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J.V. Snellman on Rights and Recognition

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Abstract: J. V. Snellman (1806-1881), was the un-official intellectual leader and political strategist of the 19th century Finnish national movement. In 1863, he was nominated to the Senate, the highest executive body of the Grand Duchy of Finland. As a Senator, he became the prime mover behind many important projects – for example, the establishment of the national Finnish currency and the reform of the educational system – which created the necessary preconditions for the independence of Finland in the following century. He was also a professional philosopher. Especially in his early works, he was a rather orthodox Hegelian; his textbook *Rättslära* was written as an introduction to Hegel's theory of law. We show that in his - otherwise not very original - work Snellman consistently used the Hegelian notion of *recognition* (*Anerkennung*) as the key concept. In this, his interpretation is in accordance with the most recent Hegel-scholarship.

Keywords: G.W.F. Hegel, J. V. Snellman, philosophy of law, recognition, legal rights.

1. Introduction: Snellman reads Hegel

Johan Vilhelm Snellman (1806-1881), was one of the most important political and intellectual figures in 19th century Finland. He was the un-official intellectual leader and political strategist of the nascent Finnish

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national movement. In 1863, he was nominated to the Senate, the highest executive body of the Grand Duchy of Finland. As a Senator, he became the prime mover behind many important projects – for example, the establishment of the national Finnish currency and the reform of the educational system – which created the necessary preconditions for the independence of Finland in the following century. He was also a Professor of Philosophy; rarely, if ever, has any professional philosopher had a comparable influence upon the fate of his own country.

Especially in his early works, Snellman was a rather orthodox Hegelian. In the famous strife between the Hegelian "Right" and the Hegelian "Left" he belonged – in the words of his German friend Karl Ludwig Michelet – to the "left wing of the Hegelian Centre." He interpreted Hegel's diagnosis of the modern world essentially as a program for the modernization and reform of the (relatively backward) Finnish society. Thus, Snellman's political philosophy is often compared with that of Hegel. These comparisons have usually focused on Snellman's more mature and more original work, *Läran om Staten* (The Theory of the State, 1842). His earlier *Rättslära* (Theory of Law, or Jurisprudence, 1840; hereafter referred to as RL), an introduction to Hegel's *Philosophie des Rechts* (1821, hereafter referred to as PR), has been less popular. As such, this is understandable: RL is the third part of a trilogy intended to be an introduction to the entire Hegelian system (the two other books were introductions to Hegel's Logic and to his psychology). The books followed Hegel's texts rather closely, and RL has sometimes been characterized merely as an "uninspired abridgement" of Hegel's PR (Backman 1985: 48).

However, even if RL was written as an exposition of Hegel's own text, it is also an interpretation, written from a particular viewpoint. During the past two hundred years, Hegel has been read in numerous different and conflicting ways. Recent interpretations of Hegel have emphasized the centrality of the concept of *Anerkennung* or recognition. Authors such as Ludwig Siep (1979) and Axel Honneth (1992/1996) in Germany, Robert R. Williams (1997) and Judith Butler (1987) in the United States as well as Heikki Ikäheimo and Arto Laitinen (2011) in Finland, have made recognition the interpretative key to Hegel's practical philosophy. They have also argued that the concept is not only of historical interest but that it has contemporary relevance. Our thesis is that in this context Snellman's way of reading PR turns out to be surprisingly modern.

What is the supposed role of *Anerkennung* or recognition in Hegel's philosophy? Clearly, it performs several roles. First, it has an *anthropological* meaning. It makes possible to combine two historical insights: on the one hand, human beings are essentially social (as Aristotle maintained), on the other hand, conflict is the starting point of the modern society (as Hobbes

argued). Rather than struggling just for self-preservation, human beings are striving for inter-subjective *social* values: status, esteem, and power. This theme could be traced back to Rousseau, especially to his *Discours sur l'origine et les fondements de l'inégalité parmi les hommes* (1754).

