

Philosophy of Right without Foundations in Richard Dien Winfield's Critical Hegelianism

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This article aims to explore and lay out crucial aspects of the interpretation of the Hegelian philosophy offered by the American thinker Richard Dien Winfield. Winfield works out an innovative line of interpretation that decisively ties Hegel to a non-foundational type of philosophical epistemology with significant consequences concerning the concept of objectivity in both theoretical and practical philosophical investigation. The article attempts to reconstruct this line of interpretation and assess its argumentative force, in view of an array of epistemological problems regarding theory construction in political philosophy. On this account, the principal question is whether the special brand of epistemological non-foundationalism ascribed by Winfield to Hegel is actually in a favorable position to successfully tackle with these problems.

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Introductory notes

To defend the Hegelian philosophical position is, in Richard Dien Winfield's view¹, equivalent to endorsing a thoroughly anti-foundational attitude with respect to the theoretical justification of the principal philosophical concepts: the true, the right and the beautiful. According to Winfield, there are two major varieties of foundationalism, which may be loosely labeled as a constructive and a deconstructive one. Their common element consists in the fundamental metatheoretical hypothesis that the certification of normative validity in regard to claims about truth, right and beauty is necessarily and inescapably rooted in a legitimating

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¹ Richard Dien Winfield (born April 7, 1950) is an American philosopher and Distinguished Research Professor of Philosophy at the University of Georgia. He has been president of the Society for Systematic Philosophy, the Hegel Society of America, and the Metaphysical Society of America.

foundation, either taken to be immediately given, or reflectively represented as the privileged ground for a mediated sort of verification. Their opposition, on the other hand, rests on the fact that the first variety accepts the truth and objectivity claims of the foundationally conceived act of conferring legitimacy to a normative content, whereas the second, without in principle denying the ineluctable universal monopoly of the foundational predicament of justification as such, rejects such claims as arbitrary.

Winfield takes up the negative task of an immanent critique of foundationalism in both of its varieties, in an effort to show that the confident normative assertions of the constructive one are in fact dogmatic and arbitrary, while their refutation by the deconstructive variety is, in its turn, inconsistent. The possible success of this task might bring about the positive result of superseding relativism and nihilism in our philosophical theorizing of truth, right and beauty, without falling into the problematic epistemic status of justifying these concepts relying on unjustified assertoric propositions. That would be tantamount to the launching of another sort of justificatory strategy, which could escape the aforementioned dual fate of foundationalism.

Here is where Hegel gets involved in our discussion, since, as Winfield contends, the German philosopher is probably the only figure in the history of philosophical ideas, who having profoundly acknowledged and understood the problems of foundational justification, offers the only viable alternative approach concerning the validation of our normative philosophical ideas: a justification not through the heteronomy of immediately given or reflectively approved foundations, but through the autonomy of genuine self-determination. It is only the latter that, according to Winfield, provides for the unconditioned, universal and objective validity of philosophical justification as such.

The drawing of such a conclusion presupposes a quite idiosyncratic, but certainly innovative, rereading of Hegel's entire philosophical project, as well as a reassessment of its theoretical implications and deep aspirations. Winfield painstakingly undertakes this task by carrying out in his extensive work a largely systematic deciphering of Hegel's *Phenomenology of Spirit*, *Science of Logic* and *Philosophy of Spirit*. His strongly-held conviction is that the Hegelian thought, on due reflection, contains the appropriate, yet highly neglected, morphological and substantive keys for settling once and for all the issue of philosophical justification in a scientifically secure manner.

In the light of the utterly brief preceding account, this essay is occupied with a fairly thorough but in no way exhaustive reconstruction of Winfield's project concerning the articulation and resolution of the fatal, as he calls it, impasse of the foundational type of philosophical justification, with the emphasis being placed on making manifest the crucial points of his interpretation of Hegel, which, in his opinion, manage to testify to an alternative, much more promising route for our philosophical inquiries. Initially, I will try to delineate the systematic structure of Winfield's argument against the foundationalist type of philosophical certification. Second, I will focus on his reading of Hegel as the putative philosophical antidote. Third, I will proceed to an evaluative presentation of the implementation of his general thesis in the field of practical philosophy, which Winfield, after Hegel, construes as a philosophy of right.

The critique of philosophical foundationalism

The signature feature of foundationalism is the conception that the validation of true knowledge, right conduct and beautiful aesthetic experience is necessarily rooted in a prior foundation, which operates as a privileged justificatory ground and principle. Following

Hegel's theory of logical determination, more specifically the division of objective logic into the Logic of Being, where determinacy is considered to be immediately given, and the Logic of Essence, where determinacy is taken to reflect the mediation of a determining factor, Winfield distinguishes two kinds of constructive foundational justification: one that appeals to some privileged given determination and one that invokes a privileged given determiner.

The first one, prevalent in ancient ontology and traditional metaphysics, asks in a direct fashion what is true, right and beautiful in itself, convinced that the true answer is immediately available to our intellectual capacity and straightforwardly apprehensible by passive intuition. The second one, tied to the modern epistemological and linguistic turn, stems from disbelief in the immediate connection of rational cognition with the true nature of the content in question and instead of directly addressing given objectivity, in its pursuit of validating reasons, it reflectively resorts to the subject for the critical evaluation of its capacity to know objectively. Given this mediation of the allegedly immediately apprehended content by the formal conditions of its intellectual positing as such a content, the question now turns out to be: what is the antecedently prescribed structure to which our claims about true, right and beautiful must conform to be valid?

This being the case, the two foundational perspectives follow obviously opposed strategies in justifying normative contents. However, in Winfield's view, they are plagued by a common defect, which is none other than uncritical dogmatism. That is, they both make uncritical and unjustified immediate reference to some validity-conferring contents, even though the reflective, mediated justificatory strategy pretends not doing so. In fact, both the intuitionally received metaphysical nature of objectivity and the formal structure of its mediated determination are equally infected by unaccountable givenness.

