

The Norwegian Constitution and the Rhetoric of Political Poetry

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Introduction: Constitution as Poetry in Hegel's Sense

The Norwegian Constitution of 1814 is not only a legal, but also a rhetorical phenomenon of its time. It uses a certain style of political rhetoric that mainly stems from the revolutionary movements in the United States and France. Drawing on *The Philosophy of Right* by the German philosopher Georg Wilhelm Friedrich Hegel (1770–1831), I conduct a comparative rhetorical analysis of selected constitutions of the late eighteenth and early nineteenth centuries, most of which proved to be quite short-lived: the constitutions of the Batavian Republic (1798), the Helvetic Republic (1798), Poland (1791), and Spain (1812). The Norwegian Constitution of 1814 can be interpreted against this background as a successful attempt to incorporate not only political, but also rhetorical lessons from the past.

Hegel has the reputation of being a staunch assessor of the authoritarian Prussian state. One of the most prominent critics of Hegel as a totalitarian philosopher and as a predecessor to fascism is the Austrian philosopher Karl Popper. He created the notion of an “open society,” which he presented as the exact opposite of the Hegelian state (Popper 1945). Adherents of Popper’s allegation most often quote the famous sentence from the introduction to Hegel’s *The Philosophy of Right*: “What is rational is actual and what is actual is rational” (Hegel 1952: 6). This statement serves as a legitimation for a strong state: once the authoritarian Prussian state came into being, it was justified by the spirit of reason. This interpretation is at least problematic, if not wrong. Arguably, Hegel built his philosophy around the notion of freedom. The French Revolution was undoubtedly the most important historical event in his life (Ritter 1965: 18). According to Hegel, the consciousness of freedom necessarily entailed freedom itself. Hegel perceived his time as a liminal period in which freedom became

the core of human society. Hegel claimed in another famous passage from the introduction to his *The Philosophy of Right* that philosophy “is its own time, apprehended in thoughts” (1952: 8). He constructed his own philosophy to live up to this aspiration. The importance of the French Revolution for Hegel is that it not only brought freedom about as a political reality, but also formulated freedom as a human right. The text that pronounces and thereby grants the right to freedom is of course the constitution. The state that is based on such a constitution becomes “the actuality of concrete freedom” (Hegel 1952: 82).

Hegel’s philosophy sums up the predominant ideas about constitutionalism in his time. Most important is Hegel’s universal approach: he saw law and ethics as one, embedded the individual in society, and endowed aesthetics with consciousness. Hegel was generally preoccupied with the relation of content and its formal representation. Constitutions and their rhetorical expression of so abstract a notion as freedom are a case in point. I will argue that constitutions can be understood as poetry in Hegel’s sense. They do not belong to the prosaic genres, which are constructed around logical argumentation. Poetry does not need reasoning because its truth derives directly from its utterance. Once the poetic truth is formulated, it becomes valid and enters into being.

In his “Lectures on Aesthetics,” Hegel defines poetry as the original mode of presenting truth:

Poetry is older than skillfully elaborated prosaic speech. It is the original presentation of truth, a knowing which does not yet separate the universal from its living existence in the individual, which does not yet oppose law to appearance, end to means and then relate them together again by abstract reasoning, but which grasps the one only in and through the other. Therefore it does not at all take something already known independently in its universality and merely express it in imagery. According to its immediate essential nature it abides by the substantive unity of outlook which has not yet separated opposites and then related them purely externally. ... With this way of looking at things, poetry presents all its subject matter as a totality complete in itself and therefore independent; this whole may be rich and may have a vast range of relations, individuals, actions, events, feelings, sorts of ideas, but poetry must display this vast complex as perfect in itself, as produced and animated by a single principle which is manifested externally in this or that individual detail. Consequently the universal and rational are not expressed in poetry in abstract universality and philosophically proved interconnection, or with their aspects merely related together as in scientific thinking, but instead as animated, manifest, ensouled, determining the whole, and yet at the same time expressed in such a way that the all-comprising unity, the real animating soul, is made to work only in secret from within outwards. (1975: 2:973)