Second, recognition is fundamental for *self-knowledge*. Famously, Descartes stated that "I" cannot doubt its own existence. However, in closer examination, this "I" is only a logical place-holder; there is no guarantee that this "I" has any of the properties which I routinely ascribe to myself and which distinguishes me from the rest of the world. Hegel states that I can really have knowledge of myself -- I can give a reasonable answer to the question "Who am I?" – only by looking at myself from the perspective provided by the others and by using descriptions accepted by them.

Third, the *intersubjective validity* of *normative* (moral and legal) *reasons* is based on mutual recognition. The simple generalization argument says that (1) because my own freedom and welfare constitute reasons for me, and (2) because I may infer that the others are, in a relevant sense, similar creatures, (3) their freedom and welfare should equally constitute reasons *for me*. However, the step (2) cannot be based on a simple observation or a theoretical inference. Seeing that somebody else is, in the *moral and practical sense*, "just like me", requires active recognition, not just passive registration of an independent fact.

Although recognition was a central theme in Hegel's works during his Jena period, its role in his last work, *Philosophie des Rechts*, has often been neglected. Many interpreters have claimed that the concept plays almost no role in Hegel's philosophy of law (on these claims, see Williams 1997: 138). As such, this is not surprising, for the term "recognition" is not extensively used in PR. Jürgen Lawrenz (2007: 154) has counted that *Anerkennung* appears only six times in the whole book. Indeed, Robert R. Williams's work *Hegel's Ethics of Recognition* (1997) was hailed as the first book-long work on Hegel's PR in which the concept of recognition played a central role (Knowles 2001: 348; Lawrenz 2007: 154). In this context Snellman's *Rättslära* makes interesting reading. We shall argue that Snellman consistently reads Hegel through the prism of recognition and tries to make its role explicit.

Snellman's RL is, like Hegel's PR, divided into paragraphs, accompanied by short explanations. A mechanical counting shows that 49 out of 114 paragraphs in RL contain the noun "recognition" [*erkännelse*] or the corresponding verb "recognize" [*erkänna*].The contexts may be classified in the following way: *property and recognition*: § 5,9,20; *contract and recognition:* § 22,24,25,28,32; *recognizing right(s):* § 35, 36, 39, 65, 69, 70; *punishment and recognition:* § 38, 51, 94; *recognizing subjects in their actions:* § 46, 49, 50, 51, 53; *recognizing subjects as free:* § 59, 60, 61, 95; *recognizing families and their property:* § 81, 82, 102;

citizenship and recognition: § 84, 85, 86, 96, 97; *recognizing the law:* § 86, 87, 88, 89, 90, 92, 93, 94, 95, 103, 104, 105, 106; *recognizing the State:* § 104, 105; *recognition between states:* § 111, 112, 113.

2. Recognition and Property

In RL Snellman, following the pattern of PR begins with Abstract Right. Both Hegel and Snellman start from the concept of *will*. Unlike many philosophers, they do not think that the metaphysical concept of freedom can be separated from the socially and politically relevant concept. The will is free in the sense that it can take subjective desires and biologically determined needs and inclinations as its objects. According to Snellman (RL §III) this is necessary because our mind is constantly "crowded" in the sense that we always have several, practically incompatible desires. We cannot satisfy all the desires we have, so our will is forced to choose among them. When choosing between the competing desires, the will has to apply reasons which are independent of those desires. The theory of law is the theory of those reasons.

Freedom of the will means that the will is able to overcome any contingent limitation. To quote Schmidt am Busch (2008: 577), for Hegel's free being "there is indeed no belief he could not call into question, no need and no desire he could not decline to act on, and no objective he could not stop willing and pursuing". However, although the free will is not forced to have any particular content, it must will *something*. Another way to put this is that freedom is real only when it is exercised, and it can be exercised only through concrete actions (RL §16).

For Snellman and Hegel, freedom is dependent on mutual recognition. A free being is free only if it *knows* that it is free (PR §26Addition, PR §57). This sounds plausible: a former slave who remains servile to his former master is not fully free. A free being knows that it is a free only when the others recognize it as free and it recognizes that recognition. If one recognizes the others as recognizers, one has to recognize them as free beings. Signs of "recognition" coming from beings who are not free do not constitute real recognition. Hence, one can be a free person only if one's freedom is mutually recognized within a community of free beings.

