HEGEL’S THEORY OF MODERN BUREAUCRACY

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I make three contentions. First, Hegel’s theory of bureaucracy is as comprehensive as Weber’s ideal type of bureaucratic organization. I argue this by making a sociological reformulation of Hegel’s model and comparing it with the Weberian paradigm. Second, Hegel adapts the Aristotelian category of practical judgment in characterizing the bureaucratic activity as subsumption. This characterization is contrary to the dominant view that bureaucracy embodies mere instrumental rationality and solves some difficulties in Hegel’s political thought. Third, Hegel’s conceptualization can contribute to a liberal theory of bureaucracy that apprehends modern political reality more adequately than the skepticism of classical liberals and contemporary libertarians about bureaucratic organization.

Bureaucracy, a conspicuous political institution in the modern state, is also a major theme in contemporary sociological literature. Hegel formulated the first theory of modern bureaucracy in the Philosophy of Right (pars. 287–97 [1976]). However, this work has not exerted much influence on the sociology of bureaucracy due to the philosophical way of treatment. Instead, Max Weber’s ideal type of bureaucracy (Weber 1978, 217–26, 956–1003) has had a pervasive influence in the development of the sociological tradition. Weber’s conceptual and historical analysis provides a comprehensive framework for the empirical study of bureaucratic organization, though his analysis has been modified in details (Luhmann 1982, 30–41). In its normative dimension, the Weberian paradigm assumes that bureaucratization expresses the technical rationalization of modern politics. This normative assumption underlies critical theorists’ critique of instrumental rationality thesis (Habermas 1970, 1984–89, vol. 2).

I shall demonstrate that on the level of institutional analysis, Hegel’s characterization of the structural attributes of bureaucratic organization is as comprehensive as Weber’s ideal type. The affinity between Weber’s and Hegel’s theories of bureaucracy has been observed by Avineri (1972, 160) and Jackson (1986), but a more theoretical treatment is needed beyond the mere comparison. I shall also argue that on the level of normative evaluation, Hegel propoves an interpretation of bureaucratic activity entirely different from Weber’s, one that may be articulated into an alternative to Weber’s instrumental rationality thesis. Hegel shows that the rationality of modern bureaucratic activity is not technical but practical (in the Aristotelian sense); and he correlates bureaucratic and judicial activities. The implications of this view will be analyzed by way of Gadamer’s theory of hermeneutics.

The recent trend to depoliticize Hegel’s political philosophy also urges a reexamination of his theory of the state. Even the influential studies by Ritter (1982) and Riedel (1984) have focused too much on civil society and not enough on Hegel’s theory of the state. Since Hegel sees bureaucracy as the main governing organization in the modern state, his contribution to the sociology of bureaucracy is impeded by this depoliticization tendency.

A more philosophic reading of Hegel’s Philosophy of Right has been launched by Michael Oakeshott. In his seminal On Human Conduct (1975), Oakeshott distinguishes two concepts of the modern state: the paradigm of societas (the state based on the rule of law) and the antithetical universitas (enterprise or purposive organization). Unlike most commentators of Hegel’s political theory, Oakeshott identifies Hegel’s theory with the concept of societas (pp. 259–63), paving the way for a liberal reinterpretation of Hegel’s thought that is also philosophically interesting (Smith 1989a, 1989b). However, Hegel’s view that bureaucracy is the principal governing organization poses a major difficulty for Oakeshott. Like other classical liberals, including Tocqueville and John Stuart Mill, he is deeply skeptical about bureaucracy. For Oakeshott, bureaucracy is one of the prototypes of universitas (1975, 267). As a result, he emphasizes Hegel’s theory of recognition but overlooks Hegel’s theory of bureaucracy.

I shall show that Hegel’s embrace of bureaucracy can be explained within the liberal framework. I shall also argue that for Hegel, bureaucracy is not only compatible with, but indispensable to, the modern constitutional state in view of the disruptive effects of civil society. In this respect, his ideas may contribute to a liberal theory of bureaucracy.

THE IDEAL TYPE OF BUREAUCRATIC ORGANIZATION

Hegel discusses bureaucracy in his treatment of the executive power (Right, pars. 287–97). The discussion is brief; but this does not imply that Hegel considers bureaucracy less important than other constitutional powers. In his treatment of the executive power, Hegel analyzes modern bureaucracy as a form of political organization, its constituent members, and its relation with the social environment.
Hegel describes the executive power as follows:

There is a distinction between the monarch’s decisions and their execution and application or, in general, between his decisions and the continued execution or maintenance of past decisions, existing laws, regulations, organizations for the common ends, and so forth. This task of subsumption conceptualizes the executive power in itself, which includes the powers of the judiciary and the police. It has immediate bearing on the particularity of civil society and makes the universal interest valid over particular aims. (Right, par. 287; emphasis original; trans. based on Knox’s)

For him, the executive mediates between the state and civil society. Its distinctive function is to execute and maintain existing legal norms. In its relation with civil society, the executive upholds universal interest among particular pursuits. Its specific mode of activity is designated as subsumption.