Constitutions are poetry in the sense that they possess a totality wherein causes and effects are not separated, but rather exist as a whole. From Hegel’s perspective, constitutions are not individually drafted texts, but rather expressions of

a consciousness of freedom. In a way, there is only one constitutional macro-text, which cannot be altered—it integrates freedom and civil rights into the organization of the state. The constitutions that came into being after the path-breaking foundational documents in the United States and France are for Hegel but recastings of this ideal master plot that gravitates toward formulation once it has been thought. The striking resemblance of most constitutions finds its explanation in this peculiarity: constitutions are variations on a theme that is not at the disposal of the framers of the constitutional text. There is a certain spectrum of possible phrasing, but the main lines are predetermined. Hegel calls the constitution a “building” in which the “fate” of a people lives (1935: 5). In his treatise on the end of the German state after the Treaty of Lunéville (1801), he praises the ideal state not as a legal construction, but as a natural phenomenon:

The German Reich is a kingdom like the kingdom of nature with its productions, unfathomable in the large and inexhaustible in the small, and this capacity fills him who is intimate with the infinite details of rights with amazement for the venerability of the German state body and with admiration for this system of most perfect justice. (Hegel 1935: 9)

Drawing on Hegel, the prominent German constitutional scholar Ernst-Wolfgang Böckenförde (1991: 92–114) claimed that the modern, secularized state lives on preconditions that cannot be guaranteed by that very state. He surmises that the constitutional state has to live on “inner bonding forces” that resemble religious belief. For this reason, constitutional prose often uses formulas of self-evidence. The fundamental norms of constitutions are anthropological norms. In the US and French cases, these anthropological norms were formulated in a special foundational document that preceded the constitution: the US Declaration of Independence and the French Declaration of Human Rights, respectively. In both texts, mankind is defined in its assumed essence, and departing from these definitions, the legal design of a state can be described in the subsequent constitutions.

The rhetorical genre of declaration belongs to so-called performative speech acts. Such speech acts achieve their effect by the mere fact of enunciation. In the title of his famous book from 1962, the British philosopher of language John L. Austin called this relation, “How to do things with words.” It is obvious that various legal rituals are performative speech acts. The Swedish legal philosopher Karl Olivecrona (1971: 218–230) drew attention to the performative, quasi-religious, and even magical character of many constitutional provisions that create norms just by being uttered and not by being proven.

The famous formulation in the US Declaration of Independence of 4 July 1776 explicitly draws its legitimation not from an external source but from “self-evident truths”:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed. (Vile 1997: 255)

The claimed self-evidence of the principles enunciated in this document opens up an ideological vacuum. Since this rhetoric of truth cannot be based on an argument (truth is already itself the basis), the lack of reasoning in the constitution has to be compensated for by a quasi-religious pathos. It is quite interesting to note is that God occurs in this famous phrasing not in a Christian guise. The “creator” is a notion from civil religion. By referring to this entity, the Declaration of Independence defines a very specific anthropology: man is not just an accidental animate being, but acts as a dignified subject of a creation. Man’s dignity encompasses eternal and unalienable rights that must be secured by men themselves. The “creator” does not actively participate in this process, but he gives hints to show mankind that it is on the right path. The US statesman and founding father James Madison (Hamilton et al. 2009: 202) noted that the success of the US Constitution suggests the presence of “a finger of that Almighty hand which has been so frequently and signally extended to our relief in the critical stages of the revolution.” The revolutionary Thomas Paine ([1791] 1921: 185) even called the US Constitution the “political bible of the state.” As several scholars have pointed out, the norms written down in the US Declaration of Independence and the US Constitution form the core of US civil religion (Bellah 1976: 55–73; Hase 2001). Still, in 1952, Justice William O. Douglas wrote in the Supreme Court decision for *Zorach v. Clauson* (343 U.S. 306 [1952]: 312–313): “We are a religious people whose institutions presuppose a Supreme Being” (quoted in De Wolfe Howe 1965: 13).

