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III



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## How to Be Together *beyond* Corporations and Firms? Hegel at the “End of Capitalism”<sup>1</sup>

**Abstract:** The text examines different assumptions of Hegel’s understanding of the corporation across various versions of his *Lectures of the Philosophy of Right*, given recent contemporary reflections on “the end of capitalism.” My intention is to take Hegel’s thematization of the poor and poverty, as well as the significance Hegel ascribes to common work and the constitution of a working group as the foundation of civil society, and formulate these as real conditions of a potential reconstruction of the corporative model and new common action.

**Key words:** corporation, poverty, civil society, “end of capitalism,” Hegel.

At the beginning of “Briefe aus dem Wuppertal” (March 1839), of a letter in the form of a little travelogue, Friedrich Engels is ruthless in speaking about the bitterness of leaving the Rhine: before him are the fog and soot enveloped factories and the Wupper filled with bright red sludge, yet the color having nothing to do with a bloody battle (*aber seine hochrote Farbe rührt nicht von einer blutigen Schlacht her*) (Engels 1920: 20). “The only battle here in Wuppertal,” continues Engels, “is between theological pens and verbose old women, usually over trifles” (*denn hier streiten nur theologische Federn und wortreiche alte Weiber gewöhnlich um des Kaisers Bart*). The phrase used by the nineteen year old Engels, “*Streit um des Kaisers Bart*,” is immediately contradicted by his detailed and brilliant analysis of various curates, cheats, preachers and mystics (without doubt an analysis of several forms of corporations, their members and leaders, the church, of course, being a corporation) – all of whom hide something much more serious, which Engels mentions only in passing: the back-breaking work in factories, the persons, the flock who breathe carbon dust instead of oxygen, children who work in factories instead of going to school, etc. The factories here also represent clear examples of pseudo-companies or firms.

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The young Engels’ dramatic line – “this red color has nothing to do with a bloody battle” (*aber seine hochrote Farbe rührt nicht von einer blutigen Schlacht*

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1 This paper is an edited version of a lecture given in Padua (at the Department of Philosophy) on the 27<sup>th</sup> of February, 2015, and a lecture given in Wuppertal (at a conference that took place from 4 to 6 February 2016, “Jenseits des Kapitalismus,” organized by the Department of Philosophy). I would like to thank Luca Illetterati, Smail Rapić and Wolfgang Streck.

her) (this timid announcement of a new violence that could potentially destroy the lie of pietism, the injustice and inequality of capitalism also functions as nothing other than a trifle) – could potentially be replaced with the pronoun “We,” and thus set the premise of a specific and precise regulative instance of communal life and work “beyond corporations and firms.”

It would seem that what is possible, or as if possible, *beyond* corporations is an entirely uncertain, indefinite “together” and a quasi-we (“*wir*”). Paradoxically, in order to precisely describe this possibility of being together in the (near)<sup>2</sup> future at all, to function and subsist within a new “we,” it is perhaps necessary to reconstruct, as concretely as possible,<sup>3</sup> these “artificial persons called bodies politic, bodies corporate (*corpora corporata*) or corporations,”<sup>4</sup> and then announce a potential discovery of an entirely new corporativity and common life.<sup>5</sup> If the discovery of corporations as we know them today (the invention of limited liability; corporation as a “nexus of contracts,” etc.) has been treated as a privilege and one of the greatest discoveries of humanity, or of capitalism,<sup>6</sup> that is, if capitalism was able to discover forms of associative work and life that brought great pleasure and a good life to (some, not all of) its members (in the hopes and under the condition that the latest invention of capitalism – turning fellows or fellowships [the original form of corporation] into followers [by which I mean, for example, Facebook or Instagram] – is also its last), then the discovery of something new in the near future would mean that some capitalist protocols will be partially continued, albeit perhaps under a different name and substantially reformed.<sup>7</sup>

Therefore, my intention is really to sketch a supposition about the new discovery of associative work and the community, analyzing or conceptualizing some consequences of Hegel’s interpretation of the idea of the corporation

2 It is more a process than event. “Conceiving of the end of capitalism as a process rather than an event (...).” (Streeck 2014: 47)

3 In the commentary of paragraph 190 of *The Philosophy of Right*, when speaking of a system of needs, within a bourgeois society, Hegel uses the word *concretum* (to designate what is named human), which then Marx, in the *Introduction* from 1857, transforms into *Gedankenconcretum*. Thinking concretely or “Concrete Thinking” suits the man citizen who works along with others. (Hegel 1991: 228)

4 *William Blackstone’s Commentaries on the Law of England* (1765-1769), Vol. II, chapter 18 “Of Corporations.” <https://lonang.com/library/reference/blackstone-commentaries-law-england/>

5 The four-page chapter “The Capitalist Corporation and Beyond” at the very end of Geoffrey Hodgson’s book *Conceptualizing Capitalism. Institutions, Evolution, Future* (Hodgson 2015: 376-380), can function as a sketch for a future program and project of corporate reforms and transformation of corporations into “numerous smaller cooperatives.”

