one can observe clear patterns of a civil (and not a political) understanding of community. The fluent constituencies and the mode of political articulation that is informed by the ‘all affected’-principle are prominent examples for the contractual relationships that are fostered by the cosmopolitan model and the ligation of community through the system of needs. Organically grown constituencies do not play a dominant role in this model, and the ethical relevance of this type of association is completely neglected. For Held constituencies are not the birthplaces of Sittlichkeit, and they are also not decisive in granting agency to political subjects. Rather they are machines for problems-solving,
apparatures of governance, and instruments that help to secure particularistic rights. According to the model of cosmopolitan governance
deliberative and decision-making centers beyond national territories are appropriately situated when those significantly affected by a public matter constitute a cross-border or transnational grouping, when ‘lower’ levels of decision making cannot manage and discharge satisfactory transnational or international policy questions, and when the principle of democratic legitimacy can only be properly redeem in a transnational context.179

The described ‘all affected’-principle resembles patterns of the civil society that Hegel was deeply critical of and urged not to conflate it with a rational political state.180 Held is unwilling to perform the next consequent step that would supersede civil disposition in favour of political one. Through the all affected-principle his model remains in the realm of contractual relations: only if I am significantly affected by a policy measure I do receive the entitlement to raise my voice. Otherwise my capability to act remains confined to the pursuance of individual wills and needs. The state becomes degraded to a service-provider and, to put it in a polemic fashion, the citizen turns into a customer that is only needed for certain transactions but should remain silent and mind his own business for the rest of the time. In order to guarantee the substantive recognition that can be found in the political state’s Sittlichkeit members of a demos “must give each other’s interests some non-instrumental weight in their practical reasoning”181 and develop a “fellow feeling” or “mutual concern”182 as it can, for instance, be found in the family.183 A constituency that can be adjusted arbitrarily, and a participation in communal live that works in an on-off-mode, remains defective and is not capable to provide the substantive recognition that is required within a political state.

3.4. Conclusion

When it comes to the question whether the cosmopolitan framework is capable to satisfy the substantive-will-criterion the analysis has indeed shown that Held’s model succeeds in formulating the conditions for a meta-narrative that reconciles subjective and universal will.

179 Held: “The changing contours of political community”, p. 28 - emphasis added.
180 Hegel: Elements of the Philosophy of Right, §258.
182 ibid.
183 Hegel: Elements of the Philosophy of Right, §158 and §158 Add.
Held dismisses the idea of a demos that is merely based upon a civil society where each individual is, thought member of a political community, predominantly concerned with the pursuance of its own will while relating to fellow citizens in a purely instrumental manner. By posing the question under what conditions a political order ought to be regarded as legitimate, Held proves to be sensible to the requirements of the substantive-will-criterion. For Held the condition of legitimacy is fulfilled only if a political community is capable to harbor the plethora of individual wills and desires within a framework of common political action. This framework recognizes the subjective spirit of each of its members, yet it is equally capable to foster identification through certain ethico-political principles that support the individual in finding substantive impact in the laws of his political community. It would be a framework that nobody could reasonable object, mainly because it allows for the exercise of individual freedom within the ethical delineations of the polity. These elements of convergence reveal that Held’s philosophy articulates elements of idealism that allow him to recognize the individual not as a pre-political subject, but as a citizen that exists within a distinct political context, and whose qualities as a democratic agent emerge only within specific institutional and jurisdictional settings. In doing so he successfully connects the particular and the whole and satisfies the substantive-will-criterion.

Despite these diagnosed overlaps a series of elements has been found that have to be regarded as incompatible with the second element of the analysis, that is the recognition-criterion. The major obstacle in this respect is the process of law-formation and its function within the political association. If following the logic of the recognition-criterion law has to be regarded as an epiphenomenon of a particular Sittlichkeit. The emergence of law reflects the ethical grammar of a community, and the determination of what ought to be regarded as right, wrong, desirable, or undesirably, takes place in a process that is strongly connected to intersubjectively accepted practices. The process, though explicitly bound to these practices of the particular community, is however not completely arbitrary or relativist, as it is still guided by the spirit’s desire for freedom through self-actualization. Apart from this basic universal requirement to provide freedom as self-actualization the process of law formation is relatively open and cannot be preempted by an a priori definition of how law has to look like. Held is less confident in this respect and shows little trust in the potential of political communities to work out their distinct definition of the political good. He is actually even suspicious of too much unguided public reasoning and wishes to exclude “the complex relations among individual liberty, distributional matters and political processes (...) [from] the
ebb and flow of democratic decisions”.\textsuperscript{184} In order to protect his framework (and the entitlement capacities that safeguard the rights of individuals) from the incalculable dynamics of public reasoning he proclaims that law does not have to emerge through a process of social construction. Rather, its content can be determined outside the social sphere through processes of abstract reasoning, and phased back into the polity later on. Several highly problematic consequences follow: firstly, a degradation of local practices to mere choices of ‘lifestyles’. While the recognition-criterion attaches ethical value to local practices as they foster substantive recognition among subjective wills, Held does not attach much meaning to them and cannot grasp their distinct value in the bottom-up formulation of \textit{Sittlichkeit}. Secondly, Held’s liberal rationalism does lead towards a situation of autonomous law making where the bonds between the formal elements of law and their underlying ethical implications are destroyed. An ethical underpinning of law, determined through intersubjectively agreed practices, is actually not even necessary, since the foundations of law are located in the sphere of abstractions and not in a distinct communal ethics. Thirdly, the ‘all affected’-principle degrades the inhabitants of the polity to mere consumers of policy-decision. A consciousness as a citizen is not required - the self-sufficient individuals can rather attend the political theater occasionally when their approval is required, but they should mid their own private business for the rest of the time.

Although there exist substantive overlaps between Held’s model of cosmopolitan governance and the substantive-will-criterion, it has also become apparent that he does entirely fail to satisfy the mutual-recognition-criterion. The component which gives rise to utter suspicion is Held’s definition of political rationality and the questionable method he uses for arriving at ideal normative agreement. In order to exemplify the severity of the division it is necessary to briefly compare Held’s and Hegel’s understanding of legitimacy. Held and Hegel - though sharing common liberal grounds on the content of the principle - formulate different requirements for its emergence: for Hegel it is affirmative agreement, while for Held it is mere acceptance of the superiority of abstract rationality. Held has a clear focus on outcomes, whereas Hegel prefers a less one-dimensional and more nuanced approach that takes bottom-up processes of law-formation into account as well. Both agree on similar liberal prerequisites, but the method Held choses for constructing his cosmopolitan law is unacceptable from the Hegelian perspective (and consequently form a mutual-recognition-perspective), since the performance of reason, the process where reason emerges through

\textsuperscript{184} Held: \textit{Democracy and the global order}, p. 149.
Sittlichkeit, is equally important as the outcome. Performance and reason determine each other and are mutually constitutive conditions of their respective existence: reason and legitimacy have to be formulated in the language of Sittlichkeit that emerges in a community, and they have to use the ethical grammar that prevails in the distinct association. Held starts off from the assumption of having found the Archimedean point of pure political rationality, hereby reducing his approach to only one possible interpretation of individual freedom, eventually pre-closing diverging interpretations of the very same principle. The mutual-recognition-criterion requires a much more permissive approach, yet without drifting away into a relativism. It does also have a quite distinct understanding of how to realize freedom within the political association, but it does not proclaim to be in the possession of the ultimate method for determining it by claiming to argue from a position of neutrality or reasonability.

It is hence concluded that Held’s idea of cosmopolitan democracy is stuck in a transitional phase between the civil and the political state. The model of cosmopolitan democracy does not embrace pure liberal orthodoxy that would imagine the individual as pre-political subject, but proofs to be capable of imagining the citizen as contextualized political agent. The proof for that is Held’s ability to satisfy the substantive-will-criterion. Held’s cosmopolitanism is then on a good way when it comes to ceasing the struggle for recognition, yet, as outlined above, certain elements of his political theory do not allow for the final step of arriving at a stage of political freedom. The point of friction emerges through the concept of rationality that Held uses, which is entirely incompatible with the recognition-criterion. Held seems to have little trust in his own framework, because although it is destined to formulate the condition of people’s autonomy, it is not developed with the people, but rather given to them. Held’s urge to protect the masses from their own possible failures hinders him to develop a more comprehensive understanding of the constitutive meaning of political practices. Political practices are not just arbitrary sets of interactions, but can rather bear distinct ethical values. Despite their importance they are entirely excluded from his framework. Rather, Held prefers to outsource reason and puts himself in the position of Plato’s philosopher king. This move is impermissible since the universal component of spirit can only materialize and emerge through active engagement between subjective spirits.
4. Deliberative democracy

The second part of the analysis investigates on Dryzek’s model of deliberative democracy. While Held’s approach puts a main emphasis on the question of institution-building and the formalization of law, Dryzek’s deliberative/discursive model is largely guided by an interest in the processual qualities of democracy and pays attention to the question of how a reflection and a reformulation of citizens preferences can contribute to the overall democratic good of a constituency. Similar to the previous chapter this part of the study starts off with a brief introduction of the deliberative model that determines the cornerstones of the subsequent analysis. It will be explained into what theoretical context the discursive model is embedded, what its key components are (especially the state/civil-society-nexus, the meaning of discourses, and the idea of reflexive modernity), and how a transnational model of discursive democracy could potentially look like. An evaluation along the substantive-will-criterion and the recognition-criterion follows subsequently.

4.1. The study of democracy and the deliberative turn

In order to provide a contextualized understanding of the implications and the distinct features of deliberative democracy, it is useful to have a quick look back into the history of the academic democracy-discourse, and line out the novelties that entered the field in the course of the deliberative turn. As the idea of a ‘turn’ already suggests scholars and theorists have started to develop an increasingly strong interest in the possibility, the conditions, and the procedural implications of a mode of democracy that is predominantly based on deliberative and discursive modes of interaction. Before the deliberative turn happened to occur the realm of democracy-studies was predominantly occupied by the classical liberal model. The idea of man reflected in this type of theory borrows heavily from John Lock’s understanding of the political subject and the state of nature. From a substantive perspective it imagines the political agent as characterized by a priori defined interests and preferences. The subject is, in this reading, always already socialized when it enters the political process and has a well defined and clear-cut knowledge of his or her preferences in mind. The main impetus to enter the political arena, and to participate into the process of politics, is the desire to realized ones own preferences and to see them reflected in

Acknowledgement: it is important to distinguish between deliberative and discursive democracy, as their respective meanings and their implications differ tremendously from each other. For the sake of readability the study uses the more common term ‘deliberative democracy’ for the moment. However, a conceptual separation of ‘deliberative’ and ‘discursive’ democracy will take place further below.

public policy. The agent is consequently characterized by rationally informed self-interest and a conscious awareness of its desires.\textsuperscript{187} The classical liberal model is not so much interested in the processes of interest-formation (this takes place in the pre- or extra-political realm) and puts instead a major emphasis on interest-reconciliation.\textsuperscript{188} In cases where actors preferences diverge from each other the procedural mechanisms of the market and of politics comes into play\textsuperscript{189}: at first instance preferences are aggregated, i.e. through the emergence of different actors, such as political parties or pressure groups. Subsequently they become subject to public voting whose verdict eventually determines which group can enter the realm of government and make collectively binding decisions on behalf of the whole of the polity. In formal terms constitutional rights are crucial for classical liberal democracy because they protect the individuals from each other as well as from unduly governmental interference.\textsuperscript{190} Furthermore, they provide the normative and legal framework into which interest-aggregation and voting-procedures are couched. Securing the integrity of the procedural processes, and granting the political subjects an array of rights that are not contestable by voting, ensures that even the members of the defeated party enjoy the freedom of citizens and are not obstructed in this freedom by the dominating party that occupies the realm of government.

The deliberative project tackles the question of how to organize the democratic polity from a very different angle and puts the construction and contestation of discourses in the centre of its attention. While the above outlined liberal model starts off from a priori defined preferences and emphasizes formal political processes, constitutional rights, and voting procedures, the deliberative model performs a kind of upstream analysis and is predominantly concerned with what has previously been rendered pre- or extra-political: namely the process of interest-formation as such. Deliberative democracy directs our attention to the fact that interests and preferences are not formed in a vacuum - they do not appear from nowhere - but are rather constituted in a social process. While the liberal model regarded the area of interest-formation as not important for political considerations, the deliberative strand argues that a more thorough investigation into the nature of this realm is necessary, as it can be utilized for more authentic and robust democratic practices. Deliberative democracy is then asking the question where the ‘commodity’ that political

\textsuperscript{188} ibid.
\textsuperscript{189} ibid.
\textsuperscript{190} ibid.
actors try to sell on the market of ideas originates from, and further, how the process of constructing and formatting interests can be mobilized for better democratic practices. Inherent to this model is that interests are not regarded as ‘black boxes’ (they are not constructed in solitude, but always in reference to other actors), and furthermore that the supposedly pre-political realm has to become part of democratic considerations as well. It is hence not enough to know with what kind of interests and preferences actors arrive in the political arena, but it is equally important to understand how preferences make their way through, and get molded by, social and political forces.

The construction and contestation of discourses does consequently play a crucial role in the deliberative model. Further below a more comprehensive definition of what a discourse is and how it relates to democratic practices will be given, but for the moment it is enough to understand that discourses are seen as ‘meaning machines’ in the Foucaultian sense: as intersubjectively constructed, commonly agreed patterns of understanding that help political actors to make sense of the physical and social environment surrounding them.191 For discursive democrats the essence of democracy and of democratic authenticity cannot be found in the mediation and aggregation of interests - rather it is dependent on the question how responsive a political system is in respect to the changeability and challengeability of its grand narratives and major/hegemonic discourses: “The deliberative turn represents a renewed concern with the authenticity of democracy. The degree to which democratic control is substantive rather than symbolic, and engaged by competent citizens”.192

After elaborating on the divide between the liberal and the deliberative model a second brief round of conceptualization and classification is necessary: namely between discursive and deliberative democracy. It is crucial to be aware of the differences between the two strands, although they are often used interchangeably in the wider academic discourse. Dryzek himself opposes their conflation and begged to differ sharply between them.193 Despite the differences between the two concepts, the analysis will, for the sake of coherence, only use the slightly undifferentiated mainstream-term deliberative democracy. One does, however, have to bear in mind that that concept of ‘deliberative democracy’ as used for this analysis is always referring to the democratic theory of John Dryzek, who, in turn, has associated himself more with the discursive tradition. However, due to the fact that not even

192 Dryzek: Deliberative Democracy and Beyond, p. 1.
193 ibid., preface vi.
Dryzek uses the concept of discursive democracy extensively in his writings, but does always label his democratic theory deliberative, I suggest to the reader to bear in mind that Dryzek’s deliberative model is heavily informed by discursive practices and can hence be labeled as ‘critical deliberative’.