The organizational characteristics that Hegel attributes to the executive indicate that it is a bureaucracy in the modern sense:

1. It has a functional division of jurisdictions in accordance with different tasks. (Right, par. 290)
2. The divided branches are articulated by the principle of hierarchy. (par. 290)
3. The office is separated from its incumbent; there is no natural or necessary link between them. (par. 291)
4. Since the operations of bureaucracy have been objectified, bureaucrats need not be geniuses. The criteria for entering the civil service are knowledge and proof of ability through examinations, not birth or status. (par. 291)
5. Modern bureaucracy tends to diminish the traditional type of social stratification, because talent becomes the main criterion of recruitment. It is the most appropriate administrative organization for an egalitarian society. (par. 291)
6. Bureaucrats live off the fixed salary remunerated by the state in order to be independent from external influences. They should exercise their authority according to the common good. (par. 294)
7. The main advantages of a centralized bureaucratic organization are maximum simplification, speed, and efficiency in handling state affairs. (par. 290, add.)

Concerning civil officials, Hegel designates them as the “universal class” because the end of their activities is to realize the universal interests (Right, par. 205). Their universality is contrasted with the pursuits of the particular interests by the members of civil society. Civil officials are the pillars of the state because they are endowed with the highest political consciousness and knowledge about public affairs (par. 297, add.).

As to its scope of jurisdiction, bureaucracy has two functions. On the one hand, it superintends the activities of corporations in civil society so that the latter do not degenerate into egoistic interest groups. On the other hand, the highest officials constitute the advisory committee for the monarch and report to him the concrete situations of public affairs for his final decisions (Hegel, Right, pars. 283, 289).

Hegel is also aware of the hazards of modern bureaucracy and sees it resulting in two major problems. First, if the functional division of labor is excessive, incumbents’ activities become mechanized. Bureaucrats therefore need an ethical education to cultivate their capacity to evaluate public affairs from universal perspective (Right, par. 296). Second, bureaucrats must be accountable for their actions. Hegel proposes two methods of control, one internal and one external. Internal control consists in the ethical education and organizational discipline of bureaucrats, external control in supervision by the sovereign and the corporations of civil society (pars. 295, 297).

These are the sociological aspects of Hegel’s theory of modern bureaucracy. Table 1 compares his model with Weber’s ideal type. It is clear from the table that Hegel and Weber agree about most organizational characteristics of modern bureaucracy, the exceptions being criterion for recruitment, type of stratification, and mode of activity. The disagreements will be dealt with further on; here we are interested in the issues on which they agree.

Hegel and Weber recognize the novelty of modern bureaucratic organization. For both of them, the emergence of the modern state from feudalism is a gradual but irreversible process by which sociopolitical relations have become both institutionalized and impersonalized. Under feudalism, aristocrats appropriated administrative positions and resources as their own privileges. During the era of absolute monarchy, feudalism faded away and was replaced by the modern administrative apparatus (Weber 1978, 983–87). This course of political change, which culminated in the French Revolution and its aftermath, was the concern of many nineteenth-century thinkers (Bendix and Roth 1971, 131–40). The controversial question was whether the newly emerging bureaucratic state was different from the traditional bureaucratic empire. Tocqueville, in a well-known criticism, regards the modern centralized state as the result of the “leveling-up,” or equalization process (1955, 81; 1966, 10, 690). He emphasizes the continuity between the ancient regime and the modern state, thus undermining the new source of legitimacy declared in the French Revolution. From the Tocquevillian perspective, the modern state with its centralized bureaucratic apparatus falls into the category of despotism in the classic typology of Montesquieu (Tocqueville 1966, 678–79, 690).