In these argumentations, Hegel’s totality of causes and effects in poetry can be detected very clearly: man possesses dignity, this dignity encompasses eternal rights, and finally the protection of these rights in the form of a good government becomes one of the main tasks of mankind. The US Declaration of Independence states its beliefs not so much as the result of a political decision, but as a metaphysical right. This argumentation explains the excess of pathos that is present in its text. The French Declaration of Human Rights explicitly acknowledges its own poetic dimension. It defines its own rhetorical mode as “solemn” and calls the rights “sacred”:

The representatives of the French people, organized in National Assembly, considering that ignorance, forgetfulness or contempt of the rights of man, are the sole causes of the public miseries and the corruption of governments, have resolved to set forth, in a solemn declaration, the natural, unalienable, and sacred rights of man, in order that this declaration, being present to all

the members of the social body, may unceasingly remind them of their rights and their duties; ... and in order that the demands of the citizens, grounded henceforth upon simple and incontestable principles, may always take the direction of maintaining the constitutions and the welfare of all. (Blaustein and Sigler 1988: 83)

According to this declaration, human rights are neither invented nor constructed. They exist already before they have been acknowledged—but in the act of their enunciation and recognition, they become real. The performative speech act of declaring the human rights is simultaneously the institution of those rights. This conception is very close to Hegel's philosophy of right: the consciousness of freedom is a revolutionary act. Anyone who dares to think freedom is free. Man is thus endowed with a higher dignity that is based not merely on his new legal status as a citizen of a free nation, but also on the consciousness of this freedom. The French Declaration of Human Rights is not just a contract; it is also almost a holy scripture that is granted "in the presence and under the auspices of the Supreme Being." There is a significant Masonic line of tradition that leads to this formulation. Masonic rhetoric is already present in the US Constitution. The first president of the United States, George Washington, had been a Mason since 1753, the Capitol resembles a Masonic temple, and Washington laid its foundation stone according to the Masonic rite. In a famous contemporary painting representing the French Declaration of Human Rights, the painter Jean-Jacques-François Le Barbier placed the Masonic symbol of the eye of God above the stone tablets of the law (see figure 4.1).

The Declaration of Human Rights itself elicits in its rhetorical form the Catholic catechism, especially the Apostles' Creed: "I believe in God, the Father almighty, creator of heaven and earth. I believe in Jesus Christ, his only Son, our Lord. He was conceived by the power of the Holy Spirit and born of the Virgin Mary. He suffered under Pontius Pilate, was crucified, died, and was buried" (Catechism of the Catholic Church 2006).

The Declaration of Human Rights could also put the performative formula "I believe that ..." at the beginning of each article:

Art. 1. Men are born and remain free and equal in respect of rights. Social distinctions shall be based solely upon public utility.

Art. 2. The purpose of all civil associations is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security and resistance to oppression.

Art. 3. The nation is essentially the source of all sovereignty; nor shall any body of men or any individual exercise authority which is not expressly derived from it. (Peaslee 1956: 2:20)

As in the Catholic catechism, these elements are not just part of a personal belief that might be true. The truth of these sentences cannot be contested, because they form the ideological basis of two important institutions: the Roman Catholic Church and the French Republic. Rhetorically, the presence or



4.1. Jean-Jacques-François Le Barbier's 1789 representation of the French *Déclaration des droits de l'homme et du citoyen*.

absence of the performative formula “I believe” matters little, because the veridiction in both cases makes an absolute claim: neither believer nor citizen is free to decide upon the truth of the text. Rather, they are part of the text. Their task is not to discuss or even criticize the content, but instead to acknowledge its validity.

A similar rhetorical gesture can be observed in the Constitution of the Batavian Republic from 1798. It created a state in the Netherlands that was completely under Napoleon’s control and was therefore heavily influenced by the French Constitution of 3 September 1791. However, there are national specifics that already become clear in the very first articles of the Constitution of the Batavian Republic (Elias 2001: 43–52):

Article 1: The happiness of a people resides principally in the wisdom of the laws that it gives itself.

Article 2: The laws must always be the result of experience, and have to be adapted as much as possible to the genius, the manners of the Nation, and the peculiar circumstances of the land.

Article 3: The main principle of social freedom consists in the fact that the law guarantees the same rights to and imposes the same duties on all citizens regardless of their rank or birth. (*Constitution de la République Batave* 1805: 3; my translation)

The Batavian Constitution preserves the declarative character of the French foundational documents. But at the same time, it underlines the fact that the Netherlands were a client state of the French Republic. The Batavian Constitution must serve a double purpose: it must implement the general rhetoric inspired by the French Declaration of Human Rights and in addition insist on the national sovereignty of the Dutch people. From this perspective, Article 1 even gains a subversive meaning: if the happiness of the Dutch people depends on the wisdom of its laws—and of course the Batavian Constitution is the most prominent case in point—then these laws must not aim for an absolute, but rather for a relative good. In the given situation, the Dutch had to express their patriotism within the narrow framework of French hegemony—and they pushed their political aspirations to the limits. Article 2 explicitly relativizes the universality of laws—the Batavian Constitution is much more prominently a *national* constitution than is the French Constitution.