In Dryzek’s understanding the idea of deliberative democracy is certainly the weaker concept in terms of democratic authenticity, mainly due to the fact that deliberation does not necessarily have to be a social process but can also be understood as private reasoning or the private waging of preferences. If the idea of ‘deliberation’ is applied in a social context it bears a strong connotation with calm reasoning and well formulated argument: a sort of gentlemen club with prior defined rules of interaction, which can also have unnecessarily constraining effects. An excellent and ideal-typical example for this reason-centered gentlemen club is the previously discussed Heldian model of cosmopolitan governance. Held advocates for a process of deliberation, but the waging of preferences he imagines takes place in a highly structure and hermitic environment. The form and scope of permitted arguments is already given, and it has always to be made in reference to the principles of autonomy, democratic public law, and entitlement capacities. This implies that certain narrative-structures are not up to discussion - they are sacrosanct and stand outside the discursive contestation. Held welcomes deliberative practices when it comes to determining certain policy decision, but the core concepts of cosmopolitan governance - autonomy, democratic public law, entitlement capacities - cannot be subject to deliberative reflection. Certain types of deliberative democracy do hence share similarities with liberal constitutionalism. Only specific types of communication and argument are truly welcomed by them, what narrows down the democratic scope of these theories, and does essentially limit the possibility of authentic deliberation.

Discursive democrats attempt to maintain a critical edge by furthering a much more permissive position in respect to the scope and the practice of deliberation. Dryzek himself leans explicitly towards this discursive tradition and sees its distinct advantage in the opportunity to let political subjects reflect upon their preferences in a more non-coercive

195 ibid.
196 ibid.
197 Dryzek: Deliberative Democracy and Beyond, p. 1.
198 ibid.
199 ibid.
While deliberative democrats do, to a certain extent, rely on the entrenchment of discursive practices (see paragraph above) discursive democrats are willing to allow unruly and non-rational communication, as well as the contestation of key-concepts that where rendered sacrosanct by some discursive democrats. Dryzek argues that if one wishes to do justice to the essence of democracy one has to understand it as the contestation of discourses in the public sphere: “Authentic democracy can then be said to exist to the degree that reflective preferences influence collective outcomes”.

The very idea of contestation implies that almost everything can be opened up by, and challenged in, the public discussion - consequently there are no ‘none-alternatives’ or inevitabilities. The envisioned mobilization of the public sphere highlights the necessary involvement of the polis in the search for a grand narrative or dominant discourse. By making this statement Dryzek is explicitly rejecting the idea of a philosopher king who could decide on the ideal shape of the political community by simply deducing it from abstract principles (as Held or Rawls do). Political reason sits effectively in the demos and can only be unfolded through the public contestation of grand narratives.

After situating the critical deliberative theory in the academic discourse the study will now progress with introducing three of the core concepts of Dryzek’s approach. Major attention is payed to the role played by discourses, the relation between the state and civil society, and the concept of reflexive modernity into which Dryzek couches his democratic approach.

Contesting discourses, reflecting upon preferences. As already signaled discourses do play a major role in the deliberative democratic tradition. While institutions have to be regarded as the hardware of a political system, discourses do constitute its software: they are invisible, yet implicitly active collective knowledge, and represent a set of clotted social practices and an intersubjectively shared assemblage of norms, meanings, and understandings. By borrowing from Michel Foucault, Dryzek wishes the concept to be understood as a “shared set of assumptions and capabilities embedded in language that enables its adherents to assembly bits of sensory information that come their way into coherent wholes”. Decisive for the deliberative tradition is the argument that discourses aren’t innocent narratives, but do

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200 ibid., p. 2.
201 ibid.
202 Dryzek: “Transnational Democracy”, p. 34.
203 ibid.
rather have to be perceives as ‘meaning machines’ that play a decisive role in the constitution of the political subject and the formation of its preferences. If narratives are a decisive factor in the formation of actors preferences, and if these preferences are hence no longer imagined as black boxes whose contents have to be taken for granted, but if they do instead dependent on the nature and the structure of the discourse itself, it does follow that a more authentic democratic theory must provide a vision of how the democratic control of discourse-structures - and with it an actor-centered self-reflection upon preferences - could potentially look like:

In a deliberative light, the more authentic, inclusive, and consequential political deliberation is, the more democratic a political system is. Political systems (including states) can be arrayed on a continuum according to the extent of their deliberative capacity. At the negative end lie not just autocracies but also routinized administrative systems and those dominated by strategic machination or armed conflict. This does not mean that democracy is about deliberation only; it is also about decision, voting, the rule of law, and uncorrupt administration, among other things. But democracy cannot do without deliberation.  

Departing from this assumption deliberative democracy is thus directing our attention to the more talk-centric aspects of democracy: the question what role the challengeability and changeability of narratives should play in good democratic practice. In this understanding democratic legitimacy has be read as discursive authenticity, that is the ability to actively engage into public discussions and to have a decisive say in the construction of grand narratives.

**The discursive community: nexus between state and civil society.** The seizing of state power by political actors is not the only decisive element for the deliberative tradition. Equally crucial is the maintenance of a vital deliberative community: “Democracy is largely, though not exclusively a matter of the progressive recognition and inclusion of different groups in the political life of society. This general inclusion is in turn sometimes [sic!] manifest in the inclusion in the life of the state”. Analogous to the condition of legitimacy as deliberative authenticity Dryzek has a very holistic view of the polity and distinguishes between the state and civil society only in conceptual terms. Both, civil society and state, are not really separated from each other through a hard border, but are rather embedded in a wider discursive framework that makes them both part of the same discursive community. Democratic theorists so far had a rather

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biased view on the state-civil-society-nexus and envisaged the former entity as the decisive locus for political action. Dryzek opposes this view and suggests a more complex and nuanced framing of democratic practices: “such an exclusive focus is often inappropriate, at least in the developed liberal democracies. Much of the time we should look instead to the polity beyond the state”.206 The emphasize to look to the “polity beyond the state” derives from the assumption that a flourishing civil society contributes massively to good democratic practices - essentially to the same extent as key institutions such as parliaments, voting, or constitutional rights do.207 If the state is the locus for governance, civil society is the locus for paragovernmental activities that entail the construction of counter narratives and of alternative political discourses.208 These counter narratives serve as an impetus for change and enable an active reflection upon, and a potential reformulation of, actors preferences. Through this depiction of civil society as an immensely powerful realm that serves authentic democratization Dryzek does also assign a special responsibility to it: that is that oppositional groups have to be self-limiting and should not attempt to enter the state if it would leave behind a discursive vacuum in the civil-society-realm. Dryzek does of course have the discursive authenticity of the polity as a whole in mind when forwarding such a claim. He warns that the absorption of groups by the much more formalized governance-system is potentially weakening their capacity as creators of counter-narratives, what eventually diminishes the variety of discursive inputs on the ‘market of ideas’.

**Reflexive modernity**: The broader political context of discursive democracy can be found in the model of reflexive modernity. Reflexive modernity is characterized by a shift from industrial- to risk-society, and a renewed demand for participatory politics. While politics in the industrial age have mainly been concerned with the (re-)distribution of wealth, more recent developments indicate that issues of risk-taking (whether it is acceptable to take certain risks or not) have moved in the centre of public debate209: “The basic trajectories of economic development and technological change, once treated as matters to which society just had to adjust, become instead the targets of collective control”.210 The concept of reflexive modernity derives from Beck’s understanding of two modernities. First, or simple, modernity has been rooted in a series of taken for granted premises that where providing

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206 ibid., p. 475 - emphasis added.
207 ibid., p. 486.
208 ibid., p. 481 f.
210 ibid.
stable coordinates for human development over decades and even centuries.\textsuperscript{211} Among this prominent coordinates one will find statism, work-based societies, the relatively unhindered exploitation of natural resources, scientization, and an increasing functional differentiation in the economic and social realm.\textsuperscript{212} Second modernity, perpetuated by the dynamics of globalization, undermines the certainties of first modernity and gives rise to phenomenons such as individualization, the transformation of gender roles, the breakdown of full and gainful employment, and the awareness of the limitedness of natural resources.\textsuperscript{213} While transformative processes have always been part of human existence the second wave of modernity is somewhat different to regularly occurring patterns of social change.\textsuperscript{214} It has to be described as a paradigm shift or meta-change that “not only changes social structures but revolutionizes the very coordinates, categories and conceptions of change itself”.\textsuperscript{215} Beck asks the same question as Dryzek: namely how the legitimacy of participatory processes and political decisions can be sustained in a structurally volatile environment.\textsuperscript{216} Beck’s answer to the question is that this can happen via a cosmopolitan state.\textsuperscript{217} As shown in the next paragraph Dryzek walks down a different alley and does not want to rebuild the entire multilateral system at once. Rather he wishes to make the existing structures of global governance more responsive to authentic deliberation.

\textit{Transnational deliberation.} Similarly to Held Dryzek does also diagnose a democracy-deficit on the global level and is supportive of the idea that in past years and decades the demand for a democratization of the international realm has increased. This is due to the crippling ability of modern states to act as the exclusive loci for collective decision making, mainly because an increasingly growing number of often democratically elected national governments becomes dependent on the “mercy of international forces over which they have no control”.\textsuperscript{218} Financial investors and multinational corporations who threaten local governments to withdraw investments if they do not find a favorable business environment

\textsuperscript{212} ibid., p. 4 f.
\textsuperscript{213} ibid., p. 6 f.
\textsuperscript{214} ibid., p. 2 f.
\textsuperscript{215} ibid. - emphasis added.
are only one example. While Held’s reaction to the problem is the introduction of highly institutionalized forms of cosmopolitan governance, Dryzek prefers a lighter and more open approach, and wishes to mobilize the deliberative potential of already existing global discourses. This mobilization attempts to solve some major problems of the increasingly insufficient multilateral system: first and foremost it is supposed to serve as an instrument to global justice where “justice [is] conceived in terms of full recognition [of] the core identity of the individuals and groups affected by collective practices” by benefiting “from the broad allocation of political standing that democracy connotes.” Further, global deliberation can also work as a mechanism for solving more complex global problems, as it enables for the articulation of criticism and proposals stemming from a multiplicity of actors. It is also supposed to create new conditions for legitimacy as it holds key actors and their policy decisions accountable to the control of a deliberative community of practice.

The means by which Dryzek wishes to pursue this goal is through a shift from a government- to a governance-focused approach to global regime structures. He is of the opinion that “governance does not invariable require the creation of material or formal organizations of the sort we normally associate with the concept of government”. The discursive community would of course depend on some institutionalized forms, forums and mechanisms for deliberation, but its major focus does lie on the capacity to facilitate deliberative practices across heterogenous actors:

Governance so defined does, though, require institutions, interpreted as formal or informal rules capable of resolving conflict, facilitating cooperation, or, more generally alleviating collective action problems in a world of interdependent actors.

A hybrid approach that combines features of ‘system’ and ‘society’ seems to be appropriate for the facilitation of the governance-centered approach. The system-component is explicitly connected to the idea of logical order and pre-defined structure and can help to produce collective outcomes in a formalized and institutionalized setting. The society-component focuses on the more talk-centric aspects of human organization and seeks for an integration

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221 ibid.
222 ibid.
224 ibid.

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through less formalized elements, such as the creation and contestation of collectively shared narratives, norms, discourses, and practices. “Especially important here is the degree to which the discourses that help order global society can be subject to decentralization and competent control.”

The image above gives an idea of how the system-society-hybrid is supposed to work: The system-components are constituted by the empowered realm and the public space. While the first one has the capacity to make collectively binding decisions, the latter one is populated by a diversity of different actors and discursive practices which can affirm, challenge, and criticizes the decisions of the empowered actors. The exchange between the two sectors is characterized by a high degree of dynamic. Actors who have previously found themselves...
being part of the public sphere can enter the empowered space, whereas actors who cannot satisfy the public sphere’s demand for accountability have to leave it. In order to guarantee that this system of checks and balances is sustained, mechanisms of transmission are necessary that ensure that voices from the public space are heard in the empowered space. Responsiveness of the empowered space towards the public space is secured through mechanisms of accountability that expose empowered actors to the constant threat of loosing their decision-making privilege. The whole system is itself embedded in the society-component, constituted by transnational discourses such as market liberalism, anarchism, or sustainable development. This major discourses provide for the narrative through which actors operate and within which they have to couch and frame their claims. In order to ensure the contestability and changeability of this grand narratives a meta-discourse is necessary: the coordinates that form the discursive reference points of both, the system and the society, are under constant review and are themselves subject to ongoing change, challenge, and contestation.

4.2. Substantive will

In this section the study investigates on the question whether Dryzek’s deliberative approach is capable to satisfy the substantive-recognition-criterion. In order to answer this question two particular elements of the deliberative approach have been chosen for an in-depth analysis: firstly, Dryzek does not explicitly formulate conditions for a common political good. However, deliberative democracy does indeed propose a certain set of ethics. The study makes this ethical implications ‘visible’ and evaluates them along the lines of the substantive-will-criterion. Secondly, a vital part of Dryzek’s deliberative theory is a strong civil-society-sector. The question how this realm is exactly characterized emerges: does it only represent the association of need, or can some added political value be found that contributes to the facilitation of substantive will?

4.2.1. Deliberative ethics: community-whole-nexus

The model of the deliberative community gives rise to a very specific form of civic disposition that becomes apparent when looking at the nexus between the political agent and the polity’s governance-structure. Dryzek emphasizes that the relation between the individual subject and the decision-making structure of the democratic community should be governed by deliberative capacity, characterized by authenticity, inclusiveness, and consequentialism: principles that
imply that “reflexive preferences influence collective outcomes” and that agents perceive collective policy decisions as legitimate because they had a viable opportunity of participating in the deliberative practices that preceded and surrounded the passing of the act.\(^{228}\) The idea of discursive authenticity and the attempted incorporation of reflexive preferences in decision-making processes suggests that Dryzek is aware of the necessity to establish a fundamental connection between the particular and the whole through some sort of meta-process (i.e. in the form of *substantive will*).