The central concept in Abstract Right is *person*, the possessor of the free will. "Person" in this narrow, legal sense is essentially a theoretical abstraction which should be distinguished from the concept of concrete personality (RL §4). In this abstract sense, there are no differences between persons. Snellman argues that this concept of person contains a paradox, for

> an individual may exclude from itself its embodied self as well as all contents of its consciousness, all emotions, desires, representations etc. and still may know its identity and say: 'I am I'. But every individual is a similar 'I am I'. In other words, if individuals are abstracted from all their particular determinations, they become one self-same I. Just that which should constitute the highest individuality, the self, makes the individual identical with all individuals. (RL §3)[1]

The paradox is that in this abstract sense, persons are completely impersonal. Both for Snellman and for Hegel a person is initially a solipsistic creature: he "excludes outside itself all other persons" (RL §3). In its initial solipsistic world the will of a person confronts only objects which are, for it, without any inherent normative meaning. A person appropriates these things by taking them into physical possession, by using and molding them and by putting his mark on them. In Hegelian parlance, the appropriated things are "negated." They cease to be natural objects and become tools or artifacts (RL §12).

The explicit presupposition behind the appropriation model of property is that an appropriating person already owns *himself* (RL §11, §37). This self-ownership postulate was central for Grotius's and Locke's theories of property (Grotius 1625/1583: II.II.ii.4; Locke 1689/1988: §24). However, for Hegel and Snellman, a person's relation to himself as well as to external objects becomes a full ownership relation only when this it is recognized by other persons. Recognition is meaningful only if the person sees the others as persons; it must be reciprocal. Without such recognition, persons remain in a Hobbesian state of nature, a world in which "every man has a right to every thing, even to one another's body" (Hobbes 1651/1996: I.xiv.4).

For Snellman, property and intersubjective recognition presuppose each other:

> Only when owning something [a human being], in his mastery over the nature, realizes his free will to himself and, (…) this mastery also gives him a recognition from the other human beings. (RL §9)

Persons recognize other persons by recognizing their possessions as legitimate property. Thus, in Abstract Right (in RL as well as in PR) persons' mutual relations to each other are mediated by external objects (RL §22). Property is important because it allows persons to *express* their

[1] All translations of Snellman's text are our own.

distinct personalities. They may say: "*I* planted those trees", "*I* chose the color of the wall papers of *my* room", or "*I* wrote that article". They exercise their free will by acting on the external world and producing contingent results which are observable, relatively permanent, and could be ascribed to them as *distinct individuals*. They cannot, so to speak, express their freedom only by building sandcastles which will disappear with the change of the tide.

Hegel's and Snellman's Abstract Right is an interesting attempt to describe and to justify (private) property. It is clearly distinguishable from the functionalist views of Aristotle, Aquinas, and the Utilitarians, from the labor theories of Locke (1689/1988: §26-§28) and Fichte (1796/1911: II.13.A.1), as well as from Kant's liberty-based justification. In all these different theories private property is ultimately justified in instrumental terms: property is seen as important only because it is a necessary means to further ends. It is an interesting question whether Hegel's person-based justification of private property is still relevant in the world where most private property belongs to impersonal owners. According to Snellman, a corporation is not a moral person, for it does not result from an ethical common will (RL §81).

3. Recognition and Contract

What is it, then, to have legitimate property? Clearly, the notion of property implies a complex set of rights. For Hegel and Snellman, the most important aspect of property rights is the right to *alienate* property through contract. Alienation is an equally essential moment of freedom as appropriation (RL §17-§22). Indeed, contract is the only topic that gets a more detailed treatment in Snellman's RL than in Hegel's (much longer) PR. Snellman states that there is something paradoxical or contradictory in the idea that an essential element of right is to give up that right (RL §22; cf. PR §75). The idea is, however, an instance of the more general insight that freedom is real only when exercised. Consider a miser who gets his pleasure for contemplating the possible ways he could use his wealth and who therefore never uses any of it because he does not want to exclude any option. Or consider a person who jealously guards her personal independence and is therefore unable to form any permanent relationship because that would make her "less free". Both types of persons could be characterized as less than fully free because they are unable to exercise their freedom. Freedom is exercised only by committing oneself to projects and relations which create new reasons and therefore limit the unconstrained freedom to follow one's desires.