Whenever confronting the question what is the true nature of theory, practice and aesthetic value, by looking for support in privileged, directly apprehended first principles, so as to ensure the validity of the respective answer, one cannot help encountering the skeptical objection that 'every candidate for first principle [...] is equally unjustifiable due to its own privileged status.'² The objection holds, in other words, that any particular first principle of justification is arbitrarily deemed to be such one.³ In this respect, how can the seeker of foundational explanation that is committed to metaphysical objectivism reply in a reasonable way to this objection? If that reply consisted in the introduction of a further principle recruited to underpin the assumed self-evident immediacy of the first, the latter would inconsistently lose its justificatory priority, being reduced to a conditioned, secondary derivation. Moreover, the additionally introduced principle faces exactly the same objection regarding its privileged status. Thus, the intended solution to the problem of immediate intuitive reference to a self-evidently valid content yields the dead-end of regressus ad infinitum.

As Winfield points out, the advocate of immediately given validating reasons of justification has at his/her service an alternative tactic to meet the objection raised, by suggesting that the proposed first principle 'might still be justified by showing that everything else does follow from it, rather than from any other term'.⁴ However, this solution is equally fruitless, insofar as

² Richard Dien Winfield, *Reason and Justice*, State University of New York Press, 1988, p. 5. From now on RaJ.

³ The charge of arbitrariness lies on the fact that the ultimate grounding principle is unavoidably conditioned by our knowing capacities, where it reflectively appears to be whatever it is; hence, its being holds true just for us and not necessarily in its own right. Hegel points out this in the Schein section of his Science of Logic.

⁴ RaJ, p. 5

it is inevitably tainted by vicious circularity. For how could one know that one has exhausted the totality of 'everything else' and how one could be certain about the validity of the deductive procedure employed, unless based on the presupposed first principle? The introduction of another, more primary justificatory principle, would be again of no avail, because it would just reproduce the above-noted regressus ad infinitum.

The acknowledgment of these difficulties puts in doubt any philosophical project that takes its object to be immediately true in itself, by pretending to possess a cognitive capacity, which allows for direct reference to some irreducible source of validation. A suspicion is, on the contrary, generated that '[...] whenever validity is based in some given, the latter has its privileged status not due to its nature, but by being determined as such by whomever has granted it its foundational role.'⁵ This might be interpreted as a forceful argument in favor of skepticism or nihilism, unless it implicitly pointed to another approach to validating philosophical claims, which in fact converges with the second variety of foundational type of justification: the approach that roots justification not in a privileged immediately given content, but in a privileged and warranted formal determiner of that content.

Winfield subsumes this alternative strategy of foundational justification under the general banner of representational knowing, pointing to Hegel's *Logic of Essence*⁶ for its most systematic critical demonstration. In the history of philosophy, it marks the transition from ontology and metaphysics to epistemology and transcendental philosophy.

Besides of frequently treating interchangeably these terms, i.e., epistemology and transcendental philosophy, Winfield places under the category of transcendental philosophy not only the most expected figures of Kant or Fichte, but also philosophers like Husserl, Heidegger, Habermas, Wittgenstein and a lot more. The rationale for this arbitrary at first glance generalization is fairly simple: beyond their numerous and significant differences all these thinkers ultimately subscribe to the model of foundational justification that invokes privileged determiners of validation. Hence, not only Kant's transcendental conditions for the constitution of knowledgeable objectivity, but also, for instance, Husserl's intentionality, Heidegger's appeal to *Dasein*'s chiefly practical orientation in the world, Habermas's ideal situation of uncoerced public debate, traditional liberal procedural theories of social contract, Rawls's original position for co-determining principles of justice for the basic structure of society, or Wittgenstein's language games, etc., are all obeying the same methodological norm: they favor a privileged determiner for a mediated validation of normative contents concerning truth, right and beauty.

Whereas the first foundational justificatory strategy presupposed the immediately given correspondence of our cognition with objective reasons of validation – the abstract identity of certainty and truth in Hegel's parlance –, the transcendental one presupposes their difference. Here the cardinal assumption, paradigmatically articulated and elaborated by Kant's critical philosophy, is that instead of addressing objectivity directly one has to 'conceive it indirectly as something constituted by some condition making possible knowledge, reference, or meaningful speech.'⁷ Owing to this reflective strategy that refrains from straightforwardly affirming given criteria of justification, the search for the objective nature of truth, right and beauty could be supposedly capable of overcoming the trap of dogmatism.

⁵ RaJ, p. 5

⁶ Winfield's systematic interpretation of Hegel's *Logic* in general and the *Logic of Essence* in particular is mostly included in his *Hegel's Science of Logic: a Critical Rethinking in Thirty Lectures*, Rowman & Littlefield Publishers, 2012.

⁷ RaJ, p. 6

The futility of seeking to establish objective validating claims by appeal to privileged determiners is summed up in Winfield's assertion that 'the exclusive authority of the chosen privileged determiner cannot be justified in conformity with its own principle of legitimation'.⁸ To illustrate this, the Kantian transcendental structure conditioning objects of possible experience and the celebrated by traditional liberalism contractual procedures of political construction count, despite their qualitative differences, as sufficient examples, by dint of their structural isomorphism.

In particular, the Kantian approach, by critically presupposing the difference between the a priori constitutive conditions and the object determined by them, leaves the transcendental conditions of objective constitutive certification not living up to the same standards of justification that they certify for the object determined by them. In other words, the content of the transcendental structure is not itself transcendently constituted, so as to consistently comply with the same norm of epistemic objectivity that it mandates for the intentional object of its determining reference.⁹ In the same vein, a validating procedure of establishing a just political society by contractual consent cannot be validated in a symmetrical way with the normative contents it purports to justify in its operation as a privileged grounding factor of objective determination. Self-consistency here demands that the privileged procedure of political construction should comply with the same criterion of legitimation it prescribes for the object of normative regulation. However, it would be hopelessly cyclical to consider the validity of a formal procedure of legitimation as rooted in the same procedure that it approves as objectively valid. By the same token, the appeal to another principle of justification would simply renew the pitfall of infinite regress.

