

HEGEL'S *ELEMENTS OF THE*
PHILOSOPHY OF RIGHT

A Critical Guide

Hegel's *Elements of the Philosophy of Right*, one of the classic texts of German Idealism, is a seminal work of legal, social and political philosophy that has generated very different interpretations since its publication in 1821. Written with the advantage of historical distance, the essays in this volume adopt a fresh perspective to make readers aware of the breadth and depth of this classic work. Their themes reflect the continuing relevance of the text to modern-day concerns, and include the concept of property, Hegel's view of morality, the concept of *Sittlichkeit*, the modern family, and the nature and tensions of civil society, together with its relation to the state. The volume will be of interest to all scholars and students of German Idealism.

DAVID JAMES is Associate Professor of Philosophy at the University of Warwick. His publications include *Fichte's Republic: Idealism, History and Nationalism* (Cambridge University Press, 2015); *Rousseau and German Idealism: Freedom, Dependence and Necessity* (Cambridge University Press, 2013); and *Fichte's Social and Political Philosophy: Property and Virtue* (Cambridge University Press, 2011). He is co-editor (with Günter Zöller) of *The Cambridge Companion to Fichte* (Cambridge University Press, 2016).

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OF RIGHT

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DAVID JAMES

University of Warwick



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*Living the Contradictions: Wives, Husbands and
Children in Hegel's Elements of the Philosophy
of Right*

Kimberly Hutchings

Introduction

This essay focuses on Hegel's discussion of the family as an essential component of modern ethical life in *Elements of the Philosophy of Right*.¹ Hegel's arguments about the nature of marriage, the sexual division of labour within the family, the relation between parents and children and the necessary role of the family in relation to state and civil society have inspired a range of sympathetic and critical responses. Many such responses point to ways in which aspects of his arguments appear to put the ethical life of the family at odds with Hegel's broader narrative of the realization of freedom in the development of the modern state. It will be argued here that Hegel's presentation of the ways in which the family relates to both civil society and the state undercuts the possibility of reading this relation in a linear or hierarchical fashion in which either the family is subsumed by civil society, or the state satisfactorily resolves contradictions and tensions between the other two spheres. In this respect, Hegel not only shows us how the modern market state sustains and is sustained by certain kinds of personal relations and self-identities, but also reveals fault lines that threaten its stability. These are fault lines that challenge the temporal and spatial distinctions through which, on Hegel's own account, the specificity of the *modern* family is secured. They suggest that there is more at stake in Hegel's argument than a functional account of how the family serves the higher purposes of the state.

The argument of the essay proceeds as follows. First, I offer a reading of Hegel on the family, which highlights his emphasis on the *novelty* of the

¹ In this chapter I rely mainly on the *Elements of the Philosophy of Right*. I also make supplementary use of the earlier versions of the *Philosophy of Right* recorded in Wannenmann's lecture notes from 1817–18 and 1818–19. There is considerable overlap between the two texts, though the earlier lectures are differently organized, for example incorporating the discussion of inheritance in the section on family resources rather than in the section on the dissolution of the family.

nature of the family within modern ethical life. Second, I demonstrate how Hegel's account of this new kind of family is haunted and destabilized by a series of tensions in his analysis relating to the distinctions and transitions he traces between kinship and family (marriage); family and civil society (property); family and state (education). In all of these contexts wives, husbands and children challenge the smooth process of spirit's actualization of itself as free, individually and collectively. In conclusion, I suggest that Hegel's account of the family makes the fragility and contradictions of modern ethical life explicit. It is not something achieved, but rather something that is continually created and recreated through the lived experience of a complex range of identities, beliefs, practices and legitimating strategies, many of which are at odds with the idea of modern life that they are supposed to uphold.