Because a contract is explicitly a relationship between two (or more) persons, it requires mutual recognition. A contract is possible only between

creatures who take (and think that the others take) each other as free and responsible beings who are able to be guided by reasons and not only by arbitrary desires (PR§71). Without this background, a party to the contract would have no reason to suppose that the "contract" has any effect whatsoever on the behavior of the other. Because this recognizing attitude is a presupposition of the validity of all contracts, it cannot *itself* be based on a contractual relationship. Hence, a contract cannot be the starting point of the philosophy of law. Most notably, neither the State nor family relationships are analyzable (only) as contracts. This analysis implies a fundamental critique of the classical contract theories of Hobbes, Locke and Rousseau (Rosenfeld 1996: 236).

One consequence of the analysis is that the parties should remain fundamentally free and separate persons *after* making a contract. Hence, marriage is not a contract (although based on mutual consent) because in marriage, the spouses form a new person. Moreover, a person's life and basic freedoms cannot be alienated in a permanent and irrevocable way (RL§16; PR§105). Here Hegel and Snellman are in a good company. Locke, Montesquieu, Rousseau, Kant, and Mill all agreed that the right to liberty is unalienable. However, there seems to be a problem. To recall, Hegel and Snellman accepted the idea that a person in some sense owns himself and that full ownership is possible only as recognized. The possibility of alienating property is for Hegel and Snellman an essential aspect of recognized ownership. Nevertheless, personhood is said to be inalienable. Is there a contradiction? It seems that personhood has to be an exceptional case. Hegel argues in PR that personhood is not "external", and therefore not alienable, but this is not very informative. A better, distinctively Hegelian argument can be formulated.

To start, it is reasonable to distinguish between two different but mutually compatible theses about the relationship between rights and duties. According to the standard analysis of (claim) rights (shared by most legal theorists, including Locke, Kant and Bentham) rights are *correlated* with duties in the following sense: If A has a right to X, then there has to be some B whose duty is to provide X to A, or at least not to prevent A from achieving or maintaining X. Hegel and Snellman clearly accept the correlation thesis, although with certain reservations (RL§61, §44; cf. PR §155).[2]

[2]Jacobson (1996) argues that Hegel rejected the correlativity thesis, and that his theory is generally incompatible with Hohfeld's famous analysis of legal relations. By contrast, Roscoe Pound (1937: 572) claimed that Hohfeld's analysis was actually based on Hegel.

The second connection between rights and duties also accepted by Hegel and Snellman is more controversial. Here it is called the *connection thesis*. According to this, *if somebody has duties, he or she also has rights* (PR§261). Obviously, B cannot have a duty to do X unless B also has a right to do X. The conjunction of the two theses, the correlativity thesis and the connection thesis, already brings certain aspects of reciprocal recognition to the play. Suppose that A demands for himself a right to X. From the correlativity thesis it follows that A has to suppose that there is an other, some B, against whom A makes his claim and who is supposed to have the corresponding duty. From the connection thesis it follows then that if A claims a right against B, A has to recognize that B also has rights. Because slavery has been defined as a situation in which one is treated as a thing who has no rights whatsoever, the conclusion is that if A claims his rights, he has to admit that B is not a slave (Rosenkrantz 1870/1874: 57). However, we have not yet established the idea of reciprocal recognition of *equal* rights. Although A has to admit that from his claim that he has the right to X follows that B has some rights, A need not accept that B has the same rights as A has, that is, that B is a person. The basic assumption behind Hegel's and Snellman's notion of a "person" is that rights and duties cannot, for conceptual reasons, be distributed in a purely arbitrary way. Some logically possible "bundles" of rights and duties are impossible. The concept of person contains the most fundamental bundle, required by the concept of free will. By consenting to slavery and, in effect, giving up all his rights, a person would give up his personhood. By giving up his personhood a person would also give up his duties. Then he would not be bound by the contract by which he alienated his personhood. Such a contract would not create any new rights or duties; in effect, it would be void. Therefore, a person's right to be a person – a bearer of further rights and duties – must be inalienable.