We recall that it is crucial to differ between the formation of will as a mere accumulative process - i.e. through voting -, and the determination of will as an ethical practice that strives to construct a certain disposition among political subjects towards each other.\(^{229}\) It is the aforementioned *We as I and the I as We* that constitutes the highest stage of political rationality where the subject perceives a political order as ethically *legitimate* because it is aware that his/her individual subjectivity (individual will) is recognized *substantively* (and not only formally) by the societal whole as important and irreducible.

A very similar idea of a reconciliation between the particular and the whole can be found in the mechanisms of deliberative democracy. As mentioned Dryzek notes that, in order to fully realized a community’s *deliberative capacity*, it must subscribe to a couple of core-principles, most importantly:

- *authenticity*, according to which “deliberation must induce reflection non-coercively, connect claims to more general principles, and exhibit reciprocity”\(^{230}\)
- *inclusiveness*, that ensures that deliberation “applies to the range of interests and discourses present in a political setting”\(^{231}\)
- *consequential*, “mens that deliberative processes must have an impact on collective decisions and social outcomes”\(^{232}\)

Only if this preconditions are met legitimacy can be achieved. The legitimacy that derives from deliberative capacity guarantees that actors reflexively accept collective decisions on the basis that they had a chance to participate in consequential deliberation.\(^{233}\) The voices and subjective wills of the political actors are then not reduced to a mere vote that can be made with a ballot, and their interests are not simply aggregated. Rather actors can be assured that

\(^{228}\) Dryzek: *Deliberative Democracy and Beyond*, p. 2.

\(^{229}\) Hegel: *Elements of the Philosophy of Right*, §258 - a quite similar distinction between aggregative and deliberative concepts of democracy is made by Dryzek, as introduced at the beginning of chapter 4.1.


\(^{231}\) ibid.

\(^{232}\) ibid.

\(^{233}\) ibid., p. 1390.
their individual wills find genuine impact in the universal will of the community through common, reflective, and reciprocal processes of a joint formation of substantive will. Political subjects are then not only guests in the political theater, formally/symbolically allowed to partake in the political process through voting, but their relation towards the demos turns into a deeply substantive involvement. The individual gets the chance to identify itself with the ethico-political principles that underpin the deliberative process and that enwrought the community. And they perceive them as right and just, not because they produce always the outcome that subjects want, but because they are recognized as important political actors who know that their voices get heard in a substantive and consequential process of will-formation. The I can relate to the decision of the We, because the We recognizes the I as irreducible component of its own ethical system.

Dryzek’s deliberative community is then a non-totalizing framework that attempts to govern without subordinating the very singularity of political actors under any form of universalized normative totality. Rather, it is an enabling structure and has the ambition to constitute a form of political community that is perceived as ethically legitimate by the polity’s political subjects. The distinct understanding of legitimacy is a qualitative one: in Dryzek’s deliberative community political actors do perceive an order as legitimate if they get the chance to utter their preferences in the public realm and receive the change to engage in a meaningful process of discourse-formation and -challenging. In an ideal-typical political state, capable to satisfy the substantive-will-criterion, the condition for legitimacy looks identical: actors do perceive an order as legitimate if their subjective desires are reconciled with the universal will and find ethical impact in it via the substantive will which constitutes the ethical framework of the political state.

4.2.2. The nature of civil society

The second part of the substantive-will-analysis does now pay attention to the nature of civil society and its relation towards the empowered space.

In order to perform this part of the analysis adequately a brief recapitulation of the Hegelian concept of civil society is necessary. It has been said that the momentum of civil freedom is predominantly characterized by the existence of a civil society that constitutes the vocal point of communal interactions. For various reasons the emergent dichotomy between self-sufficient particularity on the one side, and the universal in the figure of the external state on the other side, was regarded as highly problematic: in a political system where the
dispositions between political subjects are still determined by mere instrumentality “the ethical is lost in its extremes”\textsuperscript{234} and the a-political “civil society affords a spectacle of extravagance and misery as well as of the physical and ethical corruption common to both”.\textsuperscript{235} The political community is not yet capable to represent \textit{substantive will} but is instead governed by the logic of an \textit{association of need}. This momentum entails the protection of property by administrative means - further it is predominantly concerned with the care for particular interests that appear as accumulated universal will.\textsuperscript{236} \textit{Individuality} is only limited by \textit{universalitiy}, and the state gets degraded to a problem-solving mechanism that ought to prevent the worst spin-offs of rampant individuality.\textsuperscript{237} Civil society for its share is regarded as a central social force, yet it is clearly \textit{not} bearing \textit{political freedom’s} rationality as demanded by the \textit{substantive-will-criterion}.

The question is now whether Dryzek’s civil society resembles this association of need, or whether one can find some added ethico-political value in it, which would eventually lead to the emergence of \textit{substantive will}? As outlined in section 4.1. deliberative democracy does indeed advocate for the existence of a realm labeled as ‘civil society’ (or ‘public space’). Yet, ones does also have to acknowledge that this society is \textit{civil} only in conceptual terms, since it constitutes the counterweight to empowered space. Its civility should not be conceived as un- or \textit{pre-political}. It is rather a highly politicized part of the polity, and it does actively contribute to the deliberative vitality of the demos. Within the deliberative community there is actually no explicit division between political (universal) and pre-political (particular) parts of society. The \textit{civil} elements of the demos do rather play a very critical role in the greater framework of discursive governance, mainly as alternative and supplementary venues for democratization.\textsuperscript{238}

In order to exemplify the essentially political force behind Dryzek’s understanding of civil society and public space it is useful to take a quick look back and compare it with David Held’s understanding of political and pre-political areas of governance. Held does indeed sharply distinguish between the private and the administrative-political realm (that is the space where institutions of cosmopolitan governance can be found and which does provide the framework for political action within the democratic \textit{Rechtsstaat}). Dryzek, on the other side, does of course show an interest in theorizing upon the formal outlets of political

\textsuperscript{234} Hegel: \textit{Elements of the Philosophy of Right}, §184 Add.  
\textsuperscript{235} ibid., §185.  
\textsuperscript{236} ibid., §188.  
\textsuperscript{237} Dryzek: \textit{Deliberative Democracy and Beyond}, p. 9.  
\textsuperscript{238} ibid., p. 115.
power, but in general he is much more concerned with the *democratic and discursive health* of the public space.\(^{239}\) The civil society is, in Dryzek’s reading, the *genuine birthplace* of political life. Held can then be described as a cosmopolitan structuralist with an overly reliance on the constitutive potential of organized political capacity in the appearance of formal governance structures. Dryzek, however, is much more conscious about the fact that the ‘the political’ does not take place exclusively in the realm that is commonly described as the political theater: the formal institutions of the state. Rather, democracy, public rule, and political confrontation are constituted and exercised in the ‘pre-political’ realm (that is not that ‘pre’ at all) of civil society’s fuzzy web of discursive interactions.\(^{240}\) Civil society does hence provide a deeply political impetus for democratization.\(^{241}\)

In conclusion it can be said that Dryzek’s understanding of civil society’s role in the political process is much broader than that of Held, and it is clearly superseding the self-sufficient particularity of *civic freedom*. Rather the contrary is the case: civil society makes crucial and most valuable contributions to the attainment of *substantive will*. Through its close intertwining with the formal elements of the state (the empowered realm) it furthers the development of *substantive will* by actively pursuing the reconciliation of the *particular* and the *universal* through the meta-narrative of discursive authenticity. And further, since civil society is the major venue for discursive exchange among political subjects it is also crucial for the development of mutual recognition. The fear that “in civil society, each individual is his own end, and all else means nothing to him”\(^{242}\) can hence not be applied to Dryzek’s understanding of the public space, and it can be concluded that his particular understanding of an emancipated and *politically conscious* civil society is in fact even advancing the demo’s progression towards *substantive will*, rather than being an obstacle to it.

### 4.3. Mutual recognition

As outlined in *Chapter 2* the political community that wants to provide *political freedom* should possess the ability to establish *mutual recognition* among the political subjects. Only if a political association is capable to sufficiently interrelate individuals they will have the opportunity to grant substantive mutual recognition to each other. For investigating on the question whether deliberative democracy is capable to fulfill this *recognition-criterion* three

\(^{239}\) Dryzek: “Transnational Democracy”, p. 31-34, and Dryzek: *Deliberative Democracy and Beyond*, p. 99 ff.

\(^{240}\) Dryzek: *Deliberative Democracy and Beyond*, p. 99 ff.

\(^{241}\) ibid., p. 104.

\(^{242}\) Hegel: *Elements of the Philosophy of Right*, §182.
different aspects will undergo a closer evaluation: first, can deliberative ethics lead to substantive recognition on the interpersonal level, and if yes, why and to what extent? Second, mutual recognition as a political value is predominantly granted on the inter-personal level. The question that emerges is then what position is held by the individual in a deliberative framework, and what role is assigned to individual agency in discursive practices? And third, what is the inherent political value of deliberative practices? The recognition-criterion assigns fundamental ethical importance to the generation of mutual recognition in an intersubjective process. Is deliberative authenticity then regarded as an ethical value in itself or does it only have an instrumental purpose?

4.3.1. Deliberative ethics: subject-subject-nexus

For delineating the political state's association of mutual recognition from civil society's association of need it is useful to briefly elaborate on the status held by the individual in the political state: under civil freedom the community has no greater goal than the achievement of subsistence. It is “particularity, limited by universality”\textsuperscript{243} where the advancement of each particular person's welfare becomes the prime goal. The individual's right to exist depends on its ability to fulfill the 'social contract' that derives from the all-around interdependence. An individual possesses agent-quality only to the extent to which he is capable of meeting this requirements, and he develops actuality only in the context of instrumentality and reciprocal usefulness.\textsuperscript{244}

As formulated by the recognition-criterion a community that has achieved political freedom cannot be based on this problem-solving imperative alone - it cannot only be the association of need. Rather, the political state must construct a certain ethical disposition among agents, a disposition that encourages subjective wills to interconnect in substantive ways. The question is now what kind of subject is constituted by deliberative practices, and how do these subjects relate towards each other? The following observations have to be taken into account when answering the question: in a deliberative setting the individual can emerge as a political person only in the context of and delineated by the discursive community. The political subject does not have political qualities \textit{qua} birth, but has to 'act' in order to achieve and realize them. It develops its full societal potential only when \textit{participating} in the construction and challenge of discourses together with other political subjects. Deliberative

\begin{footnotes}
\item[243] ibid., §182 Add.
\item[244] ibid., §183.
\end{footnotes}
democracy’s freedom manifests itself as the freedom to participate in *discursive* and *deliberative practices*. Individuals know themselves and others only as free through their participation in these practices, what presupposes, in turn, that they *recognize* each other as legitimate participants into the deliberative process. In a deliberative setting this recognition must be *necessarily substantive* - it cannot limit itself to mere formal recognition, like this would be possible under accumulative and aggregative processes of will-formation (e.g. voting). This necessarily substantive nature originates from the very concept of a discourse: discourses are no harmless or innocent vessels for opinions and ideals. They do rather construct grand narratives and serve as meaning machines that help to make sense of the social environment and the physical world that is surrounding us.\(^{245}\)

If political subjects develop the willingness to let other political subjects participate into the *negotiation* of a discourse they make themselves extremely vulnerable to this other, as he or she can bring forward devastating and potentially destructive challenges to one’s own believe system. By recognizing each other as legitimate participants to a deliberative process the political subjects must regard their counterparts as *relationally equals* - the admission of a legitimate participant to a discourse creates two ethical subjects with an equal relational status who know each other as free only by relating towards each other. Under deliberative democracy man “behaves, therefore, towards others in a manner that is universally valid, recognizing them - as he wished other to recognize him - as free, as persons”.\(^{246}\)

In respect to the individual-individual-nexus it is hence argued that the deliberative polity puts a prime focus on the generation of *substantive recognition* by establishing discursive equality among individuals. It wishes to construct a demos based on certain patterns of affinity and attempts to supersede civil society’s association of need. Consequently the discursive polity is not only a machinery of power with problem solving capacities, but a realm that creates recognition. It is intended to be the realm where “man is recognized [anerkannt] and treated as a rational being, as free, as a person; and the individual, on his side, make himself worth of this recognition by overcoming the natural state of his self consciousness”.\(^{247}\)

The second element of *Sittlichkeit* in a deliberative system is then the generation of substantive recognition among political subjects through discursive practices. While *Sittlichkeit* as substantive will (outlined in 4.2.1.) has focused on the individual-whole nexus, *Sittlichkeit* as deliberative ethics takes place on the *intersubjective* level and concentrates

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245 Dryzek: “Transnational Democracy”, p. 34.
247 ibid.
on the relations between individuals. It explains how a deliberative community can not only further the reconciliation of subjective and universal will, but also how deliberative ethics further substantive recognition among and between political subjects. The basic configuration of the community changes and it is not longer understood as an association of need where agents gather only for satisfying their material desires. Rather the relations towards each other evolve to an extent that the logic of affinity becomes prevalent. Deliberative authenticity does hence satisfy the mutual-recognition-criterion.

4.3.2. Individual agency

Departing from the insight that deliberative practices do indeed have the capacity to facilitate mutual recognition among political subjects the question emerges how this potential is mobilized in the transnational sphere. When confronted with the question where political agency actually sits, where the capacity to act stems from, and what constitutes the political association in its core the answer from the perspective of the recognition-criterion is quite obvious: one has to opt for a clearly agent-centered approach that emphasizes the crucial role played by subjective spirits in the process of political progression. This stance becomes most evident when having a look at the development of individual spirit and the interpersonal constitution of self-consciousness in the course of historical developments. As already outlined in more detail in Chapter 2.2, the individual self-consciousness goes through different stages in the process of its own realization. The final stage is constituted by genuine self-consciousness, the double reflection and duplication of self-consciousnesses in and through each other, where “a self-consciousness exists for a self-consciousness (...) for only in this way does the unity of itself in its otherness become explicit for it”. Although the Hegelian philosophy attempts to comprehend the political progression of mankind in the narrative of a universal History and as the unfolding of universal spirit, it must arrive at the conclusion that History and its complementary political processes are ultimately agent-driven, and that universal spirit can only materialize itself through the actions of subjective/individual spirits.