6 Cf. Barry 2003: 22-26.

7 “It is in this sense that Geoffrey Hodgson has argued that capitalism can survive only as long as it is not completely capitalist (...).” (Streeck 2014: 50).

or ideal corporation (with all the terminological confusion he encountered and which still remains).<sup>8</sup> Further, in that sense, I would like to, quite briefly, mention the figure or pseudo-concept of counter-institution (*contre institution*) that we encounter in Saint-Simon (and later in a few interviews and one of the last published texts of Jacques Derrida),<sup>9</sup> and which could indeed be a good alternative to old institutions and old corporations in searching for new models.<sup>10</sup> I am thus interested, since the end of capitalism has been identified as process and not event, in those “institutional channels” or “modes” that would be most successful in changing or replacing or supplementing the familiar and insufficiently functional protocols that belong to capitalism. There are other reasons why it seems to me that it would be important to, yet again, identify the corporation (or company) as the “crucial agent or actor in capitalist economy,”<sup>11</sup> and then once again thematize some of Hegel’s

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8 In a significantly limited context, my paper could serve as a complement to Hodgson’s project in conceptualizing capitalism, since Hegel is mentioned in his book only twice and in passing. To be more specific, Hegel’s reconstruction of the corporation could be confirmation that the corporation implies cooperatives (associations) and that it completes Hodgson’s vision.

9 At the time when Hegel is giving his lectures on the philosophy of right, Saint-Simon defines those counter-institutions, probably thinking of Adam Smith. In *Catéchisme des industriels*, Saint-Simon writes: “One can see that the English have set two parallel fundamental principles as the basis of their social organization. Further, one can see that these two principles, being of different, even opposing, natures, have resulted, as they necessarily must have, in the English being at once subject to two distinct social orders. They have in all directions, double institutions (*dans toutes les directions, doubles institutions*), or rather, they have established in all directions a counter-institution for each institution (*dans toutes les directions les contre-institutions de toutes les institutions*) that held sway before their revolution, and which they have preserved to a great extent.” (Saint-Simon 1823: 81) One of Jacques Derrida’s last lectures, along with one his last published texts, carries the title “Le modèle philosophique d’une ‘contre-institution’ ” (Derrida 2005). This text was translated into English as “The Philosophical Model of a Counter-Institution,” in *Artists, Intellectuals and World War II* (Derrida 2006: 46-55). Cf. Bojanić 2016: 579-589.

10 Here I am reiterating the vision or strategy of Joseph A. Schumpeter from his 1928 text “The Instability of Capitalism.” “The new processes do not, and generally cannot, evolve out the old firms, but place themselves side by side with them and attack them. Furthermore, for a firm of comparatively small size, which is no power on the money market and cannot afford scientific departments or experimental production and so on, innovation in commercial or technical practice is an extremely risky and difficult thing, requiring supernormal energy and courage to embark upon. But as soon as the success is before everyone’s eyes, everything is made very much easier by this very fact.” (Schumpeter 2008: 70)

11 Cf. Hancké 2009. Schumpeter solves this dilemma in a way similar to Saint Simon’s. In the “Avant-propos” of his brief, 1814 text on the reorganization of Europe, Saint-Simon speaks about the importance of the institutions and mentions that bad or failing institutions (*le défaut d’institution*) lead to the destruction of society as a whole: “Old institutions prolong the ignorance and prejudices of the time in which they were formed.” (*Les vieilles institutions prolongent l’ignorance et les préjugés du temps où elles sont faites*) (Saint Simon

intuitions from many years ago about the corporation. I think that, much as in the case of the company, economists (but not only they) are not in agreement about what is a corporation, nor do we have a sketch of a definition that could be partially accepted in different states or traditions.<sup>12</sup> This last fact is worrisome and is a consequence of a very complicated framework that constructs the field in which the corporation functions. The corporation is at once a legal phenomenon (it is always in some relation to the state and laws of a country); it is an institution (meaning that a kind of institutional legalism would best suit a potential reconstruction of corporation as such); also, the corporation is a social, as well as moral phenomenon and the key element of bourgeois society; finally (or above all), the corporation is an economic institute (or “the economic bond which ties individuals together, such as transactions, debts, property rights, etc.”)<sup>13</sup> and is probably essentially no different than the market.