Both Hegel’s and Weber’s concepts of modern bureaucracy are antithetical to this line of criticism. Their common approach is to distinguish the genesis of a social formation from its function. Bureaucracy undeniably originated from the struggle between monarch and aristocrats; the crown used the efficient and merit-based bureaucratic apparatus to encroach on the privileges of aristocrats. However, having accomplished this historical role, bureaucracy be-
TABLE 1
Weber’s and Hegel’s Theories of Modern Political Authority

<table>
<thead>
<tr>
<th>CRITERIA</th>
<th>LEGAL-RATIONAL AUTHORITY (WEBER)</th>
<th>THE POLITICAL STATE (HEGEL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organization</td>
<td>legitimacy</td>
<td>political sentiment</td>
</tr>
<tr>
<td>Division of powers</td>
<td>constitutional division of jurisdiction</td>
<td></td>
</tr>
<tr>
<td>Top positions</td>
<td>organs, elected or appointed political leaders, notables, or professional politicians</td>
<td></td>
</tr>
<tr>
<td>Administrative staff</td>
<td>officials (civil servants)</td>
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<tr>
<td></td>
<td>hierarchy of jurisdiction of “agencies”</td>
<td></td>
</tr>
<tr>
<td></td>
<td>defined as “impersonal rights”; separation of official and private sphere; fixed remuneration</td>
<td></td>
</tr>
<tr>
<td>Criterion for recruitment</td>
<td>expertise</td>
<td>knowledge</td>
</tr>
<tr>
<td>Type of stratification</td>
<td>commercial classes and status groups</td>
<td>universal class</td>
</tr>
<tr>
<td>Mode of activity</td>
<td>technical application of expertise</td>
<td>“subsumption”</td>
</tr>
<tr>
<td></td>
<td>citizens</td>
<td></td>
</tr>
<tr>
<td>The ruled</td>
<td>functional differentiation; state administration</td>
<td></td>
</tr>
<tr>
<td>Economic basis</td>
<td>market economy</td>
<td>civil society</td>
</tr>
</tbody>
</table>

Note: The criteria, except “mode of activity,” are adopted from Schluchter 1981, 120. Schluchter is utilized on account of his systematic arrangements. For a direct comparison between Hegel and Weber, see Jackson 1986, 148-49.

comes an institutionalized organization for dealing with public affairs. Its structural functions are independent from its historical origin. Based on this methodological view, Weber constructs the ideal type of legal-rational authority with its bureaucratic apparatus in contrast to the ideal type of traditional authority, especially patrimonialism (Schluchter 1981, 118–21). Hegel’s theory of bureaucracy is in the same vein (Right, par. 236, rem.). The administrative staff in a patrimonial regime depends on the personal will of the ruler, while bureaucracy in the modern state is autonomous from the ruler’s arbitrary will and regulated by objective laws. The modern constitutional state comes into being as civil society separates from the political state and as the governing norms, as well as organizations, become impersonalized. The modern state, radically different from any traditional type of political organization, provides the foundation of the liberal, rights-based concept of politics (par. 273, rem.; Weber 1978, 642). Within the framework of rule of law (in the case of Hegel) or formal legality (in the case of Weber), the traditional concept of privileges is transformed into the modern concept of rights:

Notwithstanding that bureaucracy has its own shortcomings, Hegel and Weber agree that it should be treated as a new political phenomenon. Simply applying the traditional category such as despotism in this context is not appropriate.

THE MODE OF BUREAUCRATIC ACTIVITIES

Although Hegel and Weber agree about the organizational characteristics of bureaucracy and its modernity, they disagree about the nature of bureaucratic activity. For Hegel, it is based on knowledge; for Weber, it is mere technical application of expertise. This difference is even more important than their concord because it has great bearing on the current debates in social theory.

The opposition between Weber and Hegel can be traced to the Aristotelian distinction between craft (techne) and practical wisdom (phronesis). This distinction has been revitalized recently (Arendt 1959; Gadamer 1983; Habermas 1973; MacIntyre 1984; Oakeshott 1975). As recapitulated by Steven Smith, Aristotelian techne is “the orderly, methodical application of intelligence to some problems for the sake of gaining control over future contingencies” (1989a, 137). It is universal, instrumental, and teachable (p. 138). Practical wisdom, according to Aristotle, is “the capacity of deliberating well about what is good and advantageous for oneself regarded as typical of a mon of practical wisdom, ... [about] what sort of things contribute to the good life in general” (Ethics 1140a, [1962]). Practical wisdom is experiential, in-
He employs this term in only two con-
based on techne.
Weber's specifications of the bureaucratic rules-
view is that bureaucracy is a teleological organization
understanding modern politics has been explored by
Arendt and numerous other authors. As to its impli-
cation for the theory of bureaucracy, the dominant
is that bureaucracy is a teleological organization
based on techne.

The dominant view is based on Weber's analysis.
Weber emphasizes the definitive importance of tech-
nical expertise for bureaucracy: "The management of
the office follows general rules, which are more or less
stable, more or less exhaustive, and which can be
learned. Knowledge of these rules represents a spe-
cial technical expertise which the officials possess. It
involves jurisprudence, administrative or business
management" (Weber 1978, 958; emphasis original).
Weber's specifications of the bureaucratic rules—
stable, exhaustive, and learnable—indicate that they
belong to the realm of techne.