Hegel's discussion of the family in the *Philosophy of Right* is quite short,² and, in comparison with the huge bodies of literature on the other sections, it is a relatively under-studied aspect of Hegel's argument. Nevertheless, all commentaries on the *Philosophy of Right* necessarily engage with the passages on the family, and there is a considerable body of work that relates his discussion of the family to his broader philosophy and draws on it to substantiate more general claims about the meaning of family relations in the modern state.³ Within long-standing and more recent arguments about the significance of Hegel's account of the family we find the recurrence of familiar issues about how to approach Hegel's texts, as well as substantive disagreements about his meaning.⁴

² PR §§ 158–180, 199–218; LNR §§ 73–88.

³ For example, David V. Ciavatta, *Spirit, the Family, and the Unconscious in Hegel's Philosophy* (Albany, NY: SUNY Press, 2009); 'The Family and the Bonds of Recognition', *Emotion, Space and Society* 13(1) (2014): 71–79; Robert Gillespie, 'Progeny and Property', *Women and Politics* 15(2) (1995): 37–51; Edward C. Halper, 'Hegel's Family Values', *The Review of Metaphysics* 54(4) (2001): 815–858; Axel Honneth, *Suffering from Indeterminacy: An Attempt at a Reactualization of Hegel's Philosophy of Right*, trans. J. Ben-Levi (Amsterdam: Van Gorcum, 2007); Kimberly Hutchings, *Hegel and Feminist Philosophy* (Cambridge: Polity Press, 2003); Douglas E. Jarvis, 'The Family as the Foundation of Political Rule in Western Philosophy: A Comparative Analysis of Aristotle's Politics and Hegel's Philosophy of Right', *Journal of Family History* 36(4) (2011): 440–463; Toula Nicolacopolous and George Vassilacopolous, *Hegel and the Logical Structure of Love: An Essay on Sexualities, Family and Law* (Aldershot: Ashgate, 1999); and Laura Werner, *The Restless Love of Thinking: The Concept of Liebe in G. W. F. Hegel's Philosophy* (Helsinki: Helsinki University Press, 2007).

⁴ In summary, interpretive issues range from questions about whether Hegel should be read as prescribing a particular ideal for the family, especially when it comes to the role of women, see, for example, Peter Steinberger, *Logic and Politics: Hegel's Philosophy of Right* (New Haven, CT: Yale University Press, 1988); Harry Brod, *Hegel's Philosophy of Politics: Idealism, Identity, & Modernity* (Boulder, CO: Westview Press, 1992); and Carole Pateman, 'Hegel, Marriage and the Standpoint of Contract', in Patricia Jagentowicz Mills (ed.), *Feminist Interpretations of G. W. F. Hegel* (University Park, PA: Pennsylvania University Press, 1996), 209–233; to whether we should deduce the meaning of the *Philosophy of Right* from other parts of his philosophy, such as his treatment of Antigone in the

In terms of the reading that follows, it is the relation between Hegel's account of the family and the argumentative structure of the *Philosophy of Right* as a whole that is central to my interpretation. In my view, the overall argument of the *Philosophy of Right* should be read as a response to the question of how social and political arrangements that explicitly (self-consciously) embody freedom (the self-determination of spirit) can be articulated and sustained. It is a highly complex response in which a wide variety of identities, beliefs and practices, as well as institutional forms, are identified as necessary. Prominent amongst these is the internalization of a particular temporal and spatial understanding of contemporary ethical life in contrast to previous, or contemporaneously backward, forms of social and political organization. And it is in this respect that the discussion of the family becomes particularly interesting.