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My goal would be to show that it is vital to read Hegel (in the current case, that it is necessary to analyze this excerpt from *Philosophy of Right*, concerning the corporation) and that every thematization of the corporation depends on Hegel’s insights and his understanding of civil society. Before going any further, it is essential to elaborate a few difficulties that render my task even more complicated, above all Hegel’s absence among contemporary and 20<sup>th</sup> century authors who write on the corporation: Tony Lawson, Philip Pettit, John Searle and Raimo Tuomela,<sup>14</sup> make no consideration of Hegel’s theory, nor do the two greatest theorists of corporation and community of the turn of the 20<sup>th</sup> century, Frederic William Maitland and Otto von Gierke. Nor is Hegel part of the syllabus of most philosophy departments in the world, and the aforementioned contemporary authors have almost certainly not even read him seriously.<sup>15</sup> However, my intention is certainly not to reinterpret

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1814: VIII). Institutions age because they no longer suit the ideas and mores of the time in which they exist, and ought therefore be completely destroyed. Saint-Simon cites two obstacles in this transformation of the old into the new: this reorganization does not happen right away or automatically (but rather, in time), and also, he also imagines the possibility that nothing arise on the ruins of old institutions (*la ruine des anciennes institutions*). In *Catéchisme des industriels* Saint-Simon *de facto* insists that the total erasure and destruction of institutions is impossible: “Institutions, much like the men that create them, can be modified; they cannot, however, be rendered extinct: their most rudimentary aspects cannot be completely razed.” (*Les institutions, de même que les hommes qui les créent, sont modifiables ; mais elles ne sont point dénaturables : leur caractère primitif ne peut pas s’effacer entièrement*). (Saint-Simon 1823: 31)

12 “A problem is that economist cannot agree what a firm is.” (Hodgson 2015: 204)

13 Commons 1934: 734.

14 Cf. I am referring to the lecture “Social Corporations as Institutions” Toumela held at the University of Berkeley towards the end of last year, which is still unpublished.

15 The exception (or partial exception) is the text by Roger Scruton and John Finnis, “Corporate Persons” from 1989. Scruton speaks of Hegel, “but he (Hegel) was anticipated

the status of the theory of the corporation in Hegel's system (which, it seems to me, has already been done and any addition would be superfluous<sup>16</sup>). Nor is to "rummage" around Hegel's system insisting, for example, that protocols of, let us say, "the corporation" in some way precede the institution of marriage and family, which in turn precede the state, meaning that the state is not, nor can be in any case "prior," as Hegel says.<sup>17</sup> To be exact, it is not my intention to question the criterion and form of primacy [anteriority] of the state – the state can be prior because, for example, we must begin somewhere, or because "the state" can be a name of a collection of documents, for a book, a register, a text altered and deconstructed by the addition of each newly founded corporation and institution. In short, all that I would like to attempt is to select a few of Hegel's innovations in interpreting the corporation, without which an ideal theory of the corporation is absolutely impossible (and according to which, the main strength of a latent reconstruction of corporation would be in the hands of the poor, those continuously excluded by bourgeois society, only constituting itself). I would also like to possibly submit the idea that could put aside a largely trivial construction regarding Hegel's institutionalism. Finally, the third reason is implicitly already in the "primacy" of the state and that which is actually performed when a group of people wants to "incorporate." I am interested in how the *de facto* and *de jure* corporation becomes a corporation (is there harmony between social and legal acts?), how it acquires legitimacy, whether all the so-called

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by Burke, and also by Rousseau and Fichte." The same author continues, "whatever the virtues of those writers, none of them had that instinct for valid argument which would recommend them to an analytical philosopher, and everything they said must be rewritten, in the language which they would have abhorred." (Scruton & Finnis 1989: 254-255) 16 Cf. Ellmers & Hermann 2017. But before this book, I should mention Yoshihiro Niji's text "Hegels Lehre von der *Korporation*," (Niji 2014: 288-295). The innovation in this text was the attempt to examine the extent to which Hegel was familiar with the articles referring to the corporation in the "Allgemeinen Landrecht für die Preussischen Staaten" of 1794. The author ends up following the suggestion of Friedrich Müller, from the well-known book *Korporation und Assoziation* (Müller 1965: 16). Wolfgang Kersting writes about the corporation in "Polizei und *Korporation* in Hegels Darstellung der bürgerlichen Gesellschaft," (Kersting 1986: 373-382), along with Rolf-Peter Horstmann in "Hegels Theorie der bürgerlichen Gesellschaft," (§§ 158-256), (Horstmann 1997: 193-216), as well as Stefan Mertens in *Die juristische Vermittlung des Sozialen* of 2008.

17 "In actuality, therefore, the state in general is in fact the primary factor (*in der Wirklichkeit ist darum der Staat überhaupt vielmehr das Erste*); only within the state does the family first develop into civil society, and it is the idea of the state itself which divides into these two moments." (Hegel 1991: 274) Further, marriage or family imply a status for women in this construction by Hegel: women as a marriage partner, but also as citizen, a member of a collegium or "sisterhood," that is member of a corporation. For example, my marriage or my family only came about after I "incorporated" with my future wife, her sister and my sister, which I did in a company together with her (or them) and because we belong to the same guild (because our profession is the same; the word "company" is currently the word in Europe for "corporation" more commonly used in the Anglo-Saxon world).

“writing speech acts” are the unconditional conditions for the existence of a corporation. Here are three preliminary gestures, all of which refer to writing and “document theory,” that is, quotes from Searle, Althusius and Hegel.

In the text “What is An Institution?” Searle mentions the document as an addition to, but not as condition or background of any deontology.