The Constitution of the Helvetic Republic (1798) emerged in a similar historical situation to that of Batavia. After Prussia and Austria had lost the War of the First Coalition (1792–1797) against revolutionary France, Napoleon instigated revolutionary movements in the tributary regions of the old Swiss Confederation. The French army invaded Switzerland and created a new political order, which required a constitution. The text clearly draws on the French

‘Please add Constitution de la République Batave 1805 to the reference list’.

example and states the unalienable rights of man. The author, the Mason Peter Ochs, added a moral provision that had basically nothing to do with human rights or political order:

Article 14: The citizen is indebted to his fatherland, his family, and the unhappy. He cultivates friendship, but he does not sacrifice any of his duties. He abjures all personal resentments and any motif of vanity. He wants only the moral ennoblement of the human race; he invites incessantly the mellow sentiments of brotherhood; his glory is the esteem of the good people, and his conscience knows how to reward him for the refusal of this esteem. (Quoted in Salamin 1969: 17–19; my translation)

There is, however, a difference from the French model. The normativity of the Constitution of the Helvetic Republic is not derived from a higher being, but resides in the text. This is a more radical solution: whereas the French Declaration of Human Rights invokes a “Supreme Being” and thus introduces an external element to a poetic text in Hegel’s sense, the Helvetic text relies completely on itself and mirrors Hegel’s poetic totality. The constitutional validity is couched in the Masonic ethics of self-perfection—the constitutional state shall be the community of free citizens whose behavior is governed by their moral self-control.

Finally, the Polish Constitution of 1791 voices its own historical experience when it calls for a strong executive authority, namely, the king: “The most perfect government cannot exist without an effectual executive power. Experience has taught us that the neglecting of this essential part of government has overwhelmed Poland with disasters” (Blaustein and Sigler 1988: 75).

Authority and the Authorial Voice

Because the early constitutions claim to establish a new political order, their main task is to speak with authority. The most famous case in point is the formula “We the People” in the preamble to the US Constitution. The authorial voice here serves simultaneously as the object of the text. The enunciation of the will of the people constitutes not only the state, but also the people itself. In a performative speech act, the people become a community: saying “we” means becoming “we.”

Constitutions do have authors—in the United States the founding fathers, in France the Constitutional Assembly, in Norway the deputies at Eidsvold. But the rhetorical structure of constitutions requires the effacement of personal authorship. Self-evidence of values is the presupposition of the texts—and therefore constitutions may not be presented as the work of one or many authors. The norms in a constitution are not legitimized by personal authority,

logical argument, or even the vote of a majority. Their validity has to be detached rhetorically from personal invention or construction. The authorship of a constitution must be concealed; the text itself takes up the place of the author. The constitutional authorial voice does not allow for objections—with ultimate authority, it states the new political order and purports to speak for all citizens. Even stylistically, there should not be a trace of the author's literary preferences. The Constitution of the Helvetic Republic could be too easily recognized as the work of Peter Ochs (Kopp 1992), and was hence ridiculed as *Ochsenbüchlein* (booklet of an ox).

The subject of enunciation of a constitution is the people. This does not mean that the constitution is deprived of any style. The style of the people is the pathos of self-empowerment. The people speak with the full consciousness of their own political weight and therefore make neither demands nor claims, but ascertainties. The general mode of the constitutional text is the indicative and the general tense is the present. These grammatical categories, however, have a special dimension in the constitutional context. The indicative does not mirror reality, but rather creates the political reality in a performative speech act. The present tense claims to be an eternal tense. The articles of a constitution come without an expiry date—if they had one, their “self-evident truth” would be quite dubious (Bastid 1985: 187; see also chapters by Visconti; Gammelgaard; Jordheim; Warner et al. in this volume).

The real authors hide behind the lyrical subject of the constitutions. They have every reason to do so: in the US case, the authorial statement “We the People” is obviously an exaggeration, because the Federal Convention in Philadelphia consisted of merely fifty-five persons; the Constitution itself was signed by only thirty-nine founding fathers (Parent 2011: 42). The Norwegian Constitution was decided upon by 112 men. The printed version of the document featured the signatures of 104 deputies.