Therefore, the lesson is for Winfield crystal clear: the conditions of mediate constitution of valid objectivity are as much immediately given and uncritically accepted as the presumably valid normative contents of the direct reference to justificatory reasons. Insofar as the determining condition determines a content that is held to be other than itself, the condition in question does not determine itself, that is, its own content. As a result, it possesses a given content that is uncritically taken for granted in an analogous way with the foundational strategy of justification, which metaphysically appeals to given determinations.¹⁰

For all these reasons, the metaphysical and the transcendental strategies of philosophical justification seem to collapse. This could be a merely negative outcome if one just subscribed to a deconstructive train of thought, which, nevertheless, would never mean to abandon the overall foundational perspective. In fact, the post-modern thesis is reasonable in its reaction against metaphysical and transcendental arguments but hopelessly imprisoned within the limits of foundationalism, so long as, on the one side, it repudiates the validity of any privileged given contents or privileged determiners of these contents, while being, on the other side, unable to challenge the universal monopoly of foundational grounding. In that respect, the proponents of post-modernism deny that any instance of philosophical justification could be anything more than an arbitrary assumption, marked by indelible interpretive particularity and moved by will to power.

The stumbling block of their thesis, according to Winfield, is not only that they see all the possibilities of philosophical justification as exhausted in the foundational validating procedures, but also that it is incoherent in its own right. As a matter of fact, preaching the

⁸ RaJ, p. 11

⁹ See Richard Dien Winfield, *Autonomy and Normativity*, Routledge, 2018, pp. 7-11

¹⁰ For Winfield it is thus no accident that Kant arrives at the identification of the content of the intellectual categories through a metaphysical deduction.

unavoidable particularity of any claims about truth, right and beauty is, inconsistently, a practice that instead of making do with being represented as a particular, opined interpretation, pretends, on the contrary, to make a universally acceptable statement about the nature of philosophical reasoning.

Notwithstanding, is there any substantial evidence that the critique of foundational explanation could possibly lead to a positive consequence? Differently put, is there any alternative methodological strategy of philosophical justification, which could possibly rely neither on the model of given determinacy nor on the model of determined determinacy?

Legitimation by self-determination

Winfield's response to the previous question may be taken for a bold statement in defense of the everlasting prominence of the Hegelian philosophy. In fact, Hegel, in his view, figures as the only thinker to propose a method of justifying philosophical claims that manages to override and mend the defects of foundationalism by rooting objective validity neither in some privileged given determination, nor in determination by a privileged separate determiner, but solely in self-determination. In terms of Hegel's theory of pure determination (*Science of Logic*), whereas the foundational, defective strategies of legitimating truth-claims can be exemplarily modeled after and immanently criticized by the Logic of Being and the Logic of Essence, justification deriving from self-determination is built into the Logic of Concept.

The realm of the Logic of Concept, where determination operates in a self-determining fashion, is opened up via the intrinsic sublation (*Aufhebung*) of the difference between the determining term and the determined term, which stays predominant throughout the entire determinative process of the Logic of Essence, formulating the two-tiered character of the reflective determinacy, within whose framework the being of a determination is just the inner reflection of the term that posits it, maintaining, at the same time, an immediate independency from the latter.¹¹ The model of determined determination (Logic of Essence), which emerges through the self-negation of the determinative model of immediately given determination (Logic of Being), does, in its turn, collapse under the burden of its own structural processes, giving full ground on the determinative model of self-determined determination (Logic of Concept).

The self-determined nature of determination is disclosed when, at the end of the Logic of Essence, the constitutive difference between the determining and the determined term, which ruled over the dialectical process hitherto, proves to be a mere appearance. To give a more specified account of this development, it suffices to point to the last two-tiered determination, that of cause and effect, and observe the structural features pertaining to the relation between these terms.

As a matter of fact, the cause becomes actually a cause insofar as it brings about an effect. Hence, the effect, besides being just a derivative term, figures as what actually makes the cause to be what it is and, for that reason, the effect can be defined as the cause of its cause and, conversely, the cause as the effect of its effect. The significant consequence of this reciprocal inversion of determination is the sublation of the defining difference between the two terms and the manifestation of its contradictoriness. If the cause is not determining an alleged other in the effect but its own self and, accordingly, if the effect, in its determination by the cause,

¹¹ The model of determination featuring in Hegel's Logic of Essence is well described by Stephen Houlgate in his essay: *Why Hegel's Concept is not the Essence of Things*, in Hegel's Theory of the Subject, ed. David Gray Carlson, Palgrave Macmillan 2005, pp. 19-29.

is not determined by something other, but by its own self, then the heteronomous model of determined determinacy is dialectically superseded, bringing forth the autonomy of self-determined determinacy.¹²

The determinative model of self-determined determinacy is considered by Winfield to comprise the only legitimate prospect for philosophical justification, for the reason that it cancels the uncritical dogmatism endemic both in the metaphysical and the transcendental argument. Indeed, the self-determined determination is not given in advance in passive intuition as a quasi-ontological matter of fact that arbitrarily demands privileged status. Moreover, it brings about the equalization of the transcendental conditions of objective reference with the content conditioned by them, removing the uncritical presupposition of their objective validity, because in virtue of self-determination the conditions of objectivity are not subjectively stipulated but objectively demonstrated by just being identified with the process of the self-constitution of the object.