But the deontic powers stop at the point where the larger society requires some official documentation, they lack full deontic powers. Collective recognition is not enough. There has to be official recognition by some agency, itself supported by collective recognition, and there have to be status indicators issued by the official agency.

And he continues:

A fascinating case is corporations. The laws of incorporation in a state such as California enable a status function to be constructed, so to speak, out of thin air. Thus, by a kind of performative declaration, the corporation comes into existence, but there need be no physical object which is the corporation. The corporation has to have a mailing address and a list of officers and stock holders and so on, but it does not have to be a physical object. This is a case where following the appropriate procedures counts as the creation of a corporation and where the corporation, once created, continues to exist, but there is no person or physical object which becomes the corporation. New status functions are created among people – as officers of the corporation, stockholders, and so on. (Searle 2005: 15-16)

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In *Politica* (chapter IV, “Collegiate Association,” Article 8), Althusius writes:

Collegiate intercourse (*communicatio*) is indeed support between colleagues and the performing of life favors, according to agreed pacts. These pacts and alwas of the colleagues are registered in the collegial books (*in libris collegiorum*), which in German we call *guild books* (*quos Zunftbücher vocamus*).

Continuing in article 17:

The communal right of the faculty and the colleagues is usually written in collegial books (*in guild books, in den Zunftbüchern*). Such right is accepted and introduced among colleagues based on their common consensus, or is granted and awarded to colleagues based on the special privilege of the highest *magister* (*superioris magistratus*). (Althusius 2009: 300-301, 306-307)

The third quote is a portion of Hegel’s amendment § 253:

If the individual (*der Einzelne*) is not a member of a legally recognized (*berechtigten*) corporation (and it is only through legal recognition that a community becomes a corporation) (*Ohne Mitglied einer berechtigten Korporation zu sein [und nur als Berechtigtes ist ein Gemeinsames eine Korporation]*), he is without the *honour of belonging to an estate* (*Standeshre*), his

isolation reduces him to the selfish aspect of his trade, and his livelihood and satisfaction lack *stability* (*seine Subsistenz und Genuss nichts Stehendes*). (Hegel 1991: 272)

This third reason I would like to insist on the corporation, along with these three quotes that mention a particular institutional instance in the background (“the institution of the institution,” a phrase used by Carl Schmitt as well as John Searle), the register (official agency or special authority), the book, and legitimation, these three help me to formulate my announced idea about the corporation as institution or institutionalization and the connection, on the one hand, between the written record and the state (as the keeper of the book or state as book), and a group of people (a community) on the other. Of course, the individual, in the Hegelian sense of the word, is in one way or another limited and powerless in relation to the already existing institutions (hence the problematic idea of “*l’institution de l’individualité*”<sup>18</sup> and the dilemma about strong and weak Hegelian institutionalism<sup>19</sup>). And of course “ontological priority” belongs to institutions that already exist and that the individual encounters in the world in which she lives.<sup>20</sup> However, the institutional subject is always plural (a group, “We,” never “*Das Ich im Wir*,” or possibly “*Wir im Ich*”) and has the potential to change and transform the existing institutions. Which is why the police<sup>21</sup> and the corporation (an institution in the contemporary meaning would probably contain within itself a combination of these two basic Hegelian institutes of civil society) constitute the most important institutional scene, one that greatly surpasses both the family and the state. When we speak of the institution or problem of institutionalization in Hegel, this certainly refers exclusively to the “institution of corporation”<sup>22</sup> that appears within the group (civil society).<sup>23</sup>

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18 This is a phrase used by J. F. Kervégan.

19 Institutionalism could be the position according to which socially accepted types of action have “ontological priority” or absolute primacy in comparison with the thinking and acting of the individual. Dieter Henrich evokes Hegelian institutionalism in the strong sense of the word (*Nachschrift* lectures of 1819-1820) (Hegel 1983b: 31), in opposition to Jean-François Kervégan with a weak or moderate institutionalism (*institutionnalisme faible*). Cf. J.-F. Kervégan, in Hegel 1998: 329. See: Kervégan 2008: 311-314, 367-373.

20 “Ontological Priorities” or “ontologically prior” are Roger Scruton phrases. For him, in a completely different context, individual persons (plural) are “ontologically prior” to corporation. Scruton & Finnis 1989: 254.

21 The police appears in this place in Hegel’s system as early as the Jena lectures of 1805-1806 (*Jeneser Realphilosophie*), while the corporation or “*zweite institutionelle Kanal*” appears only later. This is Wolfgang Kersting’s formulation (Kersting 1986: 379).

22 “Die Institution der Korporation,” says Hegel in § 253.

23 Hegel does not use the word “group” or the theory of a group (*Verbandstheorie*). “Das Wesen der menschlichen Verbände” is the title of Otto von Gierke’s Dean’s Speech from October 1902.