When applying this criteria to the transnational deliberative realm one will encounter little awareness in respect to the question of individual agency - it rather focuses predominantly on the act-capacity that emerges from groups and associations. By putting a main emphasis on corporate and collective actors Dryzek downplays individual actorhood and turns it into a secondary factor. Empowered space, for instance, comprises of IGOs,

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248 Hegel: Hegel's Phenomenology of Spirit, §176 f. - emphasis added.
international negotiations, the WTO, hegemonic states, or transnational governance networks. Public space, on the other side, is constituted by civil society organizations, transnational activist groups, international media, internet forums, designed citizen forums, corporate public relations, demonstrations and so forth. Accountability for political action is finally secured by the scrutiny of international media. Dryzek’s focus on the system-components of public and empowered space, and the role played by aggregated actors, does not mean that individual agency is not important at all in this framework, yet it becomes evident that Dryzek’s political ontology is structure-centered and delimits the locus for political action clearly to the group-level, with the effect that singular actors are far away from having political significance.

This is, of course, not per se a problem and it is entirely legitimate to focus on system-level components, simply because political identities are necessarily collective identities. Even a Hegelian position has to take different momentums - different stages of societal realization - into account, such as the family, civil society, and the state. Yet, all momentums are irreducible to themselves; they might get superseded by more advanced stages of association, but eventually the family finds impact in civil society, and civil society in the state. The social ontology from which the recognition-criterion derives is hence evolving in concentric circles, and the individual’s self-consciousness, the smallest unit at the micro-level, plays a crucial role. Consequently the aggregated, collective momentums of political existence on the macro-level cannot be thought without paying attention to the movements on the micro-level.

When it comes to the question what space is occupied, what role is assigned, to individual actors Dryzek shows little awareness of the important role played by these momentums in the political environment - he focuses instead solely on groups and larger associational entities. His overly reliance on system-components raises the question what happens if an individual (a subjective spirit) cannot relate to any particular group? Does this mean that he or she has no chance whatsoever to be heard in the deliberative system? Are voices then only recognized if they are quantitatively strong enough? This quite biased view seems to be confirmed when it comes to the composition of civil society: Dryzek brings forward that even quite hierarchical groups (i.e. Greenpeace), whose internal structure stands contrary to discursive principles and democratic authenticity, are welcomed in the public

250 Hegel: Elements of the Philosophy of Right, §158 ff., §182 ff., and §257.
space if they further the overall quality of the deliberative community.\textsuperscript{251} This incoherence shows that discursive vitality on the macro-level trumps individual agency in the microsphere. An impermissible move from the perspective of the recognition-criterion since that does unduly obstruct the chances of subjective wills to connect in a meaningful, in a substantive way, towards each other and reduces them instead to more or less irrelevant elements within the larger system-components of the deliberative demos.

4.3.3. Discursive authenticity and ethics

Before proceeding with a final evaluation of the findings a last question needs to be addressed that concerns not only the recognition-criterion but does have wider repercussions for the substantive-will-criterion as well. This issue concerns the overall political vision of the deliberative project and the question whether Dryzek is willing to prescribe a definitive perspective of ethicality. In fact, Dryzek’s framework does not provide any satisfying answer to the question into what potential ‘end-state’ the deliberative process could eventually disembogue, and it fails to provide an explicit commitment towards an ideal of certain ethico-political principles. The previous analysis has determined that deliberative processes do possess - for a variety of reasons - an immense ethical value for the generation of political freedom: the principle of democratic authenticity establishes Sittlichkeit based on substantive will via a reconciliation of particular and universal spirits. Further, deliberative ethics endogenous to discursive practices give rise to a second dimension of Sittlichkeit that leads to mutual recognition among political subjects. Elements such as a highly politicized civil society are massively furthering the ideal of political freedom since the deliberative demos develops the capacity to supersede the passive, self-centered, and a-political association of need. Eventually, all this ‘tools’ can be used for a constructive appliance of the struggle for recognition, the advancement of mutual recognition, and the creation of substantive will.

Being in the possession of appropriate tools is, however, not enough and the question what ought to be done with this powerful instruments remains unanswered: for what purpose should the deliberative mechanism be used, and is it possible to identify an authoritative vision of the deliberative community that goes beyond the mechanism itself?

The case remains largely unclear, and due to the fact that no real answer about the desired ethical consequences of deliberation is given reasonable suspicion rises that discursive confrontation remains a self-referential struggle for the sake of struggling. Most likely the

\textsuperscript{251} Dryzek: “Political Inclusion and the Dynamics of Democratization”, p. 481.
only lesson to be learned from the deliberative model is then that political subjects should arrive at an agreement rooted in the insight of perpetual disagreement: “In a pluralistic world, consensus is unattainable, unnecessary, and undesirable. More feasible and attractive are workable agreements in which participants agree on a course of action, but for different reasons”.  

From a pragmatic point of view this stance seems legitimate, but it is crucial to recognize that the normative vacuum into which Dryzek places the deliberative demos does unreasonably jeopardize the tremendous ethical momentum endogenous to discursive practices.

The fact that Dryzek does willingly downplay the ethical value of his approach becomes most evident when looking at his suggestion to measure the value of the deliberative process by its problem-solving capacity: “discursive democracy may be the most effective political means currently available to solve complex social problems, because it provides a means for coherent integration of the variety of different perspectives that are the hallmark of complexity”.  

Dryzek's project started off with the ambition to provide the highest degree of *democratic authenticity*, that is the provision of legitimacy by means of substantive political participation - a clearly *proceduralist* value. Suddenly Dryzek changes the criterion for legitimacy and opts for a more *rationalist* framing with an *outcome-focus*. This move leads the whole project into uncertain waters, mainly because the model is clearly superior when it comes to processes, yet highly vulnerable in respect to outcome-efficiency - a ground on which it can be easily attacked. Dryzek, aware of the difficult and potentially time-consuming implications of discursive practices, suggests that deliberation on the larger scale can and should be limited to important decisions only: “Deliberation is best suited to those decisions which are important, or otherwise intractable, or both”.  

Not all issues of public concern would then be subject to deliberation, and public officials would even have a decisive say in whether something gets put on the deliberative agenda or not.  

This statement is an excellent example for how little confidence is put into the added value that goes beyond mere outcome-oriented efficiency.

While the combination of the *substantive-will-criterion* and the *recognition-criterion* ties the outcome inseparable to the process, Dryzek is unreasonably willing to divide them. In an extreme case this could even have the consequence that the democratically authentic process

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252 Dryzek: *Deliberative Democracy and Beyond*, p. 170.
253 ibid., p. 173.
254 ibid., p. 174.
255 ibid.
is dropped and left unmobilized if a certain outcome can be achieved by more rational (faster, quicker, cheaper) means - a clear anti-political and technocratic move that degrades deliberation to a disdainful instrumentalism. When applying this seemingly rational standards alone it becomes indeed problematic to defend deliberation against more ‘efficient’ practices. This is why normativity and ethicality would actually play a crucial role in the deliberative model - and it becomes evident why a certain set of explicit ethico-political commitments is crucial: as a means of defending the discursive project against the more instrumental approaches to public rule, and as a way to widen deliberative democracy’s legitimacy-basis by means of adding a justification that touches not only upon instrumentality and efficiency, but on ethicality and normativity as well. If the deliberative model is, however, seen one-dimensionally as process-oriented only, it makes itself unreasonably vulnerable to various attacks.

This would eventually lead us to a devaluation of both, Sittlichkeit as democratic authenticity (substantive-will-criterion), and Sittlichkeit as deliberative ethics (mutual-recognition-criterion). The danger looms that deliberation abandons its ethical edge entirely, and interaction within the community falls back to mere instrumentality, as it looses its ability to create substantive will and mutual recognition: simply because it does not want to do so and conceives itself rather as an optional process that can be applied and used if suitable, and abandoned or switched-off if necessary.

4.4. Conclusion

The analysis of Dryzek’s model of transnational deliberative democracy has found both, theoretical implications that have to be regarded as tremendously useful for the attainment of political freedom, but also thematic complexes which do potentially stand contrary to the desired ideal. In section 4.2. two particular claims that go along with the substantive-will-criterion have been identified: firstly, a specific kind of Sittlichkeit that emerges in the individual-state-nexus which can potentially further the realization of substantive will through a reconciliation of the individual and the universal via discursive authenticity. And secondly, the image of a civil society that presents itself as a highly politicized realm and leaves the spheres of rampant individualism behind, eventually contributing actively to the constitution of substantive will. Section 4.3. has then been dealing with the question to what extent deliberative practices are capable to satisfy the recognition-criterion. It was concluded that

\[\text{256 ibid., p. 173.}\]
Discursive democracy mobilizes a second facet of *Sittlichkeit*, materialized through specific discursive ethics, that brings with it the possibility of constituting a political community based on an affinity-logic rather than on rational calculation or material need. Problems arise, however, through a subordination of individual agency that derives from an exclusive focus on the system- and macro-level components of the transnational deliberative demos. Furthermore it was diagnosed that Dryzek’s framework exposes an unwillingness to highlight the ethical implications that arise from deliberative practices - a move that would eventually degrade discursive democracy to a largely instrumental process.

In the light of the aforementioned findings the question emerges to what extent the deliberative model is capable of giving rise to *political freedom*. Taking both, substantive overlaps as well as potential shortcomings into account, it is suggested that deliberative democracy does still come very close to Hegel’s ideal of the *political state*. The main reason for this verdict can be found in the nature of the discursive process as such, as it bears the potential of providing the decisive condition for the emergence of the political state: namely the materialization of *political justice* through a process of *intersubjective actualization*. Political rationality, and the state as its manifestation, cannot be ‘made’ or ‘declared’, but it has to be molded by social practices emerging from within the polity itself: “The state is the actuality of the ethical Idea - the ethical spirit as substantial will (...). It has its immediate existence [Existenz] in custom and its mediate existence in the self-consciousness of the individual [des Einzelnen] (...).” For Dryzek political rationality emerges through a social process, and it cannot be deduced from any abstract principle. This distinct feature makes his *process-focused* theory superior to the more *rights-focused* approaches which attempt to couch specific ideas about the nature of political rationality in some sort of original position.

The aforementioned David Held, but also John Rawls, are excellent examples for this endeavors: while Held deduces democratic public law and entitlement capacities from the principle of *autonomy*, Rawls formulates his argument on the basis of *public reason*. What both have in common is an understanding of political justice as abstraction, rooted in a metaphysical philosophical ontology. The founding principle of the good state hence receives a semi-objective status, and any reflective individual who applies the appropriate methodology will arrive at the very same conclusion. What looms if good practices can be

257 Hegel: *Elements of the Philosophy of Right*, §257.
‘thought’ for and do not emerge out of an ethical reality is the potential authoritarianism of Plato’s philosopher king and a strong tendency towards social engineering.

By putting a major emphasize on the discursive process Dryzek immunizes the deliberative framework from the threats of top-down-planning and allows for an organic emergence of political reason from the bottom-up. The attempt to examine the possibility for democratization within the already existing discourses, institutions, and structures of the international system, and the hesitation to design an entirely new governance-structure (like Held), serve as practical examples. Within this environment the constitutive character of political conflict is not muted but rather embraced - it maintains the dialectical process and political justice has the opportunity to emerge as ethical practice through discursive mechanisms. Consequently the deliberative community can arise by its own means and the discursive principle serves as the precondition for the political state as it manifests substantive will through mutual recognition. The transnational demos founded upon deliberative principles is then neither “the right of might”, nor the rule of abstract reason. If Sittlichkeit is understood as both, discursive equality and the reconciliation of particular and universal will through democratic authenticity, the condition of substantive recognition is set.

If seen in this light the diagnosed problems appear as less severe. The lack of an ethical commitment is not a ‘feature’ of the system, but only a ‘bug’, and the endogenous ethical value of the deliberative process is not denied entirely. Dryzek simply seems not to be confident (or aware) enough to point towards them explicitly. The subordination of individual agency is, of course, more problematic. However, one can argue that if Dryzek is really serious with his attempt to turn the transnational demos into a more democratically authentic realm it must consequently follow that collective actors become more responsive to deliberative practices too. It can hence be said that Dryzek’s framework comes much closer to the ideal of the political state than Held did. The positive aspects of the theory are immensely strong - negative aspects do exist but should not be regarded as systemic or severe. Thus, even though Dryzek’s framework suffers from some minor shortcomings it is none the less capable to formulate a satisfying and all-embracing condition for political freedom that is based on discursive ethics.

260 Dryzek: Deliberative Democracy and Beyond, p. 115
5. Agonistic politics

The third democratic theory that undergoes an analysis along Hegelian lines is Chantal Mouffe’s model of radical/agonistic democracy. Mouffe differs from both, the cosmopolitan and the deliberative model, through her realist ontology. While Held and Dryzek share the idealist conviction that a unified global demos is achievable, Mouffe suggests to envisage the transnational democratic community as an essentially confrontative association. Its pluralist character is the precondition for truly democratic politics - yet, it does also put the association in a continuing stage of becoming and makes its final fixation in the form of a unitary political body impossible and undesirable. The following sub-chapter introduces the parameters of Mouffe’s radical politics and explains how agonistic democracy fits in the canon of democracy-study. It highlights the project’s Schmittian background and explains why Mouffe is of the opinion that liberal philosophy could benefit from the mobilization of an essentially anti-liberal thinker. Finally, it is shown how an agonistic model of transnational democracy looks like and in what ways it proofs to be valuable for global politics. The subsequent analysis investigates on the compatibility of agonistic politics with the substantive-will-criterion and the recognition-criterion.