The modality of "application" is dealt with in
Weber's general theory of social action. He distin-
guishes four types of human action: purposive-ratio-
nal or instrumental-rational (zweckrational); value-
rational (wertrational); affectual; and traditional. For
Weber, technical application belongs to purposive-
rational action. This type of action involves calculat-
ing and choosing the appropriate means to achieve a
given end. It cannot determine the end of the action
except by making pragmatic judgments whether a
specific end is achievable (Weber 1978, 24–26). The
distinction between purposive rationality and value
rationality parallels Weber's distinction between the
ethic of responsibility and the ethic of conviction. As
a neo-Kantian, Weber separates value from fact and
adopts the position of "ethical polytheism," postulat-
ing that political values cannot be rationally deter-
mined but can only be acquired through an existential
decision (1947, 152). Politicians settle political value in
the battleground of political struggle. Bureaucracy,
by contrast, is a "neutral agent," whose task is to
execute, with technical precision and impartiality, the
policies that emerge from that struggle. Politics and
administration (end and means, value and fact) are
separated radically in this perspective (p. 95). For
Weber, the administrative activity of bureaucrats is
techne: they can deliberate only about the means; their
concerns are only expediency and technical feasibil-
ity.

Weber's interpretation of bureaucratic activity is
adopted by most political theorists and social scien-
tists, even though their philosophical backgrounds
may differ widely. For example, Arendt views bu-
reaucratization and the modern social sphere as an
extended form of household management (1959, 29).
Oakeshott considers bureaucracy as an administra-
tive apparatus correlated with the idea of "lordship,"
according to which the modern state is an economic
enterprise (1975, 268). Habermas regards bureaucra-
tization as the main symptom of modern "scientifica-
tion of politics" (1970, 62) or "mediatization of the
the executive power has also been interpreted in this
way. Foster draws a parallel between the guardians
in Plato's Republic and Hegel’s "universal class" and
suggests that the actions of both classes are techne
(1935, 143, 182). Riedel characterizes bureaucratic
activities as mere administration, thus tacitly accept-
ing the techne model (1984, 152).

In my interpretation, however, Hegel's under-
standing of bureaucratic activity is entirely different
from this dominant view. It constitutes Hegel's orig-
inal contribution to a liberal theory of bureaucracy
and is a creative transformation of classical political
philosophy.

Hegel depicts the activity of civil officials as sub-
sumption, a concept whose meaning needs to be
scrutinized. He employs this term in only two con-
texts in the Philosophy of Right: bureaucratic activity
and adjudication (Right, pars. 225–28). He specifies
the operation of subsumption in detail when explain-
ing the judiciary:

The task of the court is the application of the law to a
single case, and the work of judgment has two aspects: first,
knowledge [Erkenntnis] of the nature of the case as an
immediate, single, occurrence . . . and, in criminal cases,
reflection to determine the substantial, criminal, character
of the deeds; secondly, the subsumption of the case under
the law so that right be restored. (par. 225; emphasis
original; trans. based on Knox's).

The process of subsumption has three characteristics:
it is an activity based on knowledge, it mediates
between universal legal norms and individual cases,
and its objective is to fit norms into concrete situa-
tions so that right can be ascertained. Since Hegel
draws a parallel between adjudication and execution,
the question then becomes whether judicial judg-
ment is a technical or a practical task—whether
subsumption is a mere application (thus a kind of
techne) or involves the use of practical judgement
(thus a kind of phronesis).

Hegel takes the category of subsumption to be a
familiar term in jurisprudence and does not explicate
it further in his lectures (Hegel 1973–74, 1983). It is
therefore difficult to determine to which type of action
subsumption belongs. If compared with the
dominant view of bureaucracy, however, it is notable
that the realm of bureaucratic action is constituted by
reference to the relation between universal norms
and particular events. In other words, bureaucratic
action is not merely problem solving or maximum
realization of policy goals already set by politicians.

Contrary to the dominant view, hermeneutics ad-
dresses the issue of mediation between the universal
and the particular from a different perspective. The
philosophical dimension of the jurisprudence is for-
mulated by Gadamer:

What the law prescribes, what a case of a given law is, is
only determined unequivocally in the eyes of a formalist
who endangers life. Finding the law means thinking the
case together with the law so that what is actually just or
the law gets concretized. For this reason the body of
precedents (the decision already laid down) is more
crucial for the legal system than the universal laws in
accord with which the decisions are made. This is correct
insofar as the meaning of any universal, of any norm, is only justified and determined in and through its concretization. (1983, 82).  