Hegel's, and Althusius', first problem, then, above all is the terminological confusion that follows the instrument or institution of "corporation," but also the crisis of capital and political upheavals occurring in various countries, to which he is witness. What is a corporation and from where does Hegel take the term *Korporation*? The first, probably most accurate answer would be from English newspapers Hegel reads, as well as some books by an English economist. For Hegel, *Korporation* ought first be understood as an English thing. At the same time, Hegel's ambition is to reconstruct the English ban on corporations, as well as its prohibition in Italy and France (in France corporations were banned in 1791 only to become legal again under Napoleon).<sup>24</sup> He is also seeking to "improve theoretically" the recently badly deteriorated position of the poor in England (there are authors who thought of corporations as a union). In all the versions of his lectures on law, from beginning to end, he speaks of corporations as on the wane, in crisis, of uncertain future, all the while imploring on their behalf. It seems to me that the concept of *Korporation* was chosen because it best suits all these various languages Hegel reads. Still, the problem of meaning of the word "corporation" remains unresolved. Just as at the beginning of the 17<sup>th</sup> century, Althusius combines Latin with German (*Describuntur haec pacta et leges collegiarum in libris collegiorum, quos Zunftbücher vocamus*),<sup>25</sup> as well as the Roman and German understanding of the community, Hegel uses the word *Korporation*, at the time completely non-existent in colloquial use.<sup>26</sup> In the beginning, during the

24 Cf. Fitzsimmons 2010.

25 In his book on Althusius, Von Gierke translates "*consociatio collegiarum*" as *Korporation*. (Gierke 1880: 22) Althusius's "*consociatio collegiarum*" ought to correspond to Henning Böhmer's *collegia Iusti*, which he opposes to *universitas* and divides into *private* and *publica* (Böhmer 1726: 442). In several of his books, Gierke attempts, drawing from Latin sources, to translate a multitude of various names for various associations into German. Sometimes his solutions are quite successful, but at other times, they are entirely obscure and inconsistent. When writing about the corporation in his great work *Das deutsche Genossenschaftsrecht*, Gierke, a realist much like Maitland, initiates a host of currently relevant problems completely missing from Hegel: the nature of the personhood of a corporative group, the possibility of corporation owning property, entity status (whether it is a voluntary or privileged association), capacity of corporation to act independently, whether the *universitas* of a body (*corpus*) changes with a change or removal of members, etc.

26 In contemporary German, this refers to a student association of the neo-feudal period. The German equivalent of the English, French and Italian word "corporation" are *Zunft* or *Innung*. Obviously, Hegel opposes the old-German institution *Zunft* (in amendment § 255: *Korporation ist keine geschlossene Zunft*; by the by, for Hegel, the family is "closed" unlike the corporation) because his intention is to distinguish between a civil from a feudal corporation. In the 1817 *Ständesschrift*, Hegel differentiates old corporation (*Zünfte*) or (*Zunftgeist*) from the professional, modern corporation. Still, Hegel's contrasting of words *Zunft* and the like (in § 289 he speaks of *Korporationsgeist*), still does not mean that he, strictly speaking, is renewing the Roman legal tradition and its theory of community, precisely because at the same time, he is Germanizing the Latin word *corpus*. One of the recent texts published on this topic is Yoshihiro Niji's "Hegel's Lehre von der *Korporation*,"

winter seminar 1818-1819, Hegel still vacillates between the words *Zünfte* and the English word *Corporation*.<sup>27</sup> Still, a few months prior, in Heidelberg (when giving the natural law course of 1817-1818), Hegel shows clearly that his task is to find harmony between corporations and the state, keeping in mind what is going on in other countries and what has taken place “here” during feudalism: small states developed out of corporations when rulers of these states were not able to quash resistance and movements of popular struggle (§ 125). Even as early as that, Hegel, imagining a future state (singular), wary of the danger of private rights of individuals being carried out through association,<sup>28</sup> takes several things under consideration. First, that states or the state not create or ought not itself create privileged corporation as had been the case in England. Second, that the state in no way be shaped or formed by these associations and that corporations are necessary because they guard from the ongoing atomization and dissolution of individuals (starting in 1816, hunger and poverty that swept across today’s southern Germany forced many people to emigrate to America and other countries) (§ 121). Third, that civil society form through corporation and that enjoyment lies in what is common, that is for people to find entertainment only communally, never alone (§ 121).<sup>29</sup> Fourth, that any future state certainly ought to oversee corporations and find instruments that ensure their coexistence (“danger” is the word Hegel associates with corporations throughout his lectures on the philosophy of right<sup>30</sup>).