This being so, Winfield can decisively ascribe to the self-grounding theorizing associated with self-determining determination the ultimate merits of a critically attested approach to valid philosophical justification: presuppositionlessness, objective validity and unconditioned universality. Regarding the first one, it is evident 'that self-determination not just enjoys, but is identical to presuppositionlessness [...] to the extent that what is neither given or determined, but self-determined, rests on nothing antecedent to itself'.¹³ Accordingly, objectivity is to obtain if neither the features of the content nor the formal structures that determine it are rooted in antecedent, ultimately unfounded stipulations. That would condemn our philosophical claims to some at most hypothetical status of cognitive necessity. Instead, they are to be jointly deduced through a single process of self-constitution, whose structural form and objective content are inherently and undividedly conjoined. Further, self-determination is universal, since it is not leaning on any particular, immediately confirmed substantial or formal justificatory reason. Finally, the universality of self-determined determinacy is unconditioned, that is, concrete universality, because it does not depend on given particularities, by just being their abstractly common feature. By contrast, it contains 'its particularization within its unity' as 'nothing but its complete and exclusive instantiation'.¹⁴

Aiming at a more detailed exposition and clarification of Winfield's antifoundational argument regarding philosophical justification, I will now give a more circumstantial report on his reading of Hegel, since the Hegelian philosophy epitomizes for him the only sustainable scientific alternative between dogmatic foundationalism and relativistic skepticism, or nihilism. My starting point will be Winfield's account of the *Phenomenology of Spirit*,¹⁵ given his conviction that this ground-breaking piece of philosophical thought is first and foremost designed to systematically counter the foundational type of philosophical justification, paving the way for a philosophy without foundations, which for the very first time is introduced in the *Science of Logic* and the rest part of the Hegelian system.

¹² Hegel notoriously closes his *Logic of Essence* stating that: 'This is the Concept, the kingdom of subjectivity or freedom'. See: G.W.F. Hegel, *Werke* 6, *Wissenschaft der Logik* 2, Shurkamp Verlag Frankfurt am Main 1969, p. 240.

¹³ RaJ, p. 123.

¹⁴ RaJ, p. 125.

¹⁵ Winfield's main work on *Phenomenology* is: *Hegel's Phenomenology of Spirit: a Critical Rethinking in 13 Lectures*, Rowman & Littlefield Publishers 2013. From now on HPoS.

To begin with, Winfield considers the main motivating power of *Phenomenology* to be the critique of 'foundational epistemology,'¹⁶ with the latter representing a reactive move against ontology and metaphysics as first philosophy, by casting doubt on its fundamental assumption that one can know immediately what is true and valid in its own right, based on given determinate legitimating principles. In virtue of its defining assumption that one must first investigate the objective validity of knowing before asking what is the true nature of being, foundational epistemology marks the modern philosophical shift from immediately given to mediately determined determination. One of its main presuppositions, consistent with its resolution to put under scrutiny knowledge before attempting to know what objectively is, is that knowledge and its object are different from one another and independently determined. The difference and independent determination of knowing and its object reflects the constitutive structure of what Hegel names the 'opposition of consciousness', whose supersession is now taken to be a via determinate negation¹⁷ supersession of foundational epistemology.

To contest the residing in the opposition of consciousness foundational epistemology without being trapped in the dogmatism of either prejudging its truth or falsity, or directly making absolute claims about the nature of philosophical cognition as such, one just have to address foundational epistemology as a given phenomenon, merely looking on the way it immanently proceeds on its own terms, in its effort to legitimate itself; namely, to legitimate its constitutive and 'all too familiar' presumption that 'knowing always has presuppositions, that knowing always confronts some given that serves as its standard of truth, that knowing always has a foundation in the general sense of having some factor independent of itself that is the source of legitimation for its claims'.¹⁸ On this account, the phenomenological investigation, being careful not to externally stipulate its own subjective criteria, does not examine foundational cognition directly, but allows it to examine itself and call into question the model of knowledge it endorses through its own immanent self-critique.

What is at issue at this point is the self-evaluation of foundational knowledge's conception of truth, i.e., the assumption that subjective knowledge claims can only be vindicated by virtue of their conformity to an objectively given normative standard, serving as their ground. If the subjective knowledge claims represent what Hegel calls 'certainty' and the objectively given normative standard represents what he calls 'truth', then the evaluative self-examination of the foundational knowledge proceeds by comparing its knowledge claims with the objectively given standard of truth, or, for the sake of simplicity, the object.

However, the comparison in question involves a serious difficulty: once the formal certainty about truth pursues validation by checking its correspondence with the object, the latter is transformed by the subjective cognitive activity and takes on a different content than that presumed to possess in the first place. The object, in that respect, is no more taken as an immediately given standard, but as it is subjectively represented to be, insofar as its mediation by the independently determined form of knowledge cannot be overlooked or eliminated. Significantly, the transformation of the object does not leave the knowing addressed to it unaffected. By contrast, '[...] to the extent that what knowing confronts is altered, knowing's relation to it is also altered. This is unavoidable, because knowing's polar structure consists in relating to what it confronts.'¹⁹

¹⁶ HPoS, p. 1.

¹⁷ A thorough and useful account of the central Hegelian concept of determinate negation is given in: Terje Sparby, *Hegel's Conception of Determinate Negation*, Brill 2014.

¹⁸ HPoS, p. 5.

¹⁹ HPoS, p. 7.

The simultaneous alteration of knowledge claim and its allegedly validating object brings about, according to the Hegelian jargon, a new 'shape of consciousness' and, in virtue of its perpetual and inescapable reemergence in every instance of foundationally construed knowledge, even more shapes of consciousness, all of them pervaded by the constitutive difference between the certainty of truth and the object of its verification. The refutation of each shape of consciousness and the transition to a new one does not take place abruptly and arbitrarily, as if each new shape of consciousness possessed its content in separation to the preceding one. Rather, the transition from shape to shape occurs by necessity, in virtue of determinate negation, whereby each new shape of consciousness does not arise in vacuum, having completely nullified the preceding one, but is determined by what it negates, that is, encompasses the determination of the shape it negates as sublated within itself. Obviously, the necessary transition from shape to shape would have to keep on infinitely, so long as the fundamental difference between the subject that is making truth-claims and the object, which is expected to validate them, remains unshakeable. However, this is not so for Hegel.

On the contrary, this sketchily foreshadowed process is bound to attain closure and completion, which is possible to occur in no other way, rather than by the elimination of the difference between the independently given standard of validation and the knowledge seeking to conform to it, that is, the foundational model of justifying claims about truth, right and beauty. In fact, this is considered by Hegel to obtain in an entirely immanent way, whereby consciousness, following the path of its desperate self-examination, arrives at a configuration portrayed by Hegel as 'absolute knowing.'