He highlights that “concretization of norms” is the crucial element in the adjudication process. Similarly, Hegel draws a parallel between the judiciary and executive in that they have the common modality of concretization. Subsumption, like concretization or “thinking the case together with the law,” is a dialectical process in which the universal and the particular encounter each other and become related by means of human deliberation. It requires a hermeneutics of the concrete, an ability to absorb sufficient contextual knowledge and relevant legal norms. It is a standard case of hermeneutic circle. The whole (norms) and part (occurrences) cannot be related except by the practical judgment of a prudent human being (spoudaios, in the sense of Aristotle, Ethics 1113a). 10 Since Gadamer proposes to reformulate Aristotelian practical philosophy through hermeneutics, his theory of hermeneutic circle is a fine reference framework for interpreting Hegel’s notion of subsumption. For the sake of comparison, the competing positions suggested by Plato and Weber need to be addressed.

For practical philosophers, the Weberian dichotomy of value-rational and purposive-rational actions has shortcomings similar to those of Plato’s idea of techne. The Platonic techne assumes that it is possible to realize a given scheme without changing the scheme itself in the process (Foster 1935, 18). Plato’s theory is untenable because it presupposes an Archimedean point transcending the phenomenal world, by which the current order of things can be radically reformulated. The philosopher-king is the demiourgon (supreme craftsman) in the human world. As Arendt points out, the rule of the philosopher-king is, in fact, one-man rule in the modality of tyranny (1959, 197–203).

The Weberian politics/administration distinction does not deal adequately with bureaucratic activities either, because no set of rules could really foresee all possible occurrences. Since Weber does not admit any creativity in bureaucratic action, those decisions not stipulated by general rules can only be designated negatively as “discretion” (Weber 1978, 979). This approach results in a paradox: bureaucracy is supposed to implement political decisions with technical precision, but this ideal can never be fully realized because bureaucrats would always have some space of discretion. As a result, Weber resorts to the dubious charismatic–plebiscitary democracy to ensure the “autonomy” of political leadership; but the danger of such leadership for a liberal–constitutional regime is obvious (Mommsen 1984, 390).

Compared with the positions of Plato and Weber, practical philosophy (adopted by Aristotle, Hegel, and Gadamer) grasps political reality more adequately. For practical philosophers, there are no norms that would not themselves be modified in the process of concretization. By the same token, socio-political reality cannot be known apart from its normative dimension. Norms and occurrences interact continuously to form social practices (MacIntyre 1984, 187). This line of consideration, which emphasizes the immanent, instead of transcendent, nature of political action, make it easier to comprehend and appreciate the category of concretization proposed by practical philosophers. Political action is not foundational but contextual. Practices constitute the boundary of human deliberation and action. Bureaucrats, like judges, can work only under norms and use their practical judgement to arrive at the best results within the framework of laws. By placing it in the category of subsumption, Hegel indicates that bureaucratic activity is pronoesis, not techne. He “judicializes” the exercise of executive power: both the judiciary and executive concretize legal norms in particular situations. 11 They are institutionalized pronoesis in the modern state. 12

Hegel specifies the form of practical judgment not in the Philosophy of Right but in the Science of Logic. He defines judgement as the connection between universal and particular in the concrete form of a proposition. Two aspects of his theory are relevant here. First, the attributes of the abstract universality can be recognized only through the faculty of judgment, 13 in which the universal and the particular become subject and predicate so that their relation is illuminated (Logic, par. 170 [1975]). Second, the attributes of the abstract universality can be specified only through a continual process of making judgment. These two aspects bear notable similarity to the category of subsumption. The second aspect is especially pertinent. It shows that judgment and subsumption are not static but are in a process of development, since the universal always has potential to realize itself in different forms while circumstances of the particular are always changing (par. 161). In a constitutional state, where norms are ultimate, institutional agents for concretizing norms are therefore indispensable. The process of subsumption coexists with the normal activities of the state.