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Of all these points, which seem crucial for Hegel’s endeavors regarding the creation of corporations (certainly “[c]orporations are easier to create than to

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*Hegel-Jahrbuch*, 2014, 288-295. Still, regardless of Rosenzweig’s exaggeration regarding the corporation as a reactionary or most reactionary element of Hegel’s *Philosophy of Right*, his diagnosis of Hegel’s intention still remains unsurpassed: “*Theorie der Korporation entwickelt und einer Erneuerung des alten Zunftwesens das Wort redet, die aber Arbeiter und Kapitalisten in gemeinsamen Körperschaften zusammenfassen muss.*” (Rosenzweig 1920: 124) 27 “§ 113. Zünfte – In neuern Zeiten ist man den Corporationen abhold geworden [(Bemer)] des besondern Gemeinwesen in dem Allgemeinen.” (Hegel 1973, I: 322) It is interesting that after Hegel’s death, Gans, in his lectures on natural law, still uses the same word, “*Corporation*” (with a capital C)

28 In § 125 Hegel quotes Johann Jacob Moser, *Neues Teutsches Staatsrecht*, 23 Volumes, Stuttgart, Frankfurt, Leipzig, 1766-1782.

29 § 121 “*da war der Genuss im Gemeinsamen, und der Einzelne vergnügte sich nicht für sich, sondern im Allgemeinen.*” (Hegel 1983c: 169) Or in the same paragraph: “*Das Vernünftige der Korporation ist, dass das gemeinsame Interesse, dieses Allgemeine, in bestimmter Form wirklich existire.*” (Hegel 1983a: 143) Although the Church is also a corporation, Hegel clearly distinguishes the association of people in a corporation or community (*Gemeinde*) from “*religiöse Gemeinschaftlichkeit von Individuen.*”

30 Cf. “*Die Corporation kann auch gefährlich werden, für den ganzen Staat, wie in der älteren Geschichte Frankreichs und Deutschland diess vorkommt, dass sich ganze Corporationen frei gemacht haben.*” (Hegel 1974, IV: 628)

understand,” Robert Hessen), three seem to me to have a historical or technical importance. Only the third point, I think, which refers to the relation of the communal, and thus the moral and corporate, has the potential to be further developed. In addition, for two sets of problems of crucial importance for today’s understanding of the concept of corporation, Hegel is of no use to us. The first refers to the differentiation of the entity of corporation from other similar forms of association, still relevant as we can see from Pettit or Lawson.<sup>31</sup> In that sense, corporation is more easily defined than differentiated from related concepts of different historical and linguistic origin.<sup>32</sup> The other set of problems refers to what is usually called “corporation as a judicial hallucination.” Being a realist, there is no doubt that for Hegel, as for Marx, lest we forget,<sup>33</sup> the corporation indeed exists (in contrast with Searle, for Hegel people exist, work, produce, enjoy, etc.) and that the corporation is a “*moralische Person*.”<sup>34</sup>

In § 252 Hegel writes:

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In keeping with this view, the corporation, under the oversight of the public authority (*öffentlichen Macht*), has the right to look after its own clearly-defined interests, according to the objective qualifications of skill and

31 Cf. Pettit 2015 and Lawson 2015.

32 Here is a definition both contemporary and interesting. I cite it freely, with no precise reference: a corporation is a group of individuals authorized by law to act as a unit. The corporation assumes corporative responsibility, limited liability (widely considered one of the greatest inventions of the previous century: “I did not do it, the company did”). Pettit’s French translator renders the English word “corporation” as *entreprise*, *compagnie*, as well as *corporation*, and the word “corporatization,” as *privatisation*. Pettit attempts to solve the complete terminological chaos that always follows the corporation and related terms by drawing on Patrick W. Duff’s book, *Personality in Roman Private Law*. Duff defines *corpus* as “any set of men who are for any purpose regarded as a group.” Every *collegium* is a *corpus* (Duff 1938: 26, 28). There are two key books that deal with the genesis of concepts related to corporation, but as detailed as they are, they are of little help to carefully delineate the semiotic field of terminology for the corporation. The first of these is the book by Schnorr von Carolsfeld, *Geschichte der juristischen Person*, of which only the first volume has been published, dealing with the terms *universitas*, *corpus* and *collegium* in classical Roman law. The author insists that the *Körperschaft* always refers to three words: *Gemeinde*, *Zunft* and *Verein* (Schnorr von Carolsfeld 1933: 59). The other book is by Pierre Michaud-Quantin, *Universitas. Expressions du mouvement communautaire dans le Moyen-âge latin* (1970). On page 64, the author presents the difficulty with the word *corpus*, which, discounting legal texts, very rarely refers to a collective, although there are uses that concern associations of painters and other trades: “*Quant aux documents officiels, il semble que le mot aie eu un sens trop imprécis ou trop abstrait pour y figurer.*”

33 In many places in *Kritik des Hegelschen Staatsrecht*, Marx emphasizes the reality and materiality of corporations.

34 “*Eine Corporation stellt “Eine moralische Person” (§ 13, 50, 81, 88; Allgemeinen Landrecht für die Preussischen Staaten). Eine moralischer Person ist in diesem Zusammenhang als gesellschaftliche und juristische Person zu verstehen.*” (Niji 2014: 291) *Eine moralischer Person* is also a reappropriation of Pufendorf’s phrase *persona moralis composita*.

rectitude to adopt members, whose number is determined by the general system, to make provision for its adherents against fortuitous occurrences, and to foster the capacity necessary in any one desiring to become a member. In general it must stand to its members as a second family (*zweite Familie*), a position which remains more indefinite than the family relation, because the general civic community is at a farther remove from individuals and their special needs. (Hegel 1991: 271)<sup>35</sup>

Nowhere does Hegel present the problem of such a right, nor the success of such “action” of the corporation in the name of the moral personality of their members.