The interpretation of this outcome, as well as the explication of its consequences for philosophical justification per se, may be probably judged as the crux of Winfield's exceptional reading and rethinking of Hegel's *Phenomenology*, as well as of its subsequent *Science of Logic*, as works destined to offer an alternative to foundationalism and establish a non-foundational approach to philosophical grounding. Indeed, since the difference between the knowing consciousness and its given standard of truth is identified as the deep structure of foundational explanation in general, its necessary removal must be indicative of the possibility that there might be a type of philosophical grounding that could be able to enjoy validity without taking anything for granted.

Of key importance at this connection is to stress the fact that absolute knowing, the final result of *Phenomenology's* self-consummating skepticism, should not be interpreted as most conventional readings tend to do, namely, as a privileged perspective for setting out a philosophical ontology, leaning on the presupposition of the unity of subject and object. Instead, Winfield believes that the end of *Phenomenology* signifies exactly the opposite result. The self-undermined and eventually sublated distinction between subject and object, i.e., the decomposition of consciousness's structural intentionality, far from comprising a determinate fundamentum for our philosophical endeavors, leaves us instead with nothing more than mere indeterminacy.

This is so, because if the determinate reference to an independently defined other is removed, determinate other-reference ends up becoming an utterly indeterminate self-reference. On the one hand, the collapse of determination, brought about through the self-destruction of the other-reference structure, does have the negative character of signifying the total dissolution of any appeal to given foundations of knowledge. On the other hand, the resulting self-reference could, affirmatively, be the starting point of a self-responsible philosophical project, whose possible determinate character would not be immediately

intuited, or stipulated by a distinct, immediately assessed determining ground, but would be entirely self-grounding.²⁰

This project is taken up by Hegel's *Science of Logic*, for the reason that logic is clearly a wholly self-referring and self-applying cognitive operation, since it consists in no other than thought thinking itself, instantiating, in other words, a type of knowing free from the distinction of itself and its object. And 'due to this identity of the thinking and the object of logical investigation, logic does not make use of a cognition that it does not put under scrutiny. To be a science of valid thinking, logic must be a valid thinking of valid thinking'²¹ and not a thinking whose validation rests on immediate, unjustified assumptions about its true nature, as is the case with both metaphysical dogmatism and foundational epistemology.

In this regard and in contrast with any non-logical science, which puts under investigation an object different from the thinking engaged in its investigation, logic is capable of making an absolute beginning; that is, a beginning that is completely unconditioned. Whereas the non-logical scientific disciplines are doubly conditioned, for they are constitutively presupposing specific things about both their subject matter and the knowledge addressing it, logic sets off with total indeterminacy, having no particular preconceptions about either the thinking it puts under scrutiny, or the thinking it employs for this task.

Against the philosophical foundationalism of privileged givens, which operates deductively from intuitively taken for granted contents, the *Science of Logic* does not possess any content from the outset, for it commences with the wholly empty category of Being, which reflects self-reference per se in its absolutely indeterminate immediacy. By the same token, contrary to the foundationalism of privileged determiners, which performs by favoring immediately accepted formal structures for validating contents constructed in a mediate manner, the *Science of Logic* is initially devoid of any determining form, since its starting point is, to repeat, totally indeterminate.

As a consequence, both the content and the method of *Logic* are not at hand from the beginning; hence, if they are to emerge, they will do so in an exclusively self-founding way. Instead of invoking any independently determined validating standards, the content of *Logic* is altogether self-validating, because it embodies nothing more than the substantiation of the presuppositionless self-explication of its form, while, conversely, its form is self-validating, because it does not represent an uncritically asserted condition of justification, but only the concrete unity of the self-constituting content.

This conjointly advancing self-exposition of form and content²² constitutes, in Winfield's view, the only possible way to emancipate philosophical grounding from uncritically accepted premises, thereby securing its consistency. As he notes:

'To be self-consistent, the foundation can have its validity determined only by itself. Otherwise, it will cede its place as the privileged factor that confers validity to some other foundation, whose own validity will then be suspect for the same reason. Yet if the foundation confers validity upon itself, the standard of validity ceases to be a foundation

²⁰ William Maker comes to a similar conclusion in his book: *Philosophy without Foundations: re-thinking Hegel*, SUNY Press 1994.

²¹ HPoS, p. 18.

²² In the beginning of his *Philosophy of Right* Hegel states that his philosophical approach on right is distinguished from all others by virtue of its speculative dialectical method, whose most distinct feature, concerning the exposition of the theory, is the unity of form and content. See G.W.F. Hegel, *Werke* 7, *Grundlinien der Philosophie des Rechts*, Shurkamp Verlag Frankfurt am Main 1970, pp. 11-12.

of something other than itself. By justifying its own justifying role, the self-grounding foundation eliminates the distinction between that which possesses validity in virtue of having it conferred upon itself by some other privileged factor, and that which confers normativity on other things. To be self-referentially consistent, the foundation has to found itself, but if it founds itself it ceases to be a foundation. Foundational justification has ended up rendering normativity equivalent to self-determination, for what is normative can only be so by determining itself to be valid, just as what figures as the source of normativity must be the basis and object of its own validity.²³

The self-determining nature of formally consistent and substantially valid philosophical justification is only implicitly alluded to at the outset of *Logic*, to be explicitly posited, as we have already seen, at the last part of the work, where the theory of the self-realizing concept and its gradual individuation into the concrete universality of the idea is exposed. The irreducible and unanalyzable indeterminacy defining the beginning of the logical science is minimally indicative of the unconditional and negatively autonomous character of philosophical normativity, without additionally pre-judging the latter as self-conditioned, which remains something to be definitely confirmed and fully comprehended in retrospect, from the standpoint of the completion of this science, whereby its overall idea becomes manifest in its ultimate concreteness.²⁴

This being the case, the defining features of a non-foundational philosophical science become fully accessible and may be listed as follows: first, philosophical science proper, whose most genuine and pure form finds its expression in *Logic*, has to proceed in a strictly immanent way, with any reference to some transcendent, externally justified factor, being definitely excluded. This immanent development, being totally groundless and exegetically independent from any given content, reflects, as Winfield aptly puts it, not the self-development and self-determination of something already determinate, but rather self-determination per se. For the process of determination to be entirely self-determined, generating its subject matter and ordering exclusively out of itself, the unity of scientific form and content should be indissoluble.