4. The "Contradiction" in the Abstract Right

The Hegelian theory of law is often described as a duty-based theory. However, some commentators have challenged this reading. For example Jacobson (1996) argues that Hegel's theory is fundamentally right-based. Admittedly, Abstract Right starts with rights; duties are introduced only later. However, it is important to notice that Hegelian argumentation does not start from the most basic elements on which the rest would then be built. Rather, it starts from the most *abstract* elements ("abstract" is, in Hegelian use, always a slightly negative term) and finds a problem ("contradiction"), then looks the same issue from another, richer and more nuanced viewpoint, again finds a problem, and finally tries to reconcile the two apparently incompatible viewpoints by providing a framework which

combines the fruitful or plausible aspects of the earlier viewpoints ("sublation" or *Aufhebung*). As such this way to proceed ("dialectics") is *prima facie* plausible – although it is by no means clear whether Hegel himself is always able to follow his official procedure. Thus, while PR starts with Abstract Right, it proceeds through Morality (*Moralität*) to Ethical Life (*Sittlichkeit*; Snellman: *Sedlighet*) which then moves from family via civil society to the State. If one concentrates only on the final parts of PR and assumes that the earlier individualistic elements of Abstract Right are definitely cancelled, Hegel is easily seen as a duty-based and state-centered theorist. After all, the apex of Ethical Life is the State. If, however, one reads Abstract Right out of the context and takes it as the foundation of the whole work, Hegel looks like a radical libertarian (Jacobson 1996). Again, Snellman is useful. He makes clear that while the rights and duties defined in Abstract Right are essential, they have no absolute priority over other considerations. He denies that "the property right would be the only right or a determination of right that would take a priority." Within the Abstract Right it can only be shown that "the property right is generally rational and necessary for the freedom of will" (RL§39). A rational society requires individual rights but the exact nature of those rights is left for the positive legislation.[3]

What is the supposed "contradiction" derivable from Abstract Right? Here Snellman is clearer than Hegel. He remarks that a contract between two persons is bound to be indeterminate. For "even if a contract were made as precise as possible, its every word contains possibilities of different interpretations"; ambiguity is built into language itself. Within the framework of Abstract Right there is no remedy:

> The interpretation of a contract is dependent on only of those two persons who have made the contract. Both persons are equally entitled to interpret the clauses of the contract and the incorrect interpretation of one party is as valid as the correct interpretation of the other. (RL §33)

In Abstract Right, all relationships between persons are based on mutual acceptance. Everything is potentially indeterminate and open to negotiations:

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[3]To quote Stillman (1996: 208): "Hegel's political thought is founded on property only so that it can transcend property."

> In Abstract Right, there is no way to distinguish the Right from the Wrong. Only the will of the person is valid, and the Right is only what is recognized as the Right by the person. A personal will is called wrong only because it is in conflict with the will of another person. (RL §35)

For Snellman, this is the basic contradiction of Abstract Right, ultimately solved only by the State:

> To distinguish the Right from the Wrong one needs a third will which is not only personal but absolutely valid over merely personal will. In civil society [*borgerliga samhället*] this happens through an enacted law, which distinguishes between mine and yours, and over which there is no higher justice. (RL §35)

Interestingly, this justification of law as a recognized *third party* who, through its judgments, determines the concrete content of rights is similar to that used by the contract theorists, especially by Hobbes, Locke, Rousseau and Fichte. In spite of his critique of contractualism, Snellman seems to accept a version of *hypothetical* contract when justifying the transition from Abstract Right to the civil society.[4] Compare Snellman's argument with, for example, the following passage in Hobbes's Leviathan:

> For these words of good, evil, and contemptible, are ever used with relation to the person that useth them: there being nothing simply and absolutely so; nor any common rule of good and evil, to be taken from the objects themselves; but from the person of the man (…); or from an arbitrator or judge, whom men disagreeing shall by consent set up, and make his sentence the rule thereof (Hobbes 1651/1996: I.vi.6).

It seems that here Snellman departs from Hegel. There is no comparable argument for the necessity of the impartial and authoritative third party in Hegel's *Philosophie des Rechts*.