The interpretation suggested here is supported by Hegel’s discussion of the parallel bases of the judiciary and bureaucracy. Aristotle points out that since practical wisdom exercised in concrete situations depends on judgment of the agent concerning contextual circumstances, it is not possible for practical science to attain the same degree of certainty as theoretical science (Ethics 1094b). This inherently conditional precision poses a predicament for the judiciary and bureaucracy as institutionalized pronoesis. If the involved parties contest this uncertainty, these institutions can no longer execute their tasks adequately. In the case of the judiciary, since judgment is necessary for the judges and jury to evaluate concrete situations, trust (Zutrauen) about their rectitude is the foundation of the judicial system (Right, par. 228). 14 The modern concept of civil rights, especially in countries with a common law judiciary, presupposes that citizens have a shared belief in the institutional arrangements for adjudication. 15
The principle of trust has its parallel in the state, namely, political sentiment, or patriotism, which Hegel defines as "the consciousness that my interest, both substantive and particular, is contained and preserved in another's (i.e., in the state's) interest and end, i.e., in the other's relation to me as an individual" (Right, par. 268). One might conclude that Hegel is proposing authoritarianism here in linking individual ends with those of the state. However, if this theory of political sentiment is compared with his idea about trust as the underpinning of the judiciary, it is clear that political sentiment is also a form of shared belief that is essential for a political institution performing practical deliberation. Bureaucracy, like the judicial system, would collapse if the element of trust were not presented as its constituent basis. Hegel's concepts of trust and political sentiment can be best understood as the Weberian notion of legitimacy—the indispensable belief that the claims of authority have normative validity (Weber 1978, 213, 915).

An important issue arises here: How can this belief be justified or grounded theoretically? The techne model of bureaucracy has the seeming advantage of explaining the legitimacy of bureaucratic domination simply by technical expertise. But Weber's concept of legality is a circular argument, as Habermas has shown (1984-89, vol. 1, 265). In the interpretation proposed here, practical wisdom constitutes the crucial qualification for bureaucrats to rule. This idea is neither an elitist idea of governing nor self-consecration by the bureaucrats, as Marx insists it is (1975, 115). The ground of bureaucrats' capacity for practical judgement lies rather in the specific form of institutionalization of the modern state and the effects this form has on the officeholders. Contrary to Habermas' contention (1984-89, vol. 2, 306), the separation of public offices from their incumbents makes the cognitive orientation toward others more feasible than in any other political institutions because political resources are no longer viewed as a ruler's private property or privileges. Although every rational human being is endowed with the capacity to make moral judgment, self-interest is also a contrary compulsion with binding force. While modern economic society materialize the idea of self-interest, the modern state institutionalizes the impersonal aspect of sociopolitical relations.16 In the modern bureaucratic organization, the officeholders must deliberate state affairs not from the egoistic perspective (prudential judgment) but from the universal-normative perspective (moral judgment). (See Manzer 1984, 579-80.) This distinction between the moral judgment of state officials and the prudential judgment of the members in civil society corresponds to the Hegelian distinction between universality and particularity and constitutes the ground of the legitimacy of modern bureaucratic rule.17 In his theoretical sense, modern bureaucracy and judiciary could be viewed as institutionalized phronesis.

SOME ISSUES IN HEGEL'S POLITICAL THOUGHT

The interpretation of bureaucratic activity as phronesis can solve some difficulties in Hegel's peculiar theory concerning the division of constitutional powers. He opposes the concept of checks and balances (Right, par. 272, rem.) and proposes a constitutional division of powers into monarch, executive, and legislature. One point is noticeable: Hegel makes the judiciary part of the executive. In the interpretation advanced here, this attribution does not signify that he rejects liberalism or constitutionalism. The reason is rather that since Hegel views the two jurisdictions as endowed with the same principle, he merges them in his theory of the state.

Judges and state officials are engaged in the similar mode of activity, but they work within different domains. The universal for the judges consists of private (civil and criminal) laws, the particular of individual interactions in civil society. Judges maintain rectitude by implementing civil and criminal laws. By contrast, the universal for state officials is public laws, the particular the external effects of private pursuits in civil society: “The maintenance of the state's universal interest and of legal norms in this sphere of particular rights, and the work of bringing these rights back to the universal, have to be superintended by holders of the executive power.” (Right, par. 289; emphasis original; trans. based on Knox's) Although the distinction between public and private laws is more notable in the continental legal tradition than in the common law tradition, the jurisdictions of state officials delineated by Hegel still have relevance for contemporary liberal regimes. Governmental intervention is needed for pursuing undertakings of common good (par. 235), adjusting the competing interests of producers and consumers (par. 236), and supervising education crucial for training individuals to earn an independent living (pars. 237, 239).18 Hegel's theory of the state is close to modern welfare economics, because the functions mentioned concern matters that economists (Lindblom 1977, 78-85; North 1981, 20–44) designate as needing governmental intervention: either as externalities (contending interests of producers and consumers) or as public goods (undertakings of common good and education).