Second, for the immanent development to be an actual development and not a merely external juxtaposition and abrupt succession of terms, the process of determination must operate by way of determinate negation, which denotes that the terms engaged in a determinate relation of opposition and, subsequently, contradiction, are not to be vanished without a trace and submerged into nothingness. By contrast, the contradictories are only dialectically sublated, that is, stripped off their immediacy, relativised and retained as constituent moments of a third term, which embodies the, in virtue of their incorporation, determinate resolution of their contradiction.

²³ HPoS, p. 23.

²⁴ Due to its indeterminate starting point the Science of Logic has no fixed terminal point at hand from the outset and teleologically intended at the closure of the science. Stephen Houlgate notes: 'The aim of the presuppositionless philosopher is thus not set out to demonstrate that the thought of Being generates a more complex –dialectical or nondialectical view of the world; it is simply to consider the indeterminate thought of Being itself, to dwell with that category for its own sake, and to observe where, if anywhere, it takes us. In this sense, presuppositionless philosophy is radically *nonteleological*: it presupposes and aims at no particular result, pursues no projected goal, and follows no prescribed path'. Stephen Houlgate, *The Opening of Hegel's Logic*, Purdue University 2006, p. 51.

Third, the development must possess a proper circularity²⁵, in the sense that since it is about a groundless process of immanent self-constitution, whose form and content are inextricably linked, what exactly is that which is constituted arises in its full-blown determination only at the end of the process, comprising the latter's regressively attained ground.

Fourth, the self-determining logical procedure is analytic and synthetic at once. Analytic, not in the sense that it begins with a given determination and dismembers it in abstract relations, but rather in the sense that the sequent, more determinate terms, and even more the resultant totality, include analytically the more abstract and undeveloped ones as sublated, hence ideal and finite component parts of their identity. Synthetic, accordingly, in that every new determination, being the contrary and contradictory opposite of its predecessor, is not contained in the definition of the latter, but comes out as its radical otherness. If it was contained, as Winfield remarks, '[...] the order and content of the ensuing development would already be given in the first category, rendering the method and topic of logic matters that logical science must take for granted rather than establish.'²⁶ In that case, the investigation would swing back to the foundationalism it calls into question.

In short, Winfield reads the *Phenomenology* as a metaphilosophical work that is propelled by the acknowledgment of the dilemmas ingredient in foundational normative justification and the effort to indicate their immanent solution, through a kind of investigation that takes nothing for granted apart from foundationalism's own fundamental assumption that there is a given and separately determined standard of truth, grounding claims on truth, right and beauty. The conclusion of the phenomenological investigation brings to the fore the possibility of a kind of knowledge, which is able to overcome the dogmatic heteronomy of foundational types of philosophical validation.

This possibility is actualized in the *Science of Logic*, where the self-critical consistency of philosophy is restored, by virtue of a cognitive process, whose constitutive unity of form and content guarantees that no determination is affirmed in its bare givenness, either concerning the subject matter or the method of the investigation. After all, as Winfield recurrently mentions, philosophy cannot be the autonomous science it purports to be, if it uncritically accepts determinations, thereby condemning the major philosophical task of showing what determination is in the first place to incoherent circularity. By having undermined the omnipotence of other-referring, intentional determination and by making a beginning free of any particular assumptions regarding content or method, the philosophical science turns out to compose an entirely self-grounding universality, guided by a strictly immanent development, which provides for the objectivity of its determinations to the detriment of merely subjective stipulations that discredit the non-philosophical sciences and the not sufficiently self-critical varieties of philosophizing.

The theory of pure determination, that is, *Logic*, represents the systematic account of the, owing to its anti-foundational perspective, only viable option for upholding philosophical truth as such, serving, at the same time, as the cognitive normative standard for the philosophical sciences that are preoccupied with more concrete forms of determination, i.e., the science of nature, ethics and aesthetics. In the present context, I will restrict my account on Winfield's drawing on Hegel in his pursuit of an ethical philosophy residing on no foundations, which is considered, following Hegel's practical philosophy, to be a philosophy of right.

²⁵ See Tom Rockmore, *Hegel's Circular Epistemology*, Indiana University Press 1986, p. 87.

²⁶ Richard Dien Winfield, *Freedom and Modernity*, State University of New York Press 1991, p. 7. From now on FaM.

Philosophy of right without foundations

So far, it should have become clear that a foundations-free philosophy of right should not rely either on privileged determinate contents, or on privileged determiners of these contents. If it did, the problematic situation either of the immediate metaphysical reference to the nature of reality, or of the equally immediate reference to some condition that mediately determines it, would make a fatal comeback. Needless to say, on this account, that a philosophical construal of the relation of right, to the degree, that it purports to enjoy not only self-consistency, but, chiefly, unconditioned universality and objectivity, would be neither a teleological theory of the supreme good, nor a procedural theory of mediate construction of the terms of right conduct.

The teleological approach, classically articulated by Plato and Aristotle, cannot avoid making assumptions vulnerable to skeptical doubt about the primary principles of good life. These assumptions derive from unmediated intuition and are elaborated through formal deduction. The procedural approach, respectively, paradigmatically developed by traditional social contract theories, as well as Rawls, Kant, Habermas, etc, privileges some particular procedures of validation that, incoherently, are not themselves validated by the same validating standard that they approve of in regard to the contents to be justified. Even though they were, that instead of restoring consistency would inevitably result in circularity, in an obviously dubious question-begging.

Therefore, a philosophical treatment of right that is unburdened by any sort of legitimating foundations should be constitutively predicated on the theory of self-grounding determination, i.e., *Logic*. If the nature of true determination is conveyed by the latter to consist in a self-determining process of concretely realizing the correspondence of subject and object, that is, what Hegel calls 'idea', the philosophy of right must present the actual instantiation of self-determination in the region of empirical reality.