5.1. Power, hegemony, legitimacy, and the pluriverse

Agonism’s position in the debate and its ambivalent stance towards political liberalism. Mouffe’s point of departure is the rejection of the two most dominant models of liberal-democratic will formation, namely the accumulative and the deliberative strands of reasoning. According to Mouffe both traditions cannot be considered as genuinely ‘political’ theories since none of them is really capable to take the potentially antagonistic relationships between actors into account. While the accumulative model retreats into economics and fosters an instrumentalist market-oriented model of the political process, the deliberative strand hides behind morality and promises to establish a universal consensus sustained by supposedly rational ethics.\(^262\) Despite the rejection of both models Mouffe cannot be labeled an anti-liberal. Rather she intends to further a radical liberal project that is guided by the imperative of pluralism.\(^263\) This radical project is not directed against the liberal tradition \textit{per se}, but mainly against specific rationalist and universalist implications: methodological individualism and its incapability of taking group-identities into account, as well as ‘rationalism’ with its


commitment to a potentially homogenizing and uniform epistemology. What Mouffe suggests is a reform of the defective liberal-democratic framework along the lines of radical pluralistic imperatives. The agonistic project should hence be understood as a constructive auto-critique that intends to strengthen the emancipatory core of the liberal tradition (i.e. the concept of self-assertion), while getting rid of patterns of instrumental rationality.

The reason why Mouffe has issues with mainstream liberalism is the tradition’s widespread claim of having found the Archimedean point of absolute political rationality: the optimal moral position that nobody could reasonably object. On their search for a political framework that is able to accommodate the political freedom of the individual within a certain setting of social institutions a great share of liberal theorists tries to pursue the rather ambitious goal to search for the configuration of a universal order that is free from exclusion, hostile conditions, and power relations. Driven by the ambition to reach this point of equilibrium, theorists, i.e. Rawls, argue that the only possible stable ground for democratic politics can be a rational consensus. By rejecting a simple modus vivendi agreement, as well as the instrumental rationality inherent to the accumulative model, deliberative democrats stress the constitutive character of communicative action and free public reason.

Mouffe argues explicitly against this communicative understanding of rationality and claims that deliberative democrats failed to address liberalism’s core-problems, as they simply replaced one type of rationality by another. The main problem with rational justifications of political theories is their presumed universality. Agonistic democracy claims that the logic of neutral rationality fails, and that especially the deliberative theorists are incapable to deliver what they have promised. When it comes, for instance, to the issue of neutrality Rawls claims to be able to circumscribe a domain that would not be subject to any type of controversial reasoning and where consensus without exclusion could be established. While the private realm is indeed occupied with irreconcilable values, the public realm offers the possibility of political agreement on liberal conceptions of justice through an overlapping consensus. Against the supposed neutrality of public reasoning Mouffe argues that overlapping consensus depends on an a priori exclusion of controversial moral issues and their relegation.

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264 ibid., p. 4 f.
265 ibid.
268 ibid., p. 10.
269 ibid., p. 8 f.
into the unreasonable (or non-neutral) realm of the private. Neutrality is then not an inherent property of liberal politics, but a second-order feature that emerges from the prior exclusion of irreconcilable subject positions. A similar critique applies to liberalism's claim of universalism. Rawls suggests that his deliberative model can establish a consensus among incompatible, yet reasonable, doctrines. Reasonable doctrines, however, can only be formulated by persons who “have realized their two moral powers to a degree sufficient to be free and equal citizens in a constitutional regime, and who have an enduring desire to honor fair terms of cooperation and to be fully cooperating members of society”. Against this definition of ‘reason’, and its intertwining with the universal applicability of the liberal principle, Mouffe argues that Rawls ‘reasonable’ person is an agent who has already accepted the fundamental implications of liberal politics. A tautology emerges that reveals the limited reach of the deliberative framework, mainly because this type of liberalism is only able to give rise to consensus among people who have already submitted to the very same principles.

What Mouffe criticizes is not the performance of an exclusion per se, but the fact that acts of exclusion are hidden behind the smokescreen of presumed rationality and universality. It is the liberal paradox of “how to eliminate its adversaries while remaining neutral”. Liberal theories are then viewed as deficient because of their dichotomization of the political subject, which is either imagined as utility maximizing agent (accumulative model) or as rational subject (deliberative model). In both cases an abstraction from power relations takes place and the genuine political momentum is evaded. Both liberal traditions establish a ‘fake’ consensus, a “harmony against the grain of human antagonism”, as they intend to determine the basic configurations of the well ordered community once and for all. This intended harmony has, however, the potential to severely damage the polity since not much room is left for agonistic debate - one of the main prerequisites of a democratic society. The agonist model proposes to face controversial societal struggles by bringing them back into the political sphere instead of locking them away in the realms of economics or morality.

270 ibid., p. 8.
272 ibid., p. 224.
273 ibid., p. 227.
Agonistic democracy’s Schmittian background. The critique that agonistic democracy brings forward against the liberal camp is mainly directed against the latter’s claim of universality and neutrality that makes it blind for the constitutive role played by antagonism and conflict in political life. Mouffe derives this insight from Carl Schmitt’s understanding of ‘the political’. As a realist Schmitt was mainly focused on the vertical dimensions of the political process, and emphasized properties such as necessity, rule, and sovereignty.277 While the republican tradition of political thought highlights the potentially integrative function of antagonism, the realists view conflict as a centrifugal force, leading always towards exclusionary relations.278 Politics is concerned with collective forms of identifications and the inevitable emergence of us-vs.-them patterns or friend-enemy dichotomies: “The political, as he [ed.: Schmitt] puts it, can be understood only in the context of the friend/enemy grouping, regardless of the aspects which this possibility implies for morality, aesthetics and economics”.279 Politics is then the realm of decision: of picking sides, concepts, enemies, and ideologies - every consensus that is achieved within a specific in-group (‘us’) is necessarily based on the exclusion of an out-group (‘them’). If viewed in this narrative exclusion is not an inherently bad thing, but an entirely normal outcome of the political process.

This understanding of ‘the political’ casts doubt upon the achievability of the fully rational, comprehensive, and inclusive consensus the liberal tradition strives for: “Liberalism has to negate antagonism since, by bringing to the fore the inescapable moment of decision - in the sense of having to decide in an undecidable terrain - what antagonism reveals is the very limit of any rational consensus”.280 Schmitt concludes that the doctrine could never give rise to a specific conception of the political, mainly due to its methodological individualism which obstructs the view from the importance of collective identities. There exist liberal policies of, i.e. trade, but no liberal politics - only a liberal critique of politics.281 While this diagnosis served Schmitt as a justification for discarding the entire strand of political philosophy, Mouffe utilizes it for developing a realist reinterpretation of the liberal principle. The critique of the declared anti-liberal Schmitt helps us then to understand what is crucial for democratic

278 ibid.
279 Mouffe: On the Political, p. 11 - emphasis added.
280 ibid., p. 12 - emphasis added.
281 Mouffe: The Return of the Political, p. 110.
politics: that is not the *overcoming* of us-them-divides, but their *reconfiguration* in ways that are compatible with the pluralism prevalent in modern democracies.\(^{282}\)

*Power, hegemony, legitimacy.* Deriving from the idea that politics is essentially based on us-them-divisions and patterns of exclusions a nexus between *power, hegemony, and legitimacy* emerges. This nexus constitutes the ontological foundation of agonistic politics. When it comes to the role played by *power* the agonistic theory defines it as being constitutive of social relations. Power might not always present itself as a positive force, yet it is an essential one that has to be taken into account when thinking about the nature of politics. While a great share of deliberative democrats view hierarchical relations as a ‘bug’ in the social matrix that is essentially counterproductive to democratic authenticity, the agonistic theory envisages these relations as a ‘feature’ with an ineradicable character that cannot be wished away.\(^{283}\) The *strive for hegemony* is the manifestation of this ever present struggles between competing centers of power. Accepting the ever presence of these struggles leads to the insight that political environments are always in flux and that order, if it is perceived as a permanent stage of equilibrium, is ultimately unachievable.\(^{284}\) Mouffe calls it the “coming to terms with the lack of final ground and the undecidability that pervades every order”.\(^{285}\) And for Schmitt politics entails the moment of ‘decisionism’: the making of decisions in an undecidable environment.\(^{286}\) Hegemonic practice is then the ordering momentum that strives for the establishment of a temporary structure in an otherwise structurally volatile environment whose foundations are continuously shattered by criss-crossing power relations:

> Every order is the temporary and precarious articulation of contingent practices. Things could always have been otherwise and every order is predicated on the exclusion of other possibilities. It is always the expression of a particular configuration of power relations.\(^{287}\)

As a temporally ordering force hegemony becomes the point of convergence where power and social objectivity meet. *A priori* defined political identities or independently defined personal interests cannot exist in an environment whose basic coordinates are under permanent scrutiny. Identities and interests are rather contextualized properties and emerge

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\(^{282}\) Mouffe: *On the Political*, p. 13.


\(^{285}\) ibid.

\(^{286}\) Mouffe: *On the Political*, p. 17 f.

on the basis of currently prevalent power relations: all social relations can then be ultimately traced back to existing power relations.\textsuperscript{288} Due to this constitutive role that hierarchical relations play in the shaping of the demos power should not be viewed as a factor that is external to political practices, but rather as their fundamentally defining element.\textsuperscript{289} The final condensation point where power and the strive for hegemony merge is the condition of legitimacy. Whereas the liberal camp highlights the incompatibility of power and legitimacy and usually defines the latter in terms of the absence of social stratification, agonism sheds light on the connection between temporarily solidified power structures and their respective acceptance within a political community. For Mouffe legitimacy is predominantly defined as successful power.\textsuperscript{290} However, power cannot simply impose itself, but it depends to a certain extent on an act of affirmation by the political subjects, i.e. it must be perceived as desirable, acceptable, or at least necessary.\textsuperscript{291} If the legitimacy-condition cannot be settled in an aprioristic fashion the connection between hegemony and legitimacy becomes visible, because hegemony is only a “provisional settlement that is always contested, and that holds only as long as people are prepared to maintain their allegiance to it”.\textsuperscript{292} Legitimacy is then defined through the presence of power, yet the question what specific shape power takes is always under contestation by counter-hegemonic forces.\textsuperscript{293}

\textit{Agonistic politics: towards a conflictual consensus.} In order to come to terms with the logics of power and hegemony, as well as with the Schmittian friend-enemy-divide, agonistic politics introduces the concepts of ‘the political’ and of ‘politics’. Mouffe defines ‘the political’ as “the dimension of antagonism which (...) [is] constitutive of human societies”\textsuperscript{294} and ‘politics’ as a “set of practices and institutions the aims of which is to create order, to organize human coexistence in conditions which are always conflictual because they are traversed by ‘the political’”.\textsuperscript{295} The agonistic project wishes to utilize Schmitt’s criticism for the advancement of political liberalism, while proving the verdict of the incommensurability of pluralism with the ideal of democracy wrong.\textsuperscript{296} It is what Mouffe calls to “think with Schmitt, against

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\item\textsuperscript{288} Mouffe: “Deliberative Democracy or Agonistic Pluralism”, p. 14.
\item\textsuperscript{289} ibid.
\item\textsuperscript{290} Crowder: “Chantal Mouffe’s Agonistic Democracy”, p. 9.
\item\textsuperscript{291} Mouffe: “Deliberative Democracy or Agonistic Pluralism”, p. 15.
\item\textsuperscript{292} Crowder: “Chantal Mouffe’s Agonistic Democracy”, p. 8.
\item\textsuperscript{293} Mouffe: “Democracy in a Multipolar World”, p. 549.
\item\textsuperscript{294} Mouffe: \textit{On the Political}, p. 9.
\item\textsuperscript{296} Mouffe: \textit{The Return of the Political}, p. 109.
\end{itemize}
Schmitt”297: to show that public sovereignty and liberal individualism are ultimately reconcilable, and that a liberal theory without rationalist implications is possible through the advancement of a radical pluralist project.298

The major goal of agonistic democracy is the establishment of a conflictual consensus: of a unity in the context of diversity via the mobilization of ever present us-them-divides in a way that is compatible with liberal-democratic ideals.299 While undomesticated antagonism leads towards a struggle between enemies that is characterized by the desire for domination and destruction, agonistic struggle has to be understood as the skirmish between adversaries that share, despite their rivalry, a common ethico-political basis.300 The agonistic adversaries fight predominantly for the sovereignty of interpretation, that is the establishment of their respective hegemonic project. The conflictual consensus that makes such a civilized argument possible can of course not operate from within a normative vacuum. Although Mouffe is very hesitant with the proclamation of foundational positions she stresses that a minimal consensus on democratic institutions and certain ethico-political values is indispensable for the agonistic project.301 The shape of both, institutions and ethico-political values, can, however, neither be determined a priori, nor can their meaning be fixed once and for all. Rather it is necessary to provide enough room for clashes of hegemonic projects which contest the principle’s meanings and their respective ways of implementation.302

Ultimately this hedged antagonism should prevent the emergence of essentialist or non-negotiable identities. Liberal democracy requires, in Mouffe’s understanding, an ongoing and vital debate about the legitimacy of current power structures and their possible replacement by counter-hegemonic projects. Only if enough channels for democratic contestation are available, and if citizens can choose between real alternatives through a clear “splitting of the summit”303, potentially destructive confrontations, i.e. in the form of nationalism, religious fundamentalism, racism, etc., can be prevented.304 Agonistic pluralism works as a valve or a channel for passions as it removes the figure of the enemy and replaces it with the adversary. Passions, power, and us-them-divisions are not eliminated, like in the

297 ibid., p. 2
300 Mouffe: “Deliberative Democracy or Agonistic Pluralism”, p. 15 f.
301 Mouffe: “Politics and Passions”, p. 11.
302 ibid., p. 10.
303 ibid., p. 11.
liberal-rationalist framework, but become rather mobilized for democratic practices: “One of the key thesis of agonistic pluralism is that, far from jeopardizing democracy, agonistic confrontation is in fact its very condition of existence”.

_Transnational order in the pluriverse._ When it comes to transnational politics Mouffe utters her deepest concerns about the neoliberal project of globalization and the increasing lack of alternative political projects that are brought about by homogenizing and economy-centered one-size-fits-all solutions. The major concern of the agonistic camp is the absence of broadly accessible channels that would allow for the challenging of this type of ‘globalization from above’. In order to prevent the emergence of essentialist forms of identification, i.e. religious fundamentalism or nationalism, Mouffe suggests to maintain a transnational political system that is characterized by regime-pluralism and the existence of several regional hegemonic centers, the so called _pluriverse._ “To create channels for the legitimate expression of dissent, we need to envisage a pluralistic world order constructed around a certain number of great space and genuine cultural poles”. The idea of the _pluriverse_ is again a Schmittian concept. Back in his days Schmitt diagnosed the decline of the European interstate law which has previously provided the basis for interaction between the major political forces on the continent. Its decline created a vacuum that could, in the worst case, lead to an international civil war. Confronted with the question what could possibly replace the _jus publicum Europaeum_ Schmitt came up with two scenarios: the first one entailed the emergence of a new equilibrium that was stabilized by a single hyper power, namely the United States. The second one, which he favored, entailed the pluralization of political actors and the existence of several regional hegemonic centers: “only a multipolar world could provide the institutions necessary to manage conflicts and avoid the negative consequences resulting from the pseudouniversalism arising from the generalization of one single system”.