The Norwegian Constitution is a document that is clearly based upon the US and French models (N. Höjer 1882). However, the authors of the Norwegian Constitution do not engage in a pathos of human rights, and the reason for this becomes clear in Article 2: “Jesuits and Monastic orders shall not be tolerated. Jews are furthermore excluded from the Kingdom” (*The Constitution of the Kingdom of Norway* 1814: 3). With these restrictions, the Norwegian Constitution reflects European reservations against Jews and Jesuits, who allegedly conspired against the freedom of democratic states. This was a widespread prejudice in the eighteenth century. Even the French Enlightenment knew this form of discrimination: the philosopher and writer Denis Diderot authored a highly negative entry on the Jesuits for the *Encyclopédie* (Diderot 1766).

Conversely, the characteristics of the Norwegian nation were accurately defined in Article 93: “In the offices of the state must only be employed those Norwegian citizens who profess the Evangelical-Lutheran religion, have sworn

obedience to the Constitution and the King, [and] speak the language of the country.” Interestingly, the Norwegian Constitution does not define the “language of the country” linguistically. The Constitution itself is written in Danish—in the language of the former colonial power (see also Berge; Madzharova Bruteig in this volume).

As in the Batavian example, the Norwegian Constitution is not a universal, but a national document. Whereas the United States and the French Republic understand themselves as states that are based on universal principles, Norway states its national peculiarity from the outset. Of course, the formulations “We the People” and the French “Nation” also allude to an imagined community with culturally defined characteristics. But the US and French nations are held together in their constitutions by common values that are taken for granted (liberty, equality, welfare, etc.). The Norwegian Constitution laid the groundwork for the independent national state that eventually came into being in 1905. From the very beginning, Norwegian nationalism was opposed to Swedish Scandinavianism (Parent 2011: 103; see also Ringvej in this volume).

A similar orientation toward nationality can be found in the Spanish Constitution of 1812, which carefully defines the Spanish nation in the first chapter:

Article 5. The following are Spaniards:

1. All free men born and resident in the Spanish dominions, and their children;
2. Foreigners who have obtained certificates of naturalization from the Cortes;
3. Foreigners who, without such certificate, reside ten years in a district, may obtain it, according to law, in any town of the monarchy; 4. Freedmen as soon as they obtain their liberty in Spain.

Article 6. Love of his country is one of the principal obligations of all Spaniards, as well as justice and beneficence. (Blaustein and Sigler 1988: 118)

There is quite a spectrum of authorial voices in the early constitutions. The US Constitution engaged in a pathos of human rights but extended them only to white males. Quite telling is Section 2 of Article I, which regulates the political representation of the member states: “Representatives and direct taxes shall be apportioned among the several states ... by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons” (Vile 1997: 29). “Other persons” meant slaves from the Southern states—this issue was suspended at the Philadelphia Convention for twenty years and remained controversial until after the Civil War and the adoption of the Thirteenth Amendment, which eventually abolished slavery in 1865. The authorial voice of the US Constitution can aptly be defined as the revolutionary consciousness of the Republican Party as it was later most prominently incarnated by the abolitionist Abraham Lincoln.

The French Constitution of 1791 is probably the most universalistic document among the early constitutions. The French revolution was primarily a social, not a national revolution. The independence of the nation was not at stake in 1789, but social justice and economic welfare were. The lyrical subject of the French Constitution is the *citoyen* (citizen), not the *Français* (Frenchman). Most clearly, the difference between the French and other cases may be observed in the slogan *liberté, égalité, fraternité*, which was modified in the newly established Swiss canton of Vaud in the year 1803 to *liberté et patrie* (freedom and fatherland) in order to stress the independence from the occupants of Bern. The text of the Vaud Constitution, however, does not reflect this patriotic dimension—it just soberly organizes the separation of powers (*Constitution du canton de VAUD* 1803).