The self-determination in question is not, to be sure, that of thought inspecting itself, as is the case with logical investigation, which culminates in self-determination per se. On the contrary, the philosophical treatment of right revolves around a more specifically determined version of self-determination, which, on the one hand, could directly be traced back to pure logical self-determination, while, on the other hand, is necessarily dependent on certain presuppositions. Thus, whereas logical determination is fully presuppositionless, the one concerning right conduct is conditioned by pure logical determination, as well as by the reality of nature and the existence of rational beings interacting with each other. In this sense, as Winfield admits, whereas *Logic* is the theory of pure theoretical self-construction, the philosophical science of right is in large part reconstructive: 'Rational reconstruction functions as a viable tool of philosophical thought by taking given contents and recasting them as components of a conceptual development satisfying the systematic immanence in which validity consists.'²⁷ Hence, the basic question guiding the explorations of the science of right is: how could the world of practical interaction between rational beings be reformed into a world wherein self-determination is realized and, thus ideally unconditional truth is empirically situated?

Provided that the philosophical examination of right, if it is to enjoy unconditioned validity, should refer back to the crowning category of the logical theory, namely, the idea of self-determination per se, it must be a theory about the realization of the idea of freedom, both conceptually and pragmatically. This is, indeed, how Hegel construes the scientific treatment

²⁷ RaJ, p. 152.

of right, appealing to an immanently self-informing process of determination that at one blow generates the particular content of free will conceptually, that is, in respect to the universal concept of the latter, and pragmatically, namely, in respect to the particularities of the world under rational reconstruction. To be sure, these two levels of determination do not necessarily coincide, for the course of history may witness institutions of right being established in a different sequence than that determined by the concept of right.²⁸ Yet this incongruity should not obscure the fact that the exclusive validating factor in regard to the content of the just institutions is the self-determining concept of right. Winfield explains:

‘[...] the development of categories from indeterminacy makes manifest how presuppositionlessness, unconditioned universality and self-grounding are achieved by self-determined determinacy. In so doing, the theory of determinacy indicates that the demands of normativity perennially raised by philosophy’s call for theoretical self-responsibility are met by nothing other than self-determination. If this provides meaning to the autonomy of reason sought by philosophers since antiquity, it also suggests how the parallel demand of practical justification can be met only when conduct attains the same radically self-determined character. To the extent that justice consists in valid conduct, the theory of determinacy indicates through its own foundation-free validity that justice is equivalent to the reality of free action.’²⁹

In the light of this parallelism and given the fact that the logical idea of self-determination in its full conceptual concreteness embraces the whole system of determinacy as its constitutive moment, the idea of practically realized freedom, that is, the idea of right, ‘should be expected to comprise a self-ordered system of conduct that is a totality in its own right.’³⁰

Nevertheless, the structural order of the system of right does not follow from a mechanical implementation of the logical structure to the field of practical conduct, as if the latter were a transcendently given content, expecting its categorical articulation by a grounding condition. If so, the reemergence of foundationalism would be inescapable. Instead, the fact that the sphere of just conduct consists in the further dialectical development of the natural and the subjectively spiritual determination, which, in its turn, derives by way of an immanently performed self-alienation and self-externalization of the logical system in toto, does secure the definitely self-grounding and self-determining character of the determining process that engenders the content of the science of right. In that respect, the latter can be assured to share the self-responsible and autonomous character of the science of purely logical determination, so long as the sequence of the natural and the subjectively spiritual determination, which conditions the possibility of practical action in general, irrespective of its rightness or wrongness, is part and parcel of a systematic totality of determinacy, which both in its logical and in its real, i.e., natural and spiritual dimension, never loses its self-determining character.

Owing to the departure from the heteronomy of any metaphysically or transcendently construed ground of justification, ‘the one and only constituent of justice are self-ordered relations of freedom among individuals.’³¹ Winfield’s view that freedom can alone provide normative validity straightaway sets the stage for a conception of right that understands

²⁸ See G.W.F. Hegel, *Werke* 7, *Grundlinien der Philosophie des Rechts*, Shurkamp Verlag Frankfurt am Main 1970, p. 85.

²⁹ *RaJ*, p. 151.

³⁰ *RaJ*, p. 151.

³¹ *RaJ*, p. 159.

rights, duties and institutions of justice as conventions, which, due to their independence from the arbitrary particularity of any immediately intuited or reflectively prioritized foundation, exhibit the self-particularizing and self-concretizing universality endemic in self-determined determinacy.

In this sense, the system of right comprises the objective realization of freedom, through an immanently formulated process of determination, which starts with the most abstract conception of real, namely, not only logical, self-determination, progressively advancing to its even more concrete and inclusive conception. The vantage point is the most minimal determination pertaining to this juncture, i.e., the free-willing individual person that wills to conceptually specify and objectively realize its autonomy, while the terminal point coincides with the rise of the most determinately specified sphere of just conduct, where the concept of right is cognitively accessible in its entirety; that is, political right.

In his intention to protect the equalization of self-determination and objectively valid normative justification from a possible foundationalist interpretation, Winfield effortlessly reiterates that freedom appropriately understood is *not* a principle. To regard freedom as a principle reflects an essentialist conception of determinacy, totally incongruent with the concept of self-determination. Admittedly, to be a principle means, first, to be in general something determinate before performing self-determination; second, to be the determining factor of something other than oneself. In both cases, the concept of self-determination is seriously misunderstood, obscuring the concept of right, which signifies nothing other than the reality of freedom. As a result, the rights, duties and institutions of right cannot account for their legitimacy.

Winfield draws on classical liberalism and Kantian practical philosophy as emblematic cases of mistakenly taking freedom as a principle. Liberalism's conception of free will, being determinatively symmetrical with what Hegel labels formal or natural will, falls into the Hegelian critical argumentation against the alleged monopoly of the latter.³² By construing free will as the shared by all rational beings principal natural capacity of choosing among alternative contents, liberalism forfeits the true nature of self-determination and its justificatory exclusivity. In particular, the liberty honored by liberal thought is ill suited to serve as the proper definition of self-determination, for it does not realize the latter neither in regard to form nor to content. In fact, the form of willing, in this case, is reduced to a given natural capacity, while its content is equally given in an immediate fashion. By contrast, the actually self-determining will is fully self-responsible in regard to both its form and content. Indeed, Winfield observes that the whole ensemble of determinations comprising the system of right uncovers structures of willing that autonomously yield their form and content. For instance, in the case of abstract right in Hegel's ethical thought, to be an owner of property is not a given, but rather a fully self-determined form of willing, that wills nothing else than itself as its content.