However, Abstract Right is not followed by civil society or by the State, but by Morality (or Subjective Right). It is by no means clear what in the

[4]Indeed, in his later work, *Läran om Staten*, the influence of Rousseau's contractualism is clearly visible. There, Snellman says that the state is based on a (hypothetical) contract in the sense that an individual will has to submit itself to the general will (Snellman 1842/1993).

dialectical scheme justifies this move. However, its historical antecedents are clear: Kant distinguished between Right [*Recht*] as a system of external norms enforced by coercion, and Virtue, the internal laws of morality. Given the correlative relation between individual rights and duties it could be said that while Abstract Right sees human beings as bearers of rights, Morality looks the same beings as subjects of the corresponding duties, from an internal perspective. By introducing the language of intentions, actions and responsibilities, Morality paints a more nuanced picture of the human being:

> A person may be conceived as an abstract *I* who constitutes the self-consciousness, as an individual and as all individuals, while a subject is this determinate *I* with all its determinate emotions, desires, needs, thoughts, and aims. (RL §42)

In their respective treatments of Morality, Hegel and Snellman present a detailed theory of action. Snellman claims that recognizing someone as a free subject implies that he is seen as responsible for the consequences of his actions. For Snellman, Morality, even more explicitly than Abstract Right, is thoroughly based on mutual recognition. While in Abstract Right people recognize each other as property holders and contract parties, in Morality they recognize each other as responsible beings:

> It is a right of the subject to be recognized as a rational free will, and thus as able to foresee all the conditions of actions. It belongs also to the concept of subject that the subject determines itself freely and therefore the subject as acting being is not dependent on anything accidental. It is therefore also a right of the subject to be recognized as responsible for the consequences of actions. (RL §51)

5. Recognition and Family

The third element of Hegel's PR is *Sittlichkeit*, usually translated as "Ethical Life"; the corresponding chapter in Snellman's RL could be translated as "The Ethical Right, or the Theory of Society" [*Det Sedlige Rätta, eller Samhällsläran*]. Again, the reasons for transition from Morality to Ethical Life are not fully transparent. Nevertheless, it is easy to see what is missing in Morality. First, as famously argued by Hegel (but not by Snellman) the fundamental concept of the Kantian Morality, the Categorical Imperative, is without content (PR§ 135). It cannot alone generate concrete duties. Second, the problem of indeterminacy which characterized Abstract Right is still there. In the sphere of morality, the

criteria of right action are supposedly given in "conscience" or "moral sense", but, as Snellman remarks, religious and political fanaticism also appeals to "moral sense" when justifying "most terrible crimes". Again, a "third" is needed to solve the conflicts which may arise even (or especially) between conscientious subjects (RL §79). Third, the *motivation* to follow and defend a system of rights and duties can develop only in an organized society. Only there, can the external and the internal aspects of justice be combined.

The basic element of the society is for Snellman, as for Hegel, the family. The family is, for both, a "natural society." Axel Honneth (1992/1996: 92-130) has argued that love, (realized in the family) the recognition of rights (realized in the legal system) and esteem or social respect (realized in civil society) are, for Hegel, the three basic forms of recognition. Indeed, in addition to §158, Hegel sees love and family relationships as forms of mutual recognition. Therefore it is significant that Snellman does not explicitly mention love as a form of recognition. For him, recognition seems to be related *only* to legal rights and to social respect or esteem. One may argue that here Snellman is actually more consistent than his master. In Hegel's picture, women are so limited creatures that it is difficult to understand how they could be in *reciprocal* relations with free and rational beings -- that is, with men. Even Williams, who consistently defends Hegel in most issues, has to admit that Hegel's views of women are deeply sexist (Williams 1997: 220-226). It may be argued that here Hegel is even *more* culpable than most male classics of philosophy. In their (usually brief) treatments of family and of gender roles, they often simply repeat the prejudices of their times without any further reflection. For Hegel, by contrast, the family, and with it, the gendered division of labor had a central role, for family was the institution in which the necessary moral motivation was produced (Roman-Lagerspetz 2015). Hence, family was at least as important a topic for legal and political philosophy as property rights or the market mechanism. Snellman clearly shared Hegel's one-sided view of the family and of the gender roles:

> For woman, family is therefore an end, while man, even outside the family, preserves his subjective freedom and therefore has his end in civil society and in the State. Woman helps indirectly in the realization of these ends thorough her activity in the family. (RL §81)

Given that women are not considered to be subjectively free, it may actually be more consistent not to count them among the recognized/recognizing subjects. However, if this is accepted, it seems that

the modern State is not, after all, a realm of universal freedom in which "one cannot be free unless all are free." Hegel and Snellman seem to accept a functionalist argument in which a necessary condition of the rationality of the State is that some of its members (women) are permanently treated as less than fully rational creatures (Roman-Lagerspetz 2015). This can, of course, be justified only if they are *essentially* less rational (PR §165 - §166). If women could become fully rational, their unequal position would mean that they were treated only as a means for a further end. It would constitute a failure of appropriate recognition. Hegel makes clear, in *Philosophie des Rechts* but especially in his earlier *Phänomenologie des Geistes*, that the perspective of women is *necessarily* more limited than that of men. It necessarily takes the form of "concrete individuality and feeling".

6. Civil Society and the State

In his treatment of civil society, Snellman explicitly disagrees with Hegel. Hegel's view may be captured by the following three propositions (Patten 1999: 172):

(1) civil society is the sphere in which agents have the particular as their end and object;
(2) the universal is an unintended consequence of this pursuit of the particular in civil society; and
(3) the State is the sphere in which agents consciously have the universal as their end and object.

Propositions (1) and (2) are derived from classical political economy. More specifically, proposition (2) is Hegel's interpretation of Smith's famous "invisible hand". To quote Smith's *The Wealth of Nations*, an economic agent is

> led by an invisible hand to promote an end which was no part of his intention. Nor is it always the worse for the society that it was no part of it. By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it. (Smith 1976: 456)

As in the case of family, Hegel relies on a functionalist argument: an ethically good society requires that people are *not* always motivated by universal ethics. In both cases motives and attitudes which are, as such, less than fully ethical and rational, appear as necessary when they are seen in a wider context. Although Snellman actually took a more liberal stand

than Hegel in some concrete issues, he could not accept Hegel's (and Smith's) argument that pure egoism was permissible or even commendable in market contexts. Consequently, civil society as "the system of needs" has a very limited role in Snellman's treatment. What is important for him is that life in civil society is life regulated by a general and recognized system of positive rights and duties.

In legal theory, there have traditionally been two competing views on the nature of rights. According to one view, rights are "natural" in the sense that their existence is ultimately independent of human attitudes, institutions, and practices. Positive rights, codified in written laws, constitutions, and declarations of human rights simply make visible and give an official status for rights which have an independent existence and which are ultimately grounded either on the ontology of human beings or on the will of God. That human beings have rights is an independent fact. It does not require that the community, or the right-holders themselves, are aware of the fact, or have conceptual means to understand it. In the competing positivist view, by contrast, rights are always products of human institutions, practices and attitudes. The existence of a right is a complex social fact. Someone has rights only if they are actually enforced in the respective community. The obvious problem in this view is that the critical role of rights seems to be lost.

Hegel and his Idealist followers tried to find a third route (Brooks 2006). Snellman explicitly denies the idea of ahistorical natural rights (RL§4, §85). His ontology of positive law may be the most original element in RL:

> An individual is a citizen because he recognizes the law, and so is the law as the general will only through this recognition. In other words, the reality [*verklighet*] of the law means that it is known and recognized. Thereby even the subjectivity of the individual is valid in relation to the law; for although the recognition of this or that individual is irrelevant for the law, it is nevertheless required that the law is generally recognized by individuals, and one individual is as necessary as another for the reality of the law. (RL §87)

It is necessary for the existence of law that sufficiently many of those who are recognized as citizens by the law recognize the validity of that law. Hence, they indirectly recognize each other as citizens and therefore the relevance of each other's recognition to the validity of law. Snellman shares the positivist view that the existence of the law is a complex social fact; the existence of the shared attitudes of recognition in a certain place and a certain time. However, Snellman is not a reductionist. Although the recognition of law is conceptually related to citizens' actions (they obey

the law, evaluate the actions of the others by using the law as a yardstick, try to change it though legal means etc.), these actions and the underlying beliefs and motives could be understood only through the irreducible *concept* of law.