Hegel’s focus, however, is not primarily on the transformation of my personhood into a new entity that has the right to protect and perform certain actions in my name. Nor on the production of a new instance, one more powerful than me or of all of us together. When Hegel says in amendment § 207 of the *Philosophy of Right* that “*Ein Mensch ohne Stand ist eine blosse Privatperson und steht nicht in wirklicher Allgemeinheit,*” then the belonging to a group of people that works together and functions on the market and has a proper name (an entity, a legal person) would only ever be fulfilled or completed with the help of another similar entity and in collective action for profit and recognition.<sup>36</sup> This collective and common action, much like the police that guards the rules of the game,<sup>37</sup> are a guarantee of morality or what Hegel calls “*Die Korporation als sittliche Institution.*” (Hegel 1974, II: 688) The corporation or *Stand* implies the existence of others and competition with others, which would then lessen the importance or set aside the plan for the fiction and the ‘mereness’ (*blosse*) of individuality (an individual *Stand* or corporation is equally fictitious as a private person or individuality taken on its own). Hegel’s intention, which could still be central in thematizing corporation, and certainly a subject not yet exhausted, refers to the necessity of working with others and for others, of conducting a general and communal activity (to discover and create a common cause), of participating in public affairs, as well as public property (as commons). The generalization of connections that exist between people (*die Verallgemeinerung des Zusammenhangs der Menschen*) (§ 243) is Hegel’s great socio-ontological endeavor, one that is more relevant, and certainly more comprehensible, than before. It seems to me that this “*Verallgemeinerung*” or “*öffentliche Macht*” is a forerunner of Marx’s phrase, appearing only once in *The Grundrisse*, rendered in English

35 Cf. Vieweg 2017: 34-41; Schüle 2017: 101-117.

36 § 253 *Die Korporation als Basis sozialer Anerkennung*. Hegel 1974, III: 709. Certainly, Axel Honneth’s project finds inspiration and direction in this moment.

37 The police appears in this place in Hegel’s system as early as the Jena lectures of 1805-1806 (*Jenenser Realphilosophie*), while the corporation or “*zweite institutionelle Kanal*” appears only later. This is Wolfgang Kersting’s formulation (Kersting 1986: 379).

as “general intelligence” or even Rawls’ “public reason.” These moments too could be the conditionless conditions for the transformation of the corporation into a cooperative. After all, if today we were to make a careful comparison of all the variations, finesses, and shades of Hegel’s lectures on the corporation from the beginning of the 19<sup>th</sup> century with a chapter of Adam Smith’s *The Wealth of Nations*, “Of the Public Works and Institutions which are necessary for facilitating particular Branches of Commerce,” not only would it be clear that Hegel is in a way copying and reiterating the project of Adam Smith,<sup>38</sup> but corporations as imagined by Smith, years prior to Hegel, really do seem like cooperatives, as alternative institutions, or better still, as “counter-institutions.”

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It seems to me that a bearer of reconstruction of such a corporative model, based on Hegel’s assumption, ought to be precisely the group that is as of yet unable to constitute itself as a group, to thematize its existence and its abilities, and thus design its common work or work in common. A few passages by Hegel regarding the poor who are excluded and marginalized in the course of constituting civil society, whose number is constantly increasing, could perhaps be Hegel’s most significant contribution to the understanding of the corporative model. Further, they could be the very opportunity for overcoming this very model. Hegel’s pseudo-project about the state and possibility of potential reduction of poverty, emerges from Hegel’s considerations of poverty (in his lectures on the philosophy of right), in the context of civil society that necessarily produces it.<sup>39</sup>

I further think that in the history of philosophy only John Locke is a true forerunner of Hegel in the thematization of poverty. In his 1697 text, *Draft of a Representation, Containing a Scheme of Methods for the Employment of the Poor* (or *The Report on the Poor*), Locke seeks a profound reform of social life. He is excited by the statistical analysis published by Gregory King in 1696, which showed a 25% rise in the number of poor, and that despite the *Act of Settlement* from 1662, 50% of the population was poor. In brief, Locke is looking for a way to put vagrants and saboteurs to work, whose number, despite stricter penalties, is ever greater – because only those who work will

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38 Perhaps Hegel did not really have “in mind any concrete historical institution that existed in his time,” as Schmidt am Busch and Lisa Herzog claim (Herzog 2015: 152), but the project of Adam Smith is deeply incorporated into his intentions. “Corporation spirit,” for example, is Smith’s phrase and it certainly orients Hegel’s fragments, as well as Marx’s reading of Hegel.