The Dutch, Spanish, and Norwegian constitutions are very much pre-occupied with the national independence of their states. In all three cases, “freedom” meant not only civil freedom in the sense of habeas corpus, but freedom as national self-determination. The authorial voice of these constitutions belongs, therefore, to the patriotic people that acknowledge their own freedom. However, in all three cases the independence was quite conditional: the Netherlands and Spain had been invaded by the French army and had to accept a king who was appointed by Napoleon. Half a year after the adoption of its constitution, Norway had to agree to a personal union with the Kingdom of Sweden. However, we must not forget the fact that most European constitutions were a revolutionary export from France, just as were the Bonaparte family members who ascended European thrones by appointment of their mighty relative, the French emperor (Hawgood 1939: 40). In Germany, many principalities granted their people a constitution because they feared a revolution like that in France. In 1866, Otto von Bismarck (then prime minister of Prussia) maintained that if there was to be a revolution, it would be better to make it than to suffer it (Pflanze 1998: 317).

The poetics of a constitution mainly relies on authority. The constitutional text emanates from an instance of expression that has three main features: the authorial voice does not have a name, it promises a high degree of authenticity, and it is monologic. The namelessness allows for identification: ideally, every citizen may recognize his own dignity in the constitution and perceive himself as a revolutionary hero. Authenticity is important because it enhances the truthfulness of a constitution: the validity of the articles is highlighted by a sincere voice that claims unconditional credibility. Finally, constitutions may not be debated or contested. They consist of statements, not of proposals for discussion. Therefore, they are deeply monologic—and can be likened to the expression of a lyrical subject who speaks for himself and does not expect an answer.

Positivity and Negativity

Most constitutions must not only be read with respect to their positive statements. Even more important is the explicit or implicit image of the negative political order that is presented as a bogey if the constitution is not respected.

The US Declaration of Independence is rhetorically modeled upon a distinction between the “good” colonists and the “evil” British (Lucas 1989: 67–130). Thereby, this text inverted the cliché of the “dangerous nation,” as the United States was seen to be by the British (Kagan 2006). The US Constitution developed the principles of the Declaration of Independence further. Not deduction, but finality is the main argument in the US Constitution from 17 September 1787. The preamble starts with an enumeration of goals that are to be achieved:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common Defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America. (Peaslee 1956: 3:582)

This text must also be read against the odious traditional order of the British colonial regime. Every noble political principle that is solemnly named in this preamble is the sheer opposite of what is allegedly customary in the British kingdom. The implicit message points to the danger of not adopting this constitution—if the constitution fails, the population in the new territories will fall back to the status of British colonialists, with the duty of paying taxes but without political rights.

The US Constitution establishes legitimacy by not posing the problem, but by performing a speech act in which the nation is virtually present: the formula “We the People” does not evoke the legitimacy of a political representation, but instead points to a *volonté générale*. The general volition of the people is an abstract entity that is supposedly there, but needs to be recognized and formulated. The lack in number of representatives at the Philadelphia Convention is compensated by a surplus of pathos: justice, tranquility, welfare, and liberty are among the common goods that the Constitution is about to produce. The US Constitution enumerates the positive effects in order to stress the vital importance of its own text.

The same metaphysical goal can be achieved by other rhetorical means. The French Constitution of 1791 has a preamble that is ripe with negative formulations:

The National Assembly, wishing to establish the French Constitution upon the principles which it has just recognized and declared, abolished irrevocably the institutions that have injured liberty and the equality of rights.

There is no longer nobility, nor peerage, nor hereditary distinctions, nor distinctions of orders, nor feudal regime, nor patrimonial jurisdictions, nor any titles, denominations, or prerogatives derived therefrom, nor any order of chivalry, nor any corporations or decorations which demanded proofs of nobility or that were grounded upon distinctions of birth, nor any superiority other than that of public officials in the exercise of their functions.

There is no longer either sale or inheritance of any public office.

There is no longer for any part of the nation nor for any individual any privilege or exception to the law that is common to all Frenchmen.

There are no longer jurandes, nor corporations of professions, arts, and crafts.

The law no longer recognizes religious vows, nor any other obligation which may be contrary to natural rights or to the constitution. (Blaustein and Sigler 1988: 85)

By pointing out the negative sides of the ancien régime under the absolutist king, the French Constitution highlights the enormous progress achieved with the adoption of the new political order. The negative formulations enhance the contrast between the gloomy past and the bright future to come.