Analogous to Schmitt’s vision of the pluriverse Mouffe advocates for the agonistic coexistence of large regional units, organized around different cultures and values. The universalist model of cosmopolitan democracy, with its ideal of a cosmopolitan citizenship

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305 Mouffe: “Deliberative Democracy or Agonistic Pluralism”, p. 16.
307 ibid.
308 ibid., p. 249.
309 ibid., p. 250.
within a world republic, is not a real alternative to the pluralistic framework, mainly because it suggests that western liberalism is the only possible way of structuring a political system.\footnote{Mouffe, Chantal (2008): “Which world order: cosmopolitan or multipolar?”, in: \textit{Ethical Perspectives}, 15(4), p. 465.} Norbert Bobbios \textit{pactum subjectionis}, a kind of world state with enforcement capabilities, is not what Mouffe has in mind. The agonistic order can rather be realized through a \textit{pactum societatis}, which emphasizes the tool of negotiation for organizing political coexistence.\footnote{Mouffe: “Democracy in a Multipolar World”, p. 554.}

\begin{figure}
\centering
\includegraphics{Image_8.png}
\end{figure}

Despite the fact that no central authority is destined to rule the agonistic realm, Mouffe stresses that a certain ethico-political basis is desirable for the association. This basis is defined by the markers of ‘democracy’ and ‘human rights’. In order to guarantee a maximum

\begin{itemize}
\item \textbf{ethico-political-principles}
  \begin{itemize}
  \item democracy
  \item human rights
  \item dignity of the person
  \end{itemize}
\item \textbf{Pluriverse}
  \begin{itemize}
  \item diverging interpretations
  \item functional equivalents
  \end{itemize}
\end{itemize}

- large regional units/genuine cultural poles - organized around different cultural values held together by ethico-political principles that allow for diverging interpretations
of diversity, a variety of different interpretations is permissible.\footnote{Mouffe: “Which world order: cosmopolitan or multipolar?”, p. 466.} Democracy, if interpreted in a western narrative, does mainly entail representative institutions, while non-western readings of the very same principle might favour procedures that come closer to direct democracy.\footnote{ibid., p. 462.} Similarly, human rights if viewed through the western lens have a strong emphasis on individual autonomy, whereas other cultures value more collective elements such as harmony.\footnote{Mouffe: “Democracy in a Multipolar World”, p. 558.}

The question of the ‘good regime’ can then be answered in multiple ways. Yet, while diverging interpretations will always exist, this ought no to be misinterpreted as a \textit{carte blanche} that would open the floodgates of moral relativism. Agonistic pluralism is strictly based on a minimal non-negotiable set of ethico-political principles. Mouffe suggests that if a political order wishes to pass the test of the ‘good regime’ it must be able to safeguard the dignity of the person: “a political form of society would need to be informed by a set of values whose role in that regime corresponds to that played in liberal democracy by the notion of human rights”.\footnote{ibid., p. 457.} This principles are, of course, never directly comparable. By following Panikkar Mouffe suggests to search for \textit{functional equivalents} which reveal whether a society asks the same question while giving culturally specific answers.\footnote{ibid., p. 461.} De Sousa Santos calls this a \textit{mestiza} conception of human rights that highlights their functional similarity in contextualized environments.\footnote{ibid., p. 461.}

5.2. Substantive will: the universitas-societas-nexus

As in the previous chapters the study does now proceed with an in-depth analysis of agonism’s theoretical implications. In congruence with the analyses on cosmopolitan and deliberative democracy this evaluation will again start by determining whether agonism is capable to fulfill the \textit{substantive-will-criterion}. As defined in chapter 2 agonism should - on the community-level - prove its ability of achieving a reconciliation of subjective and universal will through the meta-ideal of substantive will. Further, this meta-ideal must also lead the citizen - on the individual level - towards a positive identification with the community, and towards the insight that his own particularity is reflected in the demo’s ethical fundament. When investigating on the question whether agonistic democracy is capable to satisfy the

\begin{itemize}
  \item \footnote{Mouffe: “Which world order: cosmopolitan or multipolar?”, p. 466.}
  \item \footnote{ibid., p. 462.}
  \item \footnote{Mouffe: “Democracy in a Multipolar World”, p. 558.}
  \item \footnote{Mouffe: “Which world order: cosmopolitan or multipolar?”, p. 456.}
  \item \footnote{ibid., p. 457.}
  \item \footnote{ibid., p. 461.}
\end{itemize}
It is necessary to have a look at the ontological basis that constitutes the radical democratic demos. In order to serve this purpose the idea of radical democratic citizenship in an universitas-societas-nexus will be subject to analysis. The evaluation of the universitas-societas-nexus allows it to determine by what means, and under what conditions, the particular political agent and the whole of the demos relate towards each other, and whether this relation does meet the requirements of the substantive-will-criterion.

In her attempt to figure out the basic ethical configuration of the community Mouffe identifies a tension between what she calls ‘freedom of the ancient’ and ‘freedom of the modern’. While the former highlights republican democratic ideals (following i.e. Aristotle and his claim that ethical knowledge depends predominantly on the cultural/historic condition of the polity) the latter stresses universalist values and the importance of individual freedom secured by the rule of law (as found i.e. in Kantian universalism and his emphasis on scientific knowledge). A modern interpretation of this struggle can be found in the cosmopolitanism-communitarianism-debate and the question whether ‘the right’ should receive priority over ‘the good’. Similarly to Hegel Mouffe shows a critical awareness that both ideals do actually have to present in the political community in order to complete it: on the one side liberalism’s strive for universal citizenship among free and equal individuals, and on the other side the republican ideal, entailing civic consciousness, political participation, and the importance of being inserted in a certain communal setting. Mouffe avoids entering a heroic discourse where the freedom of the individual would receive primacy over the common good of the community. Yet, agonism also acknowledges the importance of understanding that the individual has to be viewed as self-standing subjectivity whose essential ontological status cannot be scarified to a holistic and potentially suppressive ideal of the common good.

It is then neither unencumbered individualism nor the doctrine of the greatest happiness for the greatest amount of people that constitutes the basic assumption behind agonistic pluralism. Rather, a critical consciousness becomes visible that highlights that the universal and the individual will have to find some basis for mutual coexistence. This coexistence cannot be reconciled through a harmonic mechanism, most probably it will even be quite conflictual, yet the question of ‘primacy’ is equally avoided, mainly because both, the

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319 Mouffe: *The Return of the Political*, p. 62.
320 ibid., p. 14.
321 ibid., p. 30.
322 ibid., p. 62.
individual and the universal will, are of similar ethical importance for the democratic health of the community.\textsuperscript{323} What can be said by now is that agonism signals its awareness of the importance to couch \textit{subjective} and \textit{universal will} in some sort of meta-narrative (\textit{substantive will}). Individuality cannot stand alone as it presupposes a context within which its existence can be articulated:

One task of modern democratic political philosophy, as I see it, is to provide us with a language to articulate individual liberty with political liberty as to construct new subject positions and create different citizens’ identities.\textsuperscript{324}

In this setting man pursues its objective, but is also an indispensable part of a community that is founded upon a certain \textit{political good}.\textsuperscript{325} Agonism suggests that this “good which defines a political association as such”\textsuperscript{326} ought to be derived from the basic values of the political revolution of modernity, and can be found in the principles of \textit{equality} and \textit{freedom}.\textsuperscript{327} Both principles do then constitute the \textit{universal political good} of the agonistic demos.

The culmination point of the introduced logic, where strictly individualistic principles get enwrought by civic virtues and an ideal of a political good, is constituted by the \textit{universitas-societas}-nexus and a mode of radical democratic citizenship. Identifying this dual structure is important when evaluating agonism’s compatibility with the \textit{substantive-will-criterion}, mainly because \textit{universitas} represents Hegel’s momentum of civil society (civic freedom), while \textit{societas} equates the momentum of the political state (political freedom).\textsuperscript{328} In agonism’s \textit{universitas}-dimension individuals can gather in a purposeful association that is constituted by an accumulation of individual wills - this resembles the momentum of civil-society where the “particular person stand essentially in relations to other similar particulars, and their relation is such that each asserts itself and gains satisfaction through the others”.\textsuperscript{329} This is, however, not the only dimension of society because next to \textit{universitas} one will find \textit{societas}. While the former one is, as already pointed out ‘purposive’, means it is founded upon a specific \textit{instrumental} purpose, i.e. material gain through economic activity, the latter’s logic of association is defined by \textit{ethics}. The distinct feature of the \textit{societas}-momentum is loyalty and “a relation in which participants are related to one another in the acknowledgement of the

\begin{itemize}
  \item \textsuperscript{323} ibid., p. 65.
  \item \textsuperscript{324} ibid., p. 56 f.
  \item \textsuperscript{325} ibid., p. 38.
  \item \textsuperscript{326} ibid., p. 31.
  \item \textsuperscript{327} ibid., p. 47.
  \item \textsuperscript{328} Hegel: \textit{Elements of the Philosophy of Right}, §182 ff. and §257 ff.
  \item \textsuperscript{329} ibid., §182.
\end{itemize}
authority of certain conditions in acting”. A “practice of civility” as Mouffe calls it. The universitas-societas-nexus is eventually supplemented by the ideal of radical democratic citizenship. Radical democratic citizenship is sensible for the crucial role played by inside-outside-distinctions and adds an agonistic element that avoids stagnant foundationalism. Eventually a “multiplicity of subject positions formed through a democratic matrix” emerges.

What can be seen is that Mouffe strives towards a positive identification with the community where the ‘I’ can relate to the ‘We’, and the ‘We’ reflects the wants and desires of the ‘I’. The integrity of the ‘I’ emerges through, and is safeguarded by, the universal ethico-political principles of equality and freedom that cement a position of irreducible individuality. The ‘I’ is, however, always articulated through the political good of the political community, constituting the ‘We’. This ‘good’ is then inalienable, yet it is not contextless, since the We-component of the political community situates the individual within a specific framework through which the universal individualistic principles of equality and freedom can be articulated. So, while the principle as such safeguards the individual’s autonomy and makes this autonomy inalienable through their universalist character, they are none the less dependent on the collectively accepted component of the political good. A balance of subjective and universal spirit is established by the political good of the community that functions as the reconciling factor of substantive will.

As of the substantive-will-criterion the agonist community does then succeed in establishing a mutually constitutive relation between the particular and the universal through a meta-narrative. It has been shown that universitas and societas do indeed provide specific outlets where the individual can perform different functions. Hegel’s civil society and Mouffe’s universitas are important momentums in the development of the political community, but they have to be supplemented - not superseded - by the political state/societas. While in the realm of civil society or universitas subjective wills engage in purposive associations (which represent subjective will accumulated to universal will) the political state or societas provides the necessary layer of non-instrumental ethical identification. Both realms exist separate from one another and make sure that the political community does not emerge in a totalitarian society. Yet, both are necessarily part of an ethical totality represented by substantive will or equality and freedom. The political community is then “the actuality of the ethical idea” with its immediate existence in customs (or ethico-political principles) and its mediated existence in

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330 Mouffe: *The Return of the Political*, p. 66.
331 ibid., p. 67.
332 ibid., p. 18 - emphasis added.
the individual’s self-consciousness (established through the knowledge of being free and equal).³³³

5.3. Mutual recognition

The investigation on whether agonistic democracy can satisfy the recognition-criterion will start with the question where agonism derives its particular understanding of political rationality from (5.3.1.). This questions refers to the epistemic processes that is applied for arriving at a particular understanding of political rationality. The recognition-criterion requires a specific epistemic process for the emergence of political rationality by which it grows from the bottom up within the community. The analysis of the emerging process of rationality will show whether agonism satisfies this criterion. Subsequently the analysis proceeds with applying a closer look to the realist underpinning of agonism. Agonism’s quite explicitly embraced realist standpoint is subject to investigation as it forwards a specific image of the person that is, in turn, projected back into the political project and has certain effects on the way how interpersonal relationships among political subjects are imagined. The analysis will reveal the effects of this realist underpinning and asks the question what consequences emerge from the perspective of the recognition-criterion (5.3.2.).

5.3.1. Political rationality: ethics as a form of life

As shown in section 5.2 agonism embraces the values of freedom and equality and identifies them as the most important features of the modern political revolution. What is questioned, however, is whether these values should emerge through processes of abstract rationality. A great share of contemporary liberal thinkers, i.e. Rawls, advocate the thesis that political rationality can manifest itself through a processes of ‘rational choice’. If people apply the right methodology they will, at some point, arrive at a certain basic configuration of society.³³⁴ Eventually the basic parameters of public authority and legitimacy can be derived from some seemingly objective practices grounded in public reasoning.³³⁵ Against this understanding of abstract rationality Mouffe brings forward her concern that a single monopolized model of political rationality, like the western interpretation of democracy, could lead to potentially violent spin-offs.³³⁶

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³³³ Hegel: Elements of the Philosophy of Right, §257.
³³⁴ Mouffe: The Return of the Political, p. 41 ff.
³³⁵ Mouffe: “Deliberative Democracy or Agonistic Pluralism”, p. 4.
Although Mouffe is mainly concerned with the suppression of antagonism by instrumental rationality, she is right with her diagnosis that what is defined as politically ‘rational’ should not, and more importantly, cannot be derived from a single universal criterion through a potentially abstract process. If one attempts to do so there is not much room left for letting a specific and contextualized understanding of what is perceived as right and good emerge within the ‘communities of practice’. Eventually the rule of a philosopher king would be enough for determining a demo’s basic ethical delineation. Hegel shares a similar skepticism and warns intensely about the terror of abstraction. Mouffe opts instead for a different and more contextualized approach that does still revolve around certain basic parameters (freedom and equality) but gives political communities the opportunity to develop specific context-dependent interpretations of these principles. The shape of the good state is then not defined a priori but can emerge through intersubjective understandings:

Following that line of thought we can realize that what is really at stake in the allegiance to democratic institutions is the constitution of an ensemble of practices that make the constitution of democratic citizens possible. This is not a matter of rational justification but of availability of democratic forms of individuality and subjectivity.