39 John Rawls noted this passage in his *Lectures On the History of Moral Philosophy* (Rawls 2000: 345 and further). He concludes that Hegel does not have a solution for the problem of poverty or that it does not fit into his system (which, when it comes to Hegel, is in itself impossible and entirely paradoxical). Rawls there refers to a few exceptional pages from Allen Wood’s book *Hegel’s Ethical Thought* (Wood 1990: 247-253).

eat, drink, be clothed and sheltered (the age at which both boys and girls begin their working lives at this time is fourteen).<sup>40</sup> Locke is *de facto* inventing punishments and strategies for the successful functioning of workhouses, opening all over England at the time.

Just like Locke, Hegel will construct a kind of group identity for the poor (although not only them), ascribing to them a dangerous, generally unknown and inexplicable role. What is significant is that Hegel recognizes that, a) civil society excludes many others (not only women, for example), which is entirely unjustified and inexplicable: "The emergence of poverty is in general a consequence of civil society and on the whole arises necessarily out of it."<sup>41</sup> Further, he insists that b) charity is no solution to the problem of poverty, opposing to it the solution in place in Scotland, where they sought "to leave the poor to their fate and direct them to beg from the public" (§ 245). c) Probably under the influence of Adam Smith, Hegel becomes a "real world political philosopher," preferring social analyses he reads (mostly) in English books and newspapers, to his own speculative constructions. d) Hegel is perhaps the first to recognize that the poor are excluded "from the spiritual benefits of modern society, from education, even from the consolation of religion." Finally, e) Hegel concludes, introducing the moral degradation of the poor, that no entity, not even the state can resolve this problem (Hegel takes it as axiomatic that the state is immanently present in civil society).

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The poor man feels himself excluded and mocked by everyone, and this necessarily gives rise to an inner indignation. He is conscious of himself as an infinite, free being, and thus arises the demand that his external existence should correspond to this consciousness. (Hegel 1983b: 195)

Poverty in itself does not reduce people to a rabble (*Pöbel*) [this is the passage quoted by Rawls]; a rabble is created only by the disposition associated with poverty, by inward rebellion against the rich, against society, against the government, etc. (§ 244)

The "rabble" is characterized by "envy and hatred against all those who have something," as well as laziness and the right to live by the work of others. "The rabble is a dangerous [social] ill, because they have neither rights nor duties." (Hegel 1973, I: 322) Finally, Hegel reverses himself and relativizes the link of poverty and the rabble, insisting on an entirely new point: the "rabble [is] distinct from poverty; usually it is poor, but there are also rich

40 "He who does not work – does not eat" is a cliché repeated by apostle Paul, the utopians, the Quaker John Bellers, Locke's contemporary, who reminds his readers that in China, literally everyone works (the feeble-minded, the blind), etc.

41 Hegel 1983b: 193; "When there is great poverty, the capitalist finds many people who work for small wages, which increases his earnings; and this has the further consequences that smaller capitalists fall into poverty." (Hegel 1974, IV: 610)

rabble.”<sup>42</sup> This last point of turning the rich into the rabble (for example, a kind of *nouveau riche* who has all the characteristics of a poor person “who hates all those who have something or have more than him”) could be an example of the transformation of absolute into relative poverty, which often depends only on context and comparison with others.<sup>43</sup>

Hegel’s conceptual theater carries at least three quasi-opuses of problems always present in the case of “poverty” and the poor. The first concerns the general problem of description and evidence of the existence of the poor and poverty, sometimes even testimony and experience of one’s own indigence or poverty of others (and the question of how to detect, explain, and produce motives for the construction of action or productive social action). The second refers to differences, levels and gradations of poverty (a problem probably unwittingly opened by Seeborn Rowntree at the turn of the 20<sup>th</sup> century). The third refers to the group or pseudo-group of the poor. And only at this point does the issue of corporation or the cooperative emerge as still and ever-relevant.

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42 Hegel, 1974, IV: 608. Many of the lines quoted here have already been translated into English by Allen Wood.

43 It is comparison with others that turns the poor into rabble, allowing them to be recognized or connect with those similar, and then potentially be categorized as part of a group whose constitution is never completed (for the rabble is never a group, but a mass of people that lives in pre-corporate or pre-institutional space).

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## Petar Bojanić

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Kako biti zajedno s one strane korporacija i firmi?  
Hegel na „kraju kapitalizma”

### Apstrakt

U tekstu se ispituju različite pretpostavke Hegelovog razumevanja korporacije u mnogobrojnim verzijama njegovih *Predavanja o filozofiji prava*, a u kontekstu nekih savremenih refleksija o "kraju kapitalizma." Namera mi je da Hegelovu tematizaciju siromašnih i siromaštva, kao i značaj koji Hegel pridaje zajedničkom radu i konstituisanju radne grupe kao temelja građanskog društva, oblikujem kao realne uslove jedne moguće rekonstrukcije korporativnog modela i novog zajedničkog delovanja.

**Ključne reči:** korporacija, siromaštvo, građansko društvo, „kraj kapitalizma”, Hegel.