The Modern Family

The family in the *Philosophy of Right* is a novel kind of family. Hegel repeatedly distinguishes it from other types of familial structure in the past and in the present. Most frequently, Hegel compares the modern family with ancient models of kinship, in particular Roman ones.⁵ But he also compares it with the family in other cultural contexts, in which either marriages are wholly a matter of the strategic advantage of birth families or polygamy holds sway.⁶ And he stresses its transformed religious status within modern Protestantism.⁷ Each of these distinctions draws attention to characteristics of the modern family. In contrast to ancient kinship structures, the modern family does not give priority to the broader kinship. Adult men and women do not remain attached to their birth families, they found new families. The ties to this new family are far more ethically significant than ties to parents or siblings. In contrast to the Greek world in which Antigone valued her relation with her brother

Phenomenology of Spirit, see, for example, Ciavatta, *Spirit, the Family, and the Unconscious in Hegel's Philosophy*; and Jagentowicz Mills, 'Hegel's *Antigone*', in Jagentowicz Mills, *Feminist Interpretations*, 59–88; to whether his philosophical categories (see, for example, Halper, 'Hegel's Family Values'; and Nicolacopolous and Vassilacopolous, *Hegel and the Logical Structure of Love*) or his historical context (see, for example, Werner, *The Restless Love of Thinking*; and Seyla Benhabib, 'On Hegel, Women, and Irony' in Jagentowicz Mills, *Feminist Interpretations*, 25–43) governs his meaning. For a more extended discussion of interpretive issues in the *Philosophy of Right* see Kimberly Hutchings, 'Hard Work: Hegel and the Meaning of the State in his *Philosophy of Right*', in Thom Brooks (ed.), *Hegel's Philosophy of Right* (Oxford: Blackwell, 2012), 126–129.

⁵ PR §§ 172A, 173R, 180R; LNR §§ 84–85.

⁶ PR §§ 162A, 167; LNR § 80.

⁷ PR § 163R; see also HPW, 192–193.

above that with her future husband, the modern family gives supreme value to the relation between husband and wife. In contrast to worlds in which the participants in marriage have no say, the modern family is the coming together of two free consenting individuals for the sake of their relationship with each other, rather than for the sake of increasing their wealth or dynastic considerations. It involves a symmetrical relation between husband and wife in which the rights of each are equally protected, something that Hegel argues is impossible with polygamous marriages. And in contrast to Catholic doctrine, in which celibacy is valued and sexual relations denigrated and permitted only for the procreation of children, the modern family is the location of sacred love.

The modern family is ethical life in itself and as part of the bigger story of ethical life that connects it to civil society and the state. In contrast to modes of thinking characteristic of abstract right and morality and the realm of civil society, it is a context in which individuals do not understand themselves as autonomous and self-subsistent:

The family, as the *immediate substantiality* of spirit, has as its determination the spirit's *feeling* [*Empfindung*] of its own unity, which is *love*. Thus, the disposition [appropriate to the family] is to have self-consciousness of one's individuality *within this unity* as essentiality which has being in and for itself, so that one is present in it not as an independent person [*eine Person für sich*] but as a *member*. (PR § 158)

Love is key to the ethical nature of the family, in which the interconnection and mutual dependence of self-consciousnesses are experienced naturally and directly. As he elaborates on the meaning of the modern family, however, it is clear that Hegel does not see it as straightforwardly natural. Relations between husband and wife, between heads of families and other family members and between parents and children spiritualize what initially appear to be natural connections of sexual desire and blood.

In his discussion of marriage, Hegel criticizes the identification of marriage with sexual relations, contract or romantic love,⁸ none of which captures what marriage is in its essence. Concubinage is solely concerned with the satisfaction of sexual drives, but in marriage these drives are subordinate to 'love, trust, and the sharing of the whole of individual existence' (PR § 163). Here, Hegel insists on the *religious* character of marriage and the family, it is spiritual commitment to each other, and has to have a stability and longevity that he argues is incompatible with the predominance

⁸ PR § 161A.