These roles indicate that for Hegel, bureaucracy is not a teleological organization with an externally imposed end to implement. Since bureaucrats perform their function under a framework of legal norms, bureaucratic organization is regulative (i.e., it concretizes legal norms), rather than teleological in the strong sense of being related to certain substantive goals.19 Hegel's outline of the role of bureaucracy in the modern state should mitigate much liberal suspicion about it.20

The task of bureaucracy, then, is to preserve the legal norms of the state. Heretofore, the political communities had been maintained by tradition, cus-
tomes, and tacit shared understanding. With the growth of modern civil society, the private sphere, and the secularization process, these traditional mechanisms become less effective. Consequently, Hegel designs an institutionalized agent that can conserve the integrity of the political community. Only through the continuous subsuming activities of bureaucracy could the constitutional state sustain itself in the face of the disruptive forces of civil society. State officials constitute a “universal class,” not because they are endowed with some metaphysical knowledge of universal character like Plato’s philosopher-king or Marx’s proletariat but because they actualize universal constitutional norms.

Hegel’s theory of bureaucratic activity, formulated by the categories of practical philosophy, is based on his evaluation of modern civil society. The quintessence of his theory is that bureaucracy is a new means of sustaining the constitution. Put in a philosophic way, bureaucracy embodies the principle of individualization of abstract legal norms in the modern constitutional state. Hegel’s theory is not an anarchonism, as Ilting suggests (in Pelczynski ed. 1971, 99), but a well-founded effort to overcome the destructive potential of modern subjective freedom vividly portrayed in his _Phenomenology of Spirit_. Hegel’s effort is more realistic and prudent than other diagnoses of the predicaments of modernity, especially the aporia of the critique-of-instrument-reason thesis.

Hegel’s liberal theory of bureaucracy overcomes the traditional dichotomy of politics and administration. Its ideal, _Rechtsstaat_ (the state based on laws) is a constitutionalist concept of politics—supremacy of the principle of the rule of law. But unlike neokantian liberals, Hegel endowed liberalism with a historicist, or contextual, dimension. Based on the idea of freedom realized through history, liberal constitutionalism is a politics of immanent reform of current practices (Smith 1989c). Norms and circumstances are in an unending process of mutual adjustment because present practices are continuously modified within the framework of norms. It is politics of mediation between civil society and the state (which are relatively autonomous toward each other) through the practical judgement of state officials’ handling situations in which norms are challenged or in need of new interpretations. Hegel’s idea of politics bears resemblance to the civil association described by Oakeshott: “The idea of _civitas_, not itself an enterprise, . . . [is] an association of _civis_; a relation of equals, and a self-sufficient condition in being relationship in terms of the conditions of a practice which are not used up in being used and not in terms of a substantive purpose or purposes to be pursued” (1975, 183). Bureaucracy in the sense specified by Hegel is compatible with the basic principle of constitutional liberalism. The task of modern bureaucracy—to realize the political norms in concrete situations and to subsume the latter under the universal norms—is a type of “ruling,” not mere management. Moreover, for Hegel, bureaucracy is indispensable for the modern constitutional state. This difference between Hegel and orthodox constitutionalists like Oakeshott results from their different evaluations of modern civil society. For the latter, civil society with the rule of law is enough to form _societas_. For Hegel, in the modern constitutional state, an institutionalized agent is needed to ascertain the normative validity of constitutional norms in view of the disruptive potential of civil society. Only from this perspective can one explain why Hegel embraces modern bureaucracy, given his liberal position concerning individual rights and the rule of law.

**CONCLUSION**

Bureaucracy has become an indispensable governing organization in the modern state. For most liberals and constitutionalists, it may be irresistible but suspect. Hegel’s theory can contribute to a liberal reinterpretation of modern bureaucracy. His ideas can be summarized into three theses. First, the rationale of bureaucracy is the division between modern economic society and the constitutional state. Second, bureaucracy is an impersonal organization in which the separation between office and its incumbent is essential. Third, the mode of bureaucratic activities is mediation between constitutional norms and concrete situations, subsuming the particular into the universal and concretizing universal norms. These three are necessary conditions of modern bureaucracy.

In organizational characterizations, Hegel’s model is close to Weber’s ideal type of bureaucracy but lacks Weber’s antiliberal preference for plebiscitary democracy. Hegel’s interpretation of bureaucratic activity as _phronesis_ provides an alternative set of normative theses to the Weberian approach.

Hegel’s theory of bureaucracy is compatible with the liberal and constitutionalist concept of politics. In the twentieth century, bureaucracy and the scope of civil liberties have simultaneously expanded in the liberal states. This historical development illustrates that bureaucracy and liberalism do not contradict each other in essence. By contrast, the recent breakdown of socialist regimes shows that without an autonomous civil society, there is no _modern_ bureaucracy, but only traditional bureaucratic empire or despotism. In both respects, Hegel’s conceptualization is more appropriate than Tocqueville’s or Marx’s.

But Hegel is first and foremost a philosopher. His Aristotelian reconciliation between constitutionalism and bureaucracy shows that the classical political philosophy can be synthesized with the liberal rights-based problematic to gain fruitful results.