Value pluralism, the mobilization of passions, and the emphasis on group-identities with their respective struggles over different interpretations of freedom and equality do then play a critical role in the emergence of political rationality: in the agonistic community citizens are interrelated through a common yet diverging language of democracy, which does also help to root the individual agent in this association by expressing democratic principles in a language he can relate to. Further, in a setting where the agonistic subject necessarily emerges through its engagement with a community of shared democratic practices, the citizens must get the chance of acknowledging each other as legitimate, substantive parts of an ethical community. This recognition cannot be formal or instrumental, but has to be substantive, due to the close intertwinement of practices and ethics. Agonistic subjects strive for their respective recognition as democratic subjects among democratic subjects - as substantive wills among substantive wills. This ‘struggle for recognition’ might not always be peaceful, it might actually bear a lot of conflictual potential, but it is indispensable for the making of the

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337 Hegel: Elements of the Philosophy of Right, §258.
338 Mouffe: The Return of the Political, p. 64.
agonistic agent, as it allows him to maintain subjectivity and individuality while getting acknowledged as such by his association.

The critique of abstract rationality, the emphasize of practices, and the agonistic pluralism that derives from it is then not an end in itself, but a valuable mechanism that allows political subjects to order the social world that is surrounding them by using their own ethical signifiers. It allows them to connect in a meaningful way with each other, a way that is not informed by simple contractual, formal, or instrumental relationships. It requires the members of the agonistic demos, which is a community of democratic practices, to recognize each other as equally entitled, substantive members of an ethical community. What they share is the universal right to determine how to put basic ethical principles in practice through concrete intersubjectively accepted interpretations.

When looking at the agonistic demos from the perspective of the recognition-criterion it can then be said that the former does indeed satisfy the latter’s requirements: political subjects must ‘work’ for recognition. Their place in the political community is not assigned to them passively by some sort of abstract law-giving rationale, rather it emerges as they interact. Rationalistic liberalism fails to anticipate that formal recognition is not sufficient. Agonism is receptive to this insights and asks for substantive recognition where political subjects, bound together in a potentially conflictual relationship, must commonly strive towards specific non-generalizable forms of agreement that allow them to develop positions towards each other that are necessarily characterized by mutual recognition. Only if the other is recognized not only formally but also substantially, through a set of practices, each of them will be capable to realize his own freedom. In this respect it is also quite revealing that Mouffe refers to Wittgenstein who understood democracy and ethics as a form of life:  

Envisaged from such a standpoint allegiance to democracy and belief in the value of its institutions does not depend on giving them an intellectual foundation. It is more of the nature of what Wittgenstein links to a passionate commitment to a system of reference. Hence, although it is belief, it is really a way of living, of assessing one’s life.  

Again, a reference to the Hegelian understanding of the political community becomes clearly visible, as for him “the state is the actuality of the ethical idea” with an “immediate existence in custom” and a “mediate existence in the self-consciousness of the individual”.  

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341 ibid., p. 12.
342 Hegel: Elements of the Philosophy of Right, §257.
size-fits-all solution, derived from an abstract ethical rationale, would not work in this context. It would not be capable to provide the specific language necessary for the assessment of one’s life, mainly because there are multiple intersubjectively grown ‘meanings’ (or languages) through which democratic ideals can be articulated.

5.3.2. Civilizational multilateralism

A second element that has to be taken into account when investigating on the question whether the agonistic demos can providing suitable structures for allowing the emergence of mutual recognition among citizens is the realist underpinning of the theory and the consequences that follow from it. The Schmittian grounding, which has already been thematized in chapter 5.1., gives rise to the emergence of two specific characteristics. By following Derrida agonism perceives political identities as ‘negative’ identities. Negative, in this context, refers to the fact that a political identity can only be constituted through a demarcation from a constitutive outside. According to Derrida the creation of an identity implies the establishment of difference, which is often done on the basis of a hierarchy. Every identity is then relational and based upon an affirmation of difference that is the precondition of its existence. From the perspective of the recognition-criterion there is not much to say against the understanding of identity as dependent on a constitutive outside. The integrity of the individual is actually a necessary criterion for mutual recognition, and this integrity brings with it a demarcation towards other self-conscious individuals. We recall that the knowledge of being a ‘self’, the active and reflective consciousness of one’s own existence in a community, is a defining feature for political freedom. Eventually, being aware of a constitutive outside and positioning oneself towards the other is an essentially social and political act.

Agonism’s assessment of the self, and the construction of an ‘us’ that exists only in difference to a ‘them’ can hence not be subject to criticism. However, when further following the realist implications it becomes apparent that the relations between us and them are mostly characterized by the ever presence of hostility and antagonism. As pointed out, identities are often constituted on the basis of hierarchies: the ‘us’ and the ‘them’ might be able to coexist, but they can never go beyond this essentially conflictual relationship. Conflict and

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344 Hegel: Hegel’s Phenomenology of Spirit, §175-177.
345 Mouffe: On the Political, p. 16 ff.
antagonism is not up to their choice but rather an ontological, ineradicable feature of ‘the political’. It cannot be evaded, but has still to be dealt with.

At this point problems emerge. One feature of the recognition-criterion is of course the emphasize on struggle, especially the struggle for recognition, which is the driving momentum behind the political and social progression of a community. The emergence of this struggle is valuable insofar as it helps to give rise to mutual recognition among political subjects. The struggle as such might not always evolve seamlessly or pleasant, yet it brings with it a potentially world-disclosing function that can push a society towards political freedom. In the agonistic narrative the struggle is framed in a much more problematic way as an evil that has to be kept in bay through various channels of diffusion.\footnote{ibid.} In the agonistic world identity is always negativity, not only through the emergence of constitutive outsides, but also through the ever presence of violent conflicts. The struggle for recognition can turn into positivity, because if political subjects really want to be free they have to leave negative relations behind and grant each other substantive recognition. Agonism does not see that this point of a possible convergence is reachable.

When looking at the configuration of the agonistic polity and its respective understanding of politics the following consequences can be observed. Although the demos is founded upon certain ethico-political principles a durable or stable order cannot be established through a consensus that would eventually resemble a finite will. Both, ethico-political principles and political subjects, exist in a fragile environment. Every order is temporary and fragile and can only be established through power-laden hegemonic practices attempting to temporarily structure an environment of contingency:\footnote{ibid., p. 17.}

\begin{quote}
Every order is the contingent and precarious articulation of contingent practices. Things could always have been otherwise and every order is predicated on the exclusion of other possibilities. It is always the expression of a particular configuration of power relations.\footnote{Mouffe: “Democracy in a Multipolar World”, p. 549.}
\end{quote}

Eventually legitimacy is nothing more than successful power that managed to establish itself as a hegemonic force. In such an environment the only real purpose is the making of order in a context that cannot be ordered permanently. It is the realm of decisionism, the taking of decisions in an ultimately undecidable terrain. The prime objective of the political process
can then be described as the prevention of worse evils. The problem that emerges from this instrumental understanding of politics lies in the fact that it does not appear to have a function that goes beyond the prevention of ‘evil’. Democracy, public rule, the values of freedom and equality, are not seen as values in themselves, with a potentially world disclosing function, but rather as an instrument that allows for the diffusion of agonistic dynamics, what makes the presence of power and hegemony more bearable. The greatest achievement of politics, and of the agonistic polity, can hence be the diffusion of antagonism while preserving the integrity of certain patterns of political autonomy.

The polity then becomes a battleground over hegemony, organized around different interest groups and their respective interpretations of the basic ethico-political values. The inevitable necessity of power-laden decisionism cripples the emancipatory potential that is inherent to confrontation. For Mouffe every order is eventually based on exclusion which “impedes the full totalization of society and forecloses the possibility of a society beyond division and power” - an unacceptable statement from the perspective of the recognition-criterion which presupposes that a stable order is actually based on patterns of the widest possible integration of individual wills. When thought through in a consequent manner this understanding of politics as hegemony leads to a ‘right is might’-mentality: to an ever lasting and eventually empty battle between different groups that attempt to seize power and push through their respective understandings of the political good. Delineating society alongside hegemonic blocs forecloses the political subjects ability to develop a relationship based on mutual recognition towards each other. For the individual in the agonistic community it is perfectly fine to remain entrenched in its hegemonic bloc, without ever making an attempt to connect in a meaningful way to other members of the polity, which equally revolve around their respective hegemonic ideals. Agonism does then postulate an ‘ethics of distance’ and not one of unity. It remains entrenched in its own pluralism, a pluralism that is an end in itself and not a stage in the ever-winding circles of ethical integration. Eventually we arrive at blunt interest-group-politics, similar to the ones of the aggregative model of democracy. Although the ethico-political principles of freedom and equality dominant, they get, when put into practice, superseded by instrumental attitudes towards each other. Accepting these basic parameters is a fundamental requirement for playing the game of agonistic politics, but their acceptance can remain superficial and does not necessarily have to lead towards more

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349 Mouffe: *On the Political*, p. 18.
sophisticated ethical commitments. The agonistic demos remains then in the realm of *civil freedom*, where substantive recognition is not required, mainly because the world-disclosing function of conflict, and the emancipatory potential of the struggle for recognition, has not been apprehended entirely.

As shown, agonism’s retreat in politics organized around hegemonic blocs limits the emancipatory potential of the demos. Politics might, in an extreme case, turn into interest group politics where formal but no substantive recognition is sufficient. When moving from this more abstract considerations to the field of policy practice by asking the question how a concrete model of agonistic politics on the *transnational level* looks like the situation presents itself as follows: what Mouffe proposes for the international realm is a new form of, what I suggest to term, ‘civilizational multilateralism’ that advances a model of hegemony and power organized around cultural signifiers. This civilizational multilateralism strives for a pluralist order in which large regional units coexist. The delineation of the global political landscape takes place along cultural lines that permit diverging understandings of i.e. human rights and where multiple interpretations of the democratic principle are considered as legitimate.\(^{351}\) Agonism understood as cultural multipolarity has the purpose to prevent what Schmitt called a ‘global civil war’. While the “universalist approach exacerbates such antagonism” the “multipolar world order will not eliminate conflict, but the conflict in question will be less likely to take antagonistic forms”.\(^{352}\) Eventually it is intended to arrive at a stage of a fragile equilibrium, maintained through a balance of power between hegemonic blocs - a model that is preferred over an order maintained through a single hyper-power. The international system agonism imagines does look quite familiar, as it resembles the contemporary multilateral order, while applying a wider geopolitical perspective. The only difference one will encounter is that the environment is not a purely statist one anymore. States do not vanish but turn rather into nested entity’s within hegemonic blocs that are mostly defined by shared cultural values (or successful power). When looking at this transnational vision from the perspective of the *recognition-criterion* one has to bring forward similar concerns as already mentioned above. Agonism’s retreat into pluralism and the solidification of relationships around multiple centers of hegemony and power does limit the potential for mutual recognition dramatically.

\(^{351}\) Mouffe: “Which world order: cosmopolitan or multipolar?”, p. 466.

\(^{352}\) ibid., p. 466 f.
In the light of this findings it is hence concluded that agonism’s realist underpinnings eventually prevent it from satisfying the recognition-criterion. Other theorists, i.e. the aforementioned Held and Dryzek did at least attempt to line out visions for a global demos based on democratic principles. Dryzek’s approach, for instance, bears the potential to transcend the identities of local groups by relocating them in transnational discourses, eventually establishing border-transgressing patterns of meaning. Agonism, on the other side, rules out this possibility in advance and claims that the absence of thick patterns of shared practices make a vision of global politics that goes beyond civilizational multilateralism impossible: “an agonistic model of liberal democracy cannot be expected at the global level because such a consensus supposes the existence of a political community which is not available at the international level”.\[353]\ There is, of course, some convergence achievable which does mostly work through functional equivalents, like the mestiza-conception of human rights.\[354]\ This agreement would, however, only take place on a very superficial level. Agonistic subjects who inhabit local hegemonic centers would not have to reach out to subjects in other realms. A simple acceptance of certain principle, i.e. ‘human dignity’, is enough for otherwise living in the close ethical confinements of ones own hegemonic bloc. The agonistic communities would eventually have no incentive to overcome disagreements on ethical principles. Rather a potentially world disclosing confrontation is preempted, mainly because it is - presumably - not achievable. There is, of course, no guarantee that this new interpretation of old multilateralism will diffuse the antagonistic tendencies among hegemonic blocs. What happens if ones attempts the restructure the political landscape along cultural blocs can be witnessed in Huntington’s clash-of-civilizations-model where one will encounter that this kind of arrangement can breed plenty of conflictual potential.\[355]\ 

5.4. Conclusion

In respect to the question whether agonism is capable to satisfy the substantive-will-criterion a definitive answer can be given: yes, the agonistic philosophy succeeds in providing an ethical meta-narrative that unifies subjective and universal will and harbors the plethora of subjective wills under one ethical roof. Agonism’s sensitivity for different types of freedom, namely the ‘freedom of the ancient’ and the ‘freedom of the modern’, prove to be valuable in this respect, mainly because Mouffe acknowledges that a political community

\[354]\ Mouffe: “Which world order: cosmopolitan or multipolar?”, p. 461.
must be able to do justice to both types of freedom: the liberal ideal of universal citizenship exercised among free and equal members of a community on the one side, and the republican ideal that entails the creation of a civic consciousness shaped through an ethical community on the other side. Agonism’s mechanism for reconciliation is the universitas-societas-nexus. While the universitas-component has to be understood as purposive association dominated by the pursuance of subjective wills (an association of need), the societas-dimension adds a “practice of civility” and allows to connect the particular and the whole through an ethical meta-narrative - the ‘I’ as a ‘We’, the ‘We’ as an ‘I’. Additionally, the ethico-political principles of equality and freedom do strengthen the position of the individual while connecting it in a meaningful way to a community of practice: the agonistic community will neither embrace the ideal the unencumbered self, nor should it grow into a potentially oppressive totality.