of passion, which inevitably is 'extinguished in its very satisfaction' (PR § 163). Hegel criticizes Kant's argument that marriage involves a contract for the mutual use of each other. Rather than being a contract between two people, the marriage ceremony is the public constitution of an ethical bond, it transcends a relation of exchange or mutual subordination to the other's needs. And in this respect legal and religious formalities play an important part in making marriage what it is. Just as Hegel objects to Kant's contractual argument, so he objects to Schlegel's romantic celebration of love as not needing external legal or religious validation in a marriage ceremony. For Hegel, Schlegel's *Lucinde* reduces love to sensuous inclination and inner feeling; it takes away the distinctively ethical character of love.⁹

The inadequacy of the identification of marriage with sexual relations, contract or romantic love has to do with the incompatibility between an institution that is premised on the abandonment of the particular will of its participants and feelings and behaviours that are inherently particular in the modern sense of being the products of a contingent will. To reduce marriage to sexual gratification, mutual gain or romantic love is to misunderstand the lack of individual freedom in marriage. This is a lack of freedom which is a constituent part of a broader reality of ethical life within which, paradoxically, free individuality is produced and reproduced. This becomes clearer as Hegel outlines the sexual division of labour in the modern family, and then moves on to discuss family property and the bringing up of children.

As we have seen, Hegel is insistent on the distinction between marriage and the satisfaction of natural sexual drives. The ethicality of marriage concerns its transcendence of individual particularity, and it accomplishes this through the distinctive and complementary ways in which men and women embody different aspects of spirit. Natural sexual difference is produced as a new kind of complementary spiritual difference by the relation of marriage itself:¹⁰

The *one* [sex] is therefore spirituality which divides itself up into personal self-sufficiency with being *for itself* and the knowledge and volition of *free universality*, i.e. into the self-consciousness of conceptual thought and the volition of the objective and ultimate end. And the *other* is spirituality which maintains itself in unity as knowledge and volition of the substantial in the form of concrete *individuality* [*Einzelheit*] and *feeling* [*Empfindung*].

⁹ PR § 164A.

¹⁰ LNR § 76, 76R.

In its external relations, the former is powerful and active, the latter passive and subjective. (PR § 166)

Hegel goes on to explain that the husband finds his substantial life in work and struggle in the wider world. In effect, he lives a dual private and public existence, with the private very much subordinate to, and supportive of, the demands of the public. The wife, in contrast, has her vocation within the family, her work is there, and she is unfit for the demands of public existence. Rather than by thinking, pursuing and acquiring knowledge, women are educated through feeling. In contrast to men, women are unable to appreciate the universal; for them everything is understood in terms of immediate, contingent relations, which makes them dependent on inclination and opinion rather than truth, and renders them untrustworthy of any kind of public office.¹¹

Hegel argues that property takes on an ethical form within the family.¹² This is in contrast to the individual contingent possession characteristic of abstract right, but also to earlier forms of property relations, in which husbands and wives remained bound to kinship relations beyond the immediate family in ancient and feudal law.¹³ Once again, the novelty of the modern family is stressed. It is a collective person, whose property is owned collectively and for a '*communal purpose*' (PR § 170). The husband, as the head of the family, represents its legal personality and is responsible for acquiring, administering and distributing its property. Legal restrictions on family property (for example in marriage settlements) are justified insofar as they guarantee the access of both husband and wife to resources. The key point, however, is that property is now essentially connected to marriage rather than to 'the wider circle of their blood relations' (PR § 172A).

Property continues to be a significant theme as Hegel moves on to discuss the place of children within the modern family, and what he calls its 'dissolution'. Married love, we are told, remains subjective and inward, it is only with parenthood that the unity of husband and wife becomes objectively present through their joint love for their children as the reproduction of themselves. This is not, however, a lasting unity. In this section, Hegel again emphasizes the specificity of the modern family. In contrast to ancient modes of family organization, oriented towards the survival of a kinship, where children remained in perpetual nonage, the child of the

¹¹ PR § 166, 166R, 166A.

¹² PR § 170.