**Notes**

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1. This work will be cited as Right, with paragraph numbers. Rem. refers to Hegel’s remarks; add. refers to the additions edited by Edward Gans. Hegel’s emphases, omitted by Knox, are restored.

2. I thank Rogan Kersh for drawing my attention to Jackson’s article.

3. It is symptomatic that no articles in Pelczynski 1971, 1984; Stepelevich and Lamb 1983; Verene 1980—all anthologies on Hegel’s political philosophy—deal with his theory of bureaucracy. Bernard Cullen states explicitly that Hegel’s theory of the rational state is an “unsuccessful attempt” (1979, 115).

4. The ethical dimension is viewed by Jackson as the most original aspect of Hegel’s theory of bureaucracy (1986, 150-53).

5. This methodological distinction plays a prominent role in Weber’s interpretation of the rise of capitalism. The inner-worldly asceticism of Calvinism has an elective affinity with the capitalistic spirit of rational calculation. However, once capitalism becomes a social reality, its origin is no longer relevant to its operation.

6. Marx notices the importance of this category but insists that “Hegel does not inquire whether this mode of subsumption is adequate or rational” (1975, 109). This verdict is incorrect, as will be shown.

7. To be exact, the term subsumption occurs four times in the Philosophy of Right (pars. 225, 228, 283, 287).

8. Knox obscure the original meaning by rendering Erkenntnis as “ascertainment.”


10. There is nevertheless an important difference between Aristotle and Hegel. For Aristotle, the moral capacity of the spoudaios is derived from embracing the cosmic or divine order (Vogel 1989). The spoudaios is therefore above the laws. Aristotle’s view represents the typical Greek attitude, which regards the rule of the wise person the best form of governing. For Hegel, the prudence of modern bureaucrats originates from the specific institutionalization of the modern state (separation between offices and incumbents). Due to this difference between Aristotle and Hegel, it is more to my purpose to use Gadamer’s “historicized Aristotelianism.” It should be noticed that Gadamer’s view is not without textual evidence in the Aristotelian corpus; and it is closer to Aristotle’s idea of justice (Ethics 1134a).

11. That many executive decisions are endowed with judicial nature has been noticed by scholars of constitutional law (Friedrich 1968, 115).

12. Manzer (1984) undertakes to incorporate the Aristotelian practical judgment into the theoretical framework of policy analysis. He demonstrates that two dominant models in public policy literature—elite-planning and pluralist-exchange models—are insufficient for analyzing bureaucratic behavior. The category of practical reasoning can extend the sequential dimension and typological sophistication of the current research. Manzer highlights the judicial policymaking and commission policymaking (concerning education and welfare) as especially embodying the moral dimension of practical reasoning.

13. As Hegel (Logic, par. 166) points out, the etymology of the German word Urteil (judgment) means “original partition or distinction.”

14. Zutrauen is rendered “confidence” in this paragraph but ‘trust’ in par. 268. Knox thus misses the parallel drawn by Hegel.

15. Avineri has pointed out that many Hegelian concepts are developed from English practice (1972, 192).

16. Hegel’s theory of the separation between civil society and the state is strongly opposed by Marx (1975, 221, 228-34). For Marx, the universality of the modern constitutional state is merely a guise for veiling exploitation. He proposes that abolishing the differentiation between society and the state is the main task for human emancipation. The historical experience of socialism shows that the separated civil society and constitutional state functions better than the unified totalitarian state, whether considered in terms of efficiency or equity. The theoretical grounds for the plurality of human associations have been tackled by Aristotle (Politics 1261a, 1263b [1984]) in his criticisms of the Platonic idea of a unified polis.

17. A related issue—how the belief in legitimacy is generated—is an empirical one and may vary according to specific circumstances of every state.

18. These are jurisdictions of the “police,” through which the executive power functions in the civil society.

19. The term regulative is borrowed from Rawls (1971, 528). It means that the “larger plan” of the community should realize individual plans but that the only legitimate larger plan is justice, rather than any dominant end. The rule of law plays this regulative role in Hegel’s system. Bureaucrats cannot transgress this limit. Cf. Weber 1978, 51.

20. Teleology is the underlying reason for liberals and libertarians to suspect bureaucracy. See Hayek for the distinction between “nomocratic” and “telocratic” orders (1967, 163).

21. The aporia consists in this thesis’ total rejection of both modernity and the romanticist reaction. The only direction left is utopian anticipation (Benhabib 1986, 163-82).

22. They may contribute to the task proposed by Luhmann, namely, to transcend Weber’s premises so as to get a critical standpoint for examining the Weberian paradigm (1982, 21).

References


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