However, when applying the criterion for mutual recognition the case seems to be less clear. The analysis has shown that agonism is particularly critical of liberal rationalism - a feature that does indeed go along with the recognition-criterion. Mouffe points out that political rationality is by no means a matter of ‘rational choice’, as proposed by i.e. Held or Rawls. One cannot derive the ethical fundament of a polity from seemingly objective principles or an abstract rationality grounded in public reason. Further, there cannot be a single monopolized model of political rationality. What is really at stake when discussing the basic parameters of modern democracy is rather the “constitution of an ensemble of practices that make the constitution of democratic citizens possible”. Analogous to the criterion of mutual recognition this requires that democratic subjects connect towards each other in a meaningful way: they must recognize each other substantively as equally entitled members of a democratic constituency.

Problems arise, however, through Mouffe’s strong emphasize of hegemony and power as decisive forces in the political process. The reliance on a constitutive outside is not problematic in this respect, and even the ever presence of conflict does not pose an obstacle to the fulfillment of the recognition-criterion. It is rather the fact that us-them-divides are represented as genuinely irreconcilable. While the principle of mutual recognition stresses the potentially world disclosing function of conflict and offers a perspective for an eventual reconciliation of diverging subject-positions, agonism proves to be less optimistic and fears

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356 Mouffe: The Return of the Political, p. 66.
that consensus would never be genuine but only the product of hegemonic power - a universalization of what cannot universalized. The position leads towards an *ethics of distance*. A ‘might is right’ mentality emerges, that degrades the political community to a battleground over hegemony interests, eventually diminishing its capacity as a recognition-facilitating platform. Parochial pluralism and mere interest group politics rule out in advance the necessity to reach out to other subjective wills in order to obtain their *substantive recognition*. When applying this more abstract considerations to the political reality in the transnational sphere the situation presents itself as follows: through a ‘civilizational multilateralism’ international order gets organized around large centers of local hegemony. Certain ethico-political principles do provide a normative framework, but eventually the system comes close the current state-centered multilateral arrangement. Eventually, political subjects remain entrenched in their own hegemonic blocs and have no real incentive to conduct new recognition-facilitating connections towards subjective wills in other civilizational centers. Political struggle does predominantly take place between *hegemonic spaces*. The recognition-creating potential behind intersubjectively facilitated conflict gets hence unduly obstructed.

Taking this findings into account the final question emerges to what extent agonistic politics is capable to provide the condition of *political freedom* that underlines the Hegelian framework. In this respect it has to be concluded that the proposed ‘ethics of distance’ prevent the model from attaining complete *rationality* as understood by Hegel. Mouffe does indeed succeed in interrelating the particular and the whole (*substantive will*), and she manages to line out an epistemic argument that is able to formulate ethics on a basis that supersedes instrumental rationality (*mutual recognition*). The argument as such, however, is not entirely satisfying as it traps political agents within hegemonic blocs. The major problem is that the ‘ethics of distance’ are not a bug, but a distinct feature of the agonistic ensemble. In this respect it must be concluded that Mouffe’s *pactum societatis*-considerations[^358], and the new multilateralism that it advances, are eventually incompatible with a progressive interpretation of the *dialectical* principle of History. Vincent notes that “the most consistent Hegelian position will end up with a more cosmopolitan perspective” in which neither the nation state nor any other closed political entity can claim to be the final arbiter in international affairs[^359]. Humans desire for substantive *mutual recognition* cannot stop at the boundaries of arbitrarily drawn political communities. The *political state* ought not to be

conflated with the external state (the sovereign nation state), but does rather signify a mode of interaction, a certain disposition towards each other, that political subjects must develop through dialectical encounters: “A world of conflicting states negating each other is a contradiction, in the same way as within the state a multiplicity of individuals with conflicting moralities is a contradiction”.\textsuperscript{360} Mutual recognition must necessarily have global implications, it must line out the possibility of an unrestricted realm of political freedom that is constituted through the substantive acknowledgement of each person as an irreducible ethical totality: “An international order would be realized if based upon universal concrete customs, in other words, international Sittlichkeit”\textsuperscript{361} If encounters between subjective wills would be prevented, be it through the existence of state boundaries or the prevalence of hegemonic centers of power, and if the possibility of engaging in a meaningful way with fellow subjective spirits is foreclosed by some seemingly non-transcendable principle, the struggle for recognition will be impeded unduly. In the same way individuals on the community level have to engage with other individuals in order to get recognized as subjects and eventually form the ethical community in the figure of the political state, this movement cannot end at legal, civilizational, or hegemonic borders. Insurmountable delineations of the political landscape contradict the dialectical logic, since they do not allow for the unrestricted self-actualization of individuals through a common ideal of international Sittlichkeit. Due to the fact that agonism is unable to see this perspective it can hence not provide a Hegelian account of autonomy and eventually fails in giving rise to political freedom.

\textsuperscript{360} ibid., p. 199 ff.
\textsuperscript{361} ibid., p. 197.
6. Conclusion: deliberative democracy as the realization of political freedom

The study began with scrutinizing Francis Fukuyama’s *End of History*-thesis and found a number of severe empirical and philosophical shortcomings that cast severe doubt upon the verdict according to which the western model of liberal democracy is the regime-type capable to bring the *struggle for recognition* to an end. Despite the obvious flaws in Fukuyama’s model it was however concluded that the Hegelian philosophy as such bears the potential to contribute to the study of transnational democratic regimes. The question was raised how a more accurate formulation of the Hegelian argument - one that does not focus narrowly on the *struggle for recognition* but takes the idea of the *political state* and of *political freedom* into account as well - could potentially be mobilized for the study of democratic theories. The following research-question was consequently developed: if Fukuyama’s analysis has proven to be deficient from both, a theoretical and an empirical point of view, which type of democratic regime does then bear the potential of completing the Hegelian ideal of political freedom?

In order to answer the question the Hegelian philosophical framework underwent an in-depth analysis that systematically evaluated the concepts of *universal history*, *mutual recognition*, and the *momentums of freedom*. It was shown that mankind’s primary motivation for engaging in socio-political activities is the attainment of *political freedom*. While the struggle for recognition serves as the engine behind History’s dialectical progression, political subjects as such strive for *freedom as self-knowledge through mutual recognition*. On the basis of this assumptions it was possible to formulate a set of two analytical criteria that can be used for determining a democratic regime’s political rationality (from the perspective of a Hegelian understanding of political freedom). In this respect the *substantive-will-criterion* refers to the vertical structure of the polity (the community-subject-nexus). It requires that a political regime is prepared to establish an ethical meta-narrative in the figure of *substantive will* that allows for a comprehensive reconciliation of subjective and universal will. This goal is achieved when a sophisticated account of *Sittlichkeit* is prevalent and the ‘I’ can relate to the ‘We’ and vice versa. The second element deemed to be crucial for the attainment of political freedom is the *recognition-criterion*. This criterion is largely concerned with the horizontal structure of the demos. In Hegelian terms the fully rational political community should foster *mutual recognition* among citizens: it must connect political subjects towards each other by an account of necessarily *substantive* recognition. This requirement is prime because only if individuals acknowledge each other as *ethical equals* they get the chance of mirroring
themselves in the very ‘otherness’ of fellow subjective spirits, what eventually allows them to obtain genuine freedom via relational self-knowledge.

Equipped with this analytical tools, and bearing the question in mind which democratic theory is best capable to complete Hegel’s ideal of political freedom, the study proceeded by evaluating Held’s cosmopolitanism, Dryzek’s model of discursive democracy, and Mouffe’s agonistic politics.

In respect to the substantive-will-criterion the study comes to the conclusion that all three models of global democracy are indeed capable to satisfy this criterion - although the means of accomplishing this task do vary greatly. The cosmopolitan theory constructs the ethical bond between the individual political agents and the political good of the polity through the principles of autonomy and freedom. It utilizes the method of universal ethical agreement as a means of arriving there. The deliberative approach capitalizes on specific deliberative ethics that equip individuals with the ability to challenge and formulate discourses. The opportunity to do so allows subjective wills to see a distinct ethical value in the principles that guide the deliberative demos what eventually relates them towards the polity in a substantive manner. When it comes to the agonistic model the universitas-societas-nexus has proven to be capable of establishing the meta-narrative of substantive will. In this particular setting the ‘freedom of the ancient’ (republican ideal) and the ‘freedom of the modern’ (liberal ideal) are placed next to each other. The combination of both principles makes room for the pursuance of individual means that are, however, articulated through and safeguarded by a common matrix of the ethico-political principles of equality and freedom.

While all models of transnational public rule can satisfy the substantive-will-criterion the situation presents itself as entirely different when applying the recognition-criterion: Held’s model is almost entirely incapable of fostering mutual recognition among cosmopolitan subjects. The main problem in this respect is the quite explicit hesitance to let cosmopolitan law grow as an ethical property among agents within the demos. The model retreats into legal positivism and formulates the guiding principles of the transnational legal state on the basis of rational-abstract reasoning. Cosmopolitan law is eventually ‘law form above’. This leads to unacceptable consequences, such as the contractualization of social relations, the degradation of communities of practice to mere associations of lifestyle, and the withdrawal of agency from the individual citizen. Taken together the model is then incapable to give rise to substantive ethical encounters between cosmopolitan citizens. The agonistic model proves to be much better equipped in this respect. Agonism argues that political rationality can by no
means derive from a process of pure rational-abstract reasoning. It is claimed that democracy is also a ‘form of life’ that enables subjects to access the socio-political environment surrounding them by their own intersubjectively accepted signifiers. Eventually the citizen’s place in the demos is not assigned passively by generously granting a specific set of rights. Rather, individuals have to ‘work’ for recognition as they ‘assess’ their respective social environment while actively interacting with fellow political subjects. What prevents agonism from eventually formulating a convincing argument that could give rise to political freedom is its orthodox emphasis of a hermetic pluralism. Subjective will’s eventually get trapped in their respective hegemonic blocs and have little to no incentive of connecting in a meaningful, substantive, and potentially word-disclosing way to individual will’s in other hegemonic blocs.

The model deemed capable to facilitate mutual recognition among political subjects is then deliberative democracy. It puts a main emphasis on the generation of substantive recognition, mainly by means of cultivating a specific set of ethics that foster discursive equality among political agents. Individuals know themselves and others as free only if they participate in the formulation of discourses. The knowledge of the ‘self’ and of the ‘other’ is necessarily substantive, because discourses are, to use Mouffe’s vocabulary in this context, ways of ‘assessing one’s lifes’. If political subjects let fellow citizens willingly participate in this assessment by allowing them to construct, debate, and challenge one’s own ‘form of life’, they must regard each other necessarily as relational ethical equals. The analysis did also show that Dryzek’s approach is indeed not free from flaws. Especially the potential lack of individual agency and the latent reluctance of articulating the immense ethical potential inherent to deliberative ethics have been subject to extended critique. However, it must eventually be concluded that this shortcomings are more of a ‘bug’ and less of a systemic defect in the deliberative framework. As outlined in chapter 4.4. the ills can be treated fairly easily through a consequent application of the principle of deliberative authenticity, and a more dedicated pronouncement of the theory’s superiority in terms of proceduralist democratic ideals. The overall value of deliberative ethics does then clearly outweigh the diagnosed problems. Most importantly deliberative ethics can deliver where the agonistic model fails: namely in formulating a vision of political freedom that manifests itself in the border-transgressing force of discourses that are not limited to the confines of the nation-state or the hegemonic bloc. The agonistic perspective falls short to see this possibility; it contradicts a progressive understanding of the struggle for recognition; and it is unable to articulate political freedom as international Sittlichkeit. In the light of this findings it is
hence concluded that the cosmopolitan model of democracy is least capable of providing political freedom. The agonistic theory shows some promising attempts, but fails as it denies the potentially world-disclosing momentum behind the struggle for recognition. Eventually it is then the discursive model that bears the immense potential of completing the Hegelian ideal of political freedom. This is realized through deliberative ethics, which allow for the simultaneous presence of substantive will and mutual recognition in the demos, consequentially fostering the realization of genuine political freedom.

Eventually this findings do also have wider repercussions for the study of transnational public rule as such. It shows that different stands of theoretical reasoning - be they cosmopolitan, deliberative, or agonistic - are perfectly able to address and answer the question of how a democratic polity must be structured vertically in order to function in a stable manner. Though the terminology used to describe the common political good varies greatly from theory to theory it is none the less constantly narrated through the language of political modernity and refers, without exception, to properties such as autonomy, equality, and freedom. When it comes, however, to the question of the horizontal structure of the demos - the inter-personal realm - most democratic theories under investigation remain surprisingly silent. If democracy is indeed understood as a way of ‘assessing ones life’ a lacuna emerges. Hegelian political philosophy enables us to grasp this theoretical void more comprehensively as it provides a micro-sociological approach to transnational public rule. This approach is based on the struggle for recognition, the notion of political freedom, and the understanding of self-assertion as relational self-knowledge. As shown only critical deliberative democracy is so far in the position to take this implications into account and capable to formulate the condition of international Sittlichkeit that is based on an universal concrete framework of ethical practices. When returning to the study’s point of departure, that is Fukuyama’s End-of-History-thesis, it has eventually been shown that his assessment of Hegelian political philosophy is incorrect. While he concluded that market capitalism and liberal constitutionalism complete Hegel’s vision of autonomy, the findings of the analysis point in a different direction, and suggest instead that the procedural and talk-centric aspects of democracy are of much greater importance for the realization of political freedom if understood as international Sittlichkeit.

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7. Appendix

7.1. Bibliography


Mouffe, Chantal (2000): “Deliberative Democracy or Agonistic Pluralism”, Institute for Advanced Studies (IHS), Department of Political Science, Political Science Series 72, Vienna.


7.2. Table of figures

image 2: genuine self-consciousness, p. 20: own figure.
image 3: momentums of freedom, p. 26: own figure.
image 4: elements of political freedom, p. 30: own figure.
image 5: cosmopolitan governance, p. 41: own figure.
image 6: the formation of law, p. 50: own figure.
image 7: the deliberative community, p. 69: own figure.
image 8: agonistic politics, p. 92: own figure.
7.3. Declaration of academic integrity

I declare that *International Sittlichkeit: Political Freedom, Substantive Will, and Mutual Recognition as the Cornerstones of Transnational Public Rule* is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

I further promise that in the attached submission I have not presented anyone else’s work as my own and I have not colluded with others in the preparation of this work. Where I have taken advantage of the work of others, I have given full acknowledgement.

Christian Pfenninger
London, 25. February 2013