¹³ LNR § 83.

modern family is a free individual and must be made to be able to live as a free individual.¹⁴ In this respect, Hegel rejects views of education that affirm the value of being childlike by emphasizing the importance of play and failing to point to the inadequacy of a child's view of themselves and the world. It is the duty of parents to provide emotional stability for their children in a context of 'love, trust, and obedience', but only as the basis on which the child can develop beyond indulgence of their arbitrary will.¹⁵

The end to which punishments are directed is not justice as such; it is rather of a subjective and moral nature, seeking to have a deterrent effect on a freedom which is still entrammelled in nature and to raise the universal into the children's consciousness and will. (PR § 174)

The punishment and discipline of children is part of the necessary pattern of the modern family in which the family unit dissolves as the children grow up into free individuals and found their own families.¹⁶ However, this dissolution brings with it complications in relation to family property. The permanent dissolution of the family comes with the death of the parents, but since their children may already have set up families of their own the question of inheritance becomes open to arbitrariness and caprice, in ways that it was not under previous modes of family relation. Hegel is extremely critical of the ways in which inheritance worked in Roman law, but is equally critical of modern individuals making wills and identifying their heirs on the basis of affection or ties of friendship. Family property should be passed on to family members equally, not in ways that favour some members over others, for example through the setting up of trusts that favour sons over daughters or the eldest son over other children. At the same time, however, this can be insisted upon only in relation to the nuclear family, the boundaries of which become unclear once offspring have formed their own families. And Hegel suggests that it may in any case need to be limited by considerations of preserving property, in some instances, specifically for the first (agricultural and landowning) estate by a right of primogeniture.¹⁷

At the end of the section on the family, we have been told that the modern family is a distinct mode of family organization, which fits with the specificities of modern ethical life in terms of personal and property relations. It is a sphere of ethical life in which freedom is experienced

¹⁴ PR §§ 175, 175R, 180; LNR § 85.

¹⁵ PR § 175, 175R; LNR § 86.

¹⁶ PR § 177.

¹⁷ PR §§ 178, 178R, 179, 179R, 180, 180R, 180A.

through mutual identification with a whole that transcends any particular member. But it is also the context in which modern, property-owning individuals can be produced and sustained. It is temporally and spatially distinguished from the various modes of adult dependence characteristic of other forms of social relation, from Ancient Rome and Israel to feudal or Catholic Europe to contemporary India. Temporally it instantiates the progress of spirit; it is a new departure peculiar to the developing modern state and civil society. Spatially, it is geographically located in the protestant Germanic realm of northern Europe, but it also occupies a distinct 'home' space. Except in the case of the backward-looking classes linked to agricultural production, the modern family no longer dwells in the same location as productive labour. The modern family is somewhere that the head of the family has, literally and metaphorically, to 'leave' in order to engage in the activities peculiar to civil society. It is marked by a clear sexual division of labour, in which men and women bring complementary strengths to marriage and the bringing up of children. It is sharply distinguishable from other families and from the public realm of civil society and the state. At the same time it is necessarily sustained and supported by the state through the regulation of all of its three aspects. The modern family is both the culmination of a historical progression in the work of spirit, in which it has become possible for spirit to understand itself in terms of self-determination, *and* operates in terms of a cyclical temporality of formation and dissolution. It recognizes the ethical significance of its own repeated breaking apart as the only way to reconcile family relations with modern ethical life as explicitly instantiating the idea of spirit as self-determination.

Contradictions

The success and plausibility of Hegel's account is secured through a series of distinctions, which underwrite the stability not only of the family but also of the bigger edifice of modern ethical life encompassing civil society and the state. A distinction between modern family and older forms of kinship secures the notion of modern marriage. A distinction between modern family and civil society secures the notion of family property, which cannot be the same as ordinary private property. And a distinction between family and state secures the possibility of educating children for the purposes of freedom, a process which is incapable of completion within the confines of the family itself. If we look more closely at these three points of distinction, potential sources of disruption for Hegel's

overarching argument for modern ethical life as the self-conscious work of freedom come to the surface.