Positivity and negativity may also be mixed, as this example of the Polish Constitution of 3 May 1791 shows:

Convinced, by a long train of experience, of many defects in our government, and willing to profit by the favourable moment which has restored us to ourselves; free from the disgraceful shackles of foreign influence; prizing more than life the external independence and internal liberty of our nation; in order to exert our natural rights with zeal and firmness, we do solemnly establish the present constitution, which we declare wholly inviolable in every part, till such period as shall be prescribed by law; when the nation, if it should think fit, may alter by its express will such articles therein as shall be found adequate. (Blaustein and Sigler 1988: 73)

The Norwegian Constitution—unlike the French and US constitutions—does not point to the evils to be avoided or to the goods to be achieved. Even though the first section is entitled “Form of Government and Religion,” the Constitution starts with the definition of the territory and the assertion of sovereignty: “The Kingdom of Norway is a free, independent, indivisible and inalienable Realm” (*The Constitution of the Kingdom of Norway* 1814: 3). This seemingly undramatic formulation has a deeper meaning. The excess of adjectives only superficially hides the fact that in May 1814, all of these characteristics were far from being obvious. Norway had been under Danish rule for the last three hundred years, the hitherto Norwegian islands Iceland, Faroe, and Greenland were lost, and the kingdom itself could hardly maintain its autonomy—already in November 1814 the Constitution had to be modified and Norway had to accept a personal union with Sweden.

The first article of the Norwegian Constitution presents as self-evident what was by no means clear. The real political danger was compensated with a surplus of rhetorical confidence. Positivity in the Norwegian case is repelled negativity.

Conclusion

The end of the eighteenth century saw a rise of constitutions in the Western world. This process was triggered by a global crisis that had economic, political, and social aspects. The prominent German historian Reinhart Koselleck (1979: xv) called this period *Sattelzeit* (saddle time) and defined it as a paradigm change in European history. The time between 1750 and 1850 was characterized by the emergence of a new type of citizenship, a new system of production, and a new culture that was not confined to aristocratic circles. After the US Revolutionary War and the French Revolution, the Napoleonic wars served as the main medium of export of republican ideas to Europe. A veritable wave of constitutions followed in many states in Europe at the beginning of the nineteenth century. As a rule, authoritarian rulers hastened to turn their principalities into constitutional monarchies in order to avert revolutionary movements. In most European countries, constitutional movements were suppressed during the nineteenth century. Norway is an exception to this rule. The explanation for this special position goes back to the institutional economy of the situation: both neighboring imperial powers, Denmark and Sweden, were in a period of transition. They had limited economic and military resources and faced the problem of how to govern the rebellious Norwegians without too many expenditures. The chosen solution (a Norwegian constitution with an eventual personal union with Sweden) lasted for almost one hundred years.

A special rhetoric was needed to shape the new political design of the time. Hegel, a very astute observer of these developments, tried to combine political, anthropological, and aesthetic aspects in his universalistic philosophy. The early constitutions belong to the genre of poetry as it was defined by Hegel: they do not engage in prosaic arguments about the relation of cause and effect or means and end, but instead state their ideals as self-evident truths that not only do not need, but even would be compromised by a logical proof. The constitutions create authority by using the rhetoric of a collective “we.” The new state, founded on a constitution, is an imagined community of people and ultimately offers membership to every citizen. The dignity of this process must not be underestimated: on 19 May 1814, the Danish crown prince Christian Frederik answered the Constitutional Assembly, which had offered the Norwegian crown to him, thusly:

Norwegians! The high calling, to which you are elected by the trust of your fellow Citizens, is finished. The Constitution of Norway is founded; the Norwegian people has maintained its rights through you, its selected Deputies; it has maintained them for futurity, and, by a sage distribution of the power, secured civil Liberty and that public order which the executive power is obliged and able to preserve. (*The Constitution of the Kingdom of Norway* 1814: 39)

The pathos in this answer implies that by the force of the Constitution, not only is the king crowned, but also every man is elevated to the rank of Norwegian citizen, which is of no lesser importance than the throne itself.

The solemn inauguration of the national citizen does not work for every constitution: while the US Constitution had social reservations about Native Americans and slaves, the Norwegian and Spanish constitutions carefully defined their national citizens.

Constitutions explicitly or implicitly draw a picture of their enemy. They may use positive or negative rhetorical devices in order to persuade their audience. In all cases, constitutions perform speech acts that call a political order into being.