For his brief treatment of the State, Snellman omits most things discussed by Hegel in PR. However, the famous (or notorious) argument for monarchy (PR §279-281) is repeated:

> Because the concept of the State includes its individuality, and its every institution is a living and effective power arising from individuals who by knowing and willing exercise that power, even the sovereign power works through an individual, the ruler. (…) For all action is ultimately dependent on the decisions of a subjective will, and even in the State everything would be paralyzed as endless deliberation, if somebody did not have the power to express the decision and the power to transform the decision into action. (RL §110)

In the Hegelian theory, the State is capable of possessing a will and of acting. But it cannot have a will nor act unless some individuals also act. Ultimately, the State as an artificial person has a will only if there is a single will of an individual which clearly and unambiguously represents the will of the State. More generally, a collective actor cannot will and act unless there are natural persons who perform the underlying acts according to some specific rules and practices (Steinberger 1988: 220; Lagerspetz 2004). Snellman adds that this individual, the ruler, may be called "the Emperor, the King, the President etc.," thus indicating that different institutional solutions are possible. This, however, was *not* Hegel's view. According to him (PR §281), *only* hereditary monarchy provided a fully rational solution.

In the final parts of RL, Snellman, following again the structure of Hegel's PR, deals with international relations (the "external public law") and the World History. According to him, separate states are continuously involved in a struggle for recognition. This is the only case in which Snellman uses the expression. Interestingly, although "struggle for recognition" is a central theme in Hegel's *Phänomenologie des Geistes*, he does not, as far we know, explicitly apply it to international relations. Nevertheless, Hegel and Snellman share the view that the inter-state world is a world of struggle (RL §112); Kant's optimistic prospect in his *Zum ewigen Frieden* is explicitly rejected. Consequently, people cannot "recognize themselves" or "be at home" in the interstate world. In a sense, Hegel and Snellman find themselves in the very place they wanted to avoid all along - the Hobbesian state of nature (Cortella 2015: 128).

However, this is not the last word. *Die List der Vernunft* guarantees that even the anarchical logic of international relations ultimately serves the development of Reason. Contrary to a common misconception, the apex of the human history in Hegel is not the State or the world of states. It is the Absolute Spirit: the development of human civilization in science, philosophy, arts and religion to its full perfection. Limited altruism and particularistic perspectives govern the competition between the states - as they do in the family and in civil society. Nevertheless, these limited perspectives are supposed to be functionally necessary for the achievement of higher purposes.

7. Conclusion

It may be said that on the whole Snellman's recognition-centered Hegelianism probably had a moderating effect on the development of the 19th century Finnish national movement. Snellman's way of reading Hegel emphasized the necessity of peaceful reform as well as the importance of the rule of law. Most importantly, for Snellman there were many possible sources of recognition at the individual as well as at the national level. The importance of a nation for the development of the Spirit should not be estimated solely in terms of military might or economic importance. For a small nation these were strategically important insights. The influence of Hegelianism may partly explain why the 19th century Finnish nationalism took a less militant form than its counterparts in, say, Poland or the Balkans.

Although the concept of recognition occasionally surfaced in Snellman's later works, its explicit role was much less central than in RL. Already in *Läran om Staten*, published only two years after RL, recognition is but mentioned, while ideas derived from Rousseau and Montesquieu occupy a central place (Snellman 1842/1993). Indeed, in the beginning of *Läran om Staten* Snellman says openly that the state is in some sense based on a contract – an idea criticized both in RL and in Hegel's PR.[5] And when in 1857, Snellman, now a professor, starts to lecture on legal and moral philosophy, the recognition terminology is not used, although the Hegelian tone of the lectures is clear. This change requires further research.

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[5] The idea of recognition as it appeared in Fichte's *Grundlage des Naturrechts* and in Hegel's early works was also influenced by Rousseau. Thus, one might argue that Snellman's views even in *Läran om Staten* continue the general theme. Nevertheless, the fact is that his terminology has changed.

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