Other things being equal, Kant's non-natural conception of practical reason fares no better, being unable to circumvent the difficulties afflicting liberal liberty. Winfield explains:

'Practical reason offers no solution either, for an agency that wills the mere lawfulness of its maxims leaves the particular content of action undetermined by freedom. This is well manifest by the fact that the will's lawfulness neither gives it a specific end nor differentiates it from others. Consequently, practical reason remains a given common form

³² See G.W.F. Hegel, *Werke* 7, *Grundlinien der Philosophie des Rechts*, Shurkamp Verlag Frankfurt am Main 1970, pp. 65-73.

of agency that, like liberty, automatically figures as an antecedent principle determining what is secondary to itself.³³

In other words, both traditional liberal and Kantian interpretation of autonomy, hostage to the modern form of procedural foundationalism, fail to grasp the self-individualizing structure of the concept in general and the concept of free will in particular. However, to ignore the self-individualizing nature of freedom in regard to its form and content amounts to a misguided account of self-determination, which consequently undercuts the possibility of a universally valid justification of normative contents. Rather, to cohere with the fact that normative validation is not resting on freedom as an antecedently given formal principle, but on freedom as actual individual reality, is to acknowledge that '[...] the volition must establish who wills no less than what is willed.'³⁴

Closely related to the last critical remarks is Winfield's contention that if freedom is to be construed in a non-foundational way and uphold its unconditioned justificatory force, it should not be understood as a monological, merely self-relating structure. When free will is viewed as the choosing capacity of a separate and independent of other agents self, it is again reduced to a given capacity that cannot account for actual self-determination, since the capacity in question is a common endowment of all rational agents, failing to differentiate them in a immanent manner and thus exhibit volitional individuality. In that case, the form of willing is once more immediately granted, while its content, due to its determination by a former determining factor is not self-determined. By contrast, the only way to avoid the inconsistency of explicating freedom by presupposing it is to recognize that genuine '[...] self-determination can only be achieved when the will acts in reference not to nature or itself, but to other acting wills.'³⁵

In other words, the fatal for the appropriate definition of self-determination and, subsequently normative justification, the misconception of freedom as a merely natural or egological structure can be removed only by conceiving just conduct as the actuality of a fundamentally interactive structure of acting, pertaining to a plurality of free-willing agents. According to Winfield:

'There is only one way the will can determine its own autonomy and escape the dilemma of already having to possess freedom in order to act in a self-determined fashion. This is for the will to interact with other agents so that within their interaction they each exercise an autonomous role that can only be engaged in within the very relationship they thereby establish through their own activity.'³⁶

Engaging in interactive relations with other agents is the necessary condition for free will to determine both its form and its content in its own right. Indeed, in the framework of this interactive activity, forms of agency are settled that are not presupposed, but rather reflect nothing less than the self-grounding actuality of interaction itself, whereby the types of conduct assigned to each agent, as well as the limits of his agency for the protection of the free agency of others, are inherently determined. By willing these forms of conduct as its object, free will can be self-determined and valid also with respect to its content.

³³ RaJ, p. 161.

³⁴ RaJ, p. 161.

³⁵ RaJ, p. 162.

³⁶ RaJ, p. 163.

Further, the association of valid justification with the unconditioned actuality and not the mere possibility of interaction makes well manifest that the structure of interaction is not, contra Habermas, Rawls etc., a formal foundation that grounds in an external fashion the requisites of just conduct. By contrast, it is the determined realization of the latter's self-grounding and self-determining nature. Otherwise, we cannot help but relapse into the foundationalism of privileged determiners, to employ Winfield's jargon.

Conclusion

As a concluding remark, it may be added that Winfield is anything but willing to concede that Hegel's resolution to develop his mature ethical theory in terms of a universally encompassing system, consisting in particular subsystems of conventional forms of interaction between agents mutually respectful of their freedom, is in any way free of fallacies and misconceptions. He rather holds that a lot of the determinations ingredient in the Hegelian system of right cannot be justifiably accepted to be immanent derivatives of the concept of free will in its unhindered self-activity. Contrariwise, they much more reflect prejudices contingent upon the historical context that Hegel was destined to lead his life, without being able to entirely overstep its accidental particularities in his theoretical studies on the right.

Nonetheless, Winfield is sufficiently convinced that Hegel's ultimate inability to perfectly satisfy his very own philosophical imperative, which dictates the immanent unity of form and content, does by no means undermine the validity of this imperative. One way or another, the philosophically legitimate determinacy is exclusively that, which, having attained its redemption from immediately given grounding norms, expresses nothing but the actual reality of self-determination. There is no other candidate for philosophical justification that could live up to the epistemological criterion of unconditioned universal validity and objectivity, a criterion which, as is also the case with every other legitimate determination, is not presupposed, but stems from the very same process of determination that would otherwise frame as a privileged foundation.³⁷

For my part, I am not intending to carry out a principled critical evaluation of Winfield's position in this essay, since that would necessarily entail a much more elaborate account and assessment of his views on Hegelian philosophy that cannot take place here. Nevertheless, I think that such an undertaking is not of low philosophical importance and might turn out, in that respect, to be specially rewarding.

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³⁷ According to John McCumber: 'The problem with Kant's beginning is that universality and necessity cannot be established by mere appeals to introspection. Indeed, at the beginning of philosophy (for Hegel) we do not even know what universality and necessity are; they are mere empty words. Like all other forms of thought, they need to be introduced and critically scrutinized in their proper place'. See John McCumber, *Understanding Hegel's Mature Critique of Kant*, Stanford University Press 2013, p. 51.

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