Liberal, feminist and Marxist critics have long noted that there is something odd in Hegel's account of modern marriage. From the liberal point of view, it is unclear why Hegel denies a woman's capacity to act as an individual person, in particular given his emphasis on husband and wife as free, consenting individuals.¹⁸ For many feminist commentators, Hegel's treatment of women implies their exclusion, or radical limitation, from or in the work of spirit and stands at odds with his identification of modernity with spirit's identification of itself as free.¹⁹ Marxists have argued that Hegel underestimates the thoroughness with which market relations structure the private sphere of reproduction and subordinate it to the realm of production and exchange, and read his account of marriage as inaccurate and romanticized.²⁰ The puzzle here is what appears to be a kind of anachronism, specifically identified with the role of women, within what is claimed to be a radically novel version of the family form. The difficulty is to understand, in Hegel's own terms, how women's connection with essentially unchanged earlier or culturally distinct modes of family life can be reconciled with his insistence on the distinction between the modern family and kinship.

The distinction between family and kinship is claimed to be that women's exclusive identification with the familial sphere is now rational and freely willed:²¹ 'The *natural* determinacy of the two sexes acquires an *intellectual* and *ethical* significance by virtue of its rationality' (PR § 165). However, although he is clear that the family is not natural but ethical, natural sexual difference still figures in Hegel's account of how men and women come to play different even if equal roles within marriage. Men experience and spiritualize the sexual difference as their ongoing connection to, but ultimately transcendence of, nature and contingency, whereas women experience and spiritualize it rather as identification with nature and contingency. Antigone exemplifies family piety in her determination to bury her brother, and her unwillingness (or incapacity) to acknowledge any law but the divine law as determinate.²² The

¹⁸ Richard D. Winfield, *The Just Family* (Albany, NY: SUNY Press, 1998).

¹⁹ Patricia Jagentowicz Mills, *Woman, Nature, and Psyche* (New Haven, CT: Yale University Press, 1987); and Hutchings, *Hegel and Feminist Philosophy*.

²⁰ Siegfried Blasche, 'Natural Ethical Life and Civil Society: Hegel's Construction of the Family', in Robert B. Pippin and Otfried Höffe (eds.) *Hegel on Ethics and Politics*, trans. N. Walker (Cambridge: Cambridge University Press, 2004), 183–207.

²¹ LNR § 77.

²² PhG: 274–275; PR § 166R.

modern wife exemplifies familial piety in her care for husband, children and household and in an unwillingness (or incapacity) to acknowledge any law but that of subjective feeling as determinate. Hegel still refers to Antigone in the *Philosophy of Right* as instantiating familial piety in its highest form through her ethical connection to her brother, even though in modern terms her concern should rather have been with her betrothed. He also reiterates the view, previously stated in the discussion of the dissolution of Greek ethical life in the *Phenomenology of Spirit*, that women are unfit for a public role and if given political power will subvert the ends of the state.²³ It seems that modern wives are still in some sense connected to divine law in a way that in its fixity reflects an identification with natural rather than spiritual determination and which, should they escape the confines of the intimate sphere, makes them likely to subvert rather than support modern ethical life. Wives and mothers are not only anachronistic, they are dangerous.

It is possible to interpret this danger in different ways. For feminist philosophers such as Irigaray, Hegel's account of the threat women pose to the state is an acknowledgement of the possibility of a radically other, non-patriarchal way of being and thinking, which is quite literally unspeakable in the terms of Hegel's masculinist philosophy.²⁴ Less radically, Ciavatta sees the ongoing relevance of Antigone to Hegel's argument in *Philosophy of Right* as signalling a deep tension between the kinds of relation characteristic of the family and those characteristic of the public sphere. In the case of the family, the particular interests of concrete others are internalized affectively by each member as part of themselves. Rather than relating as separate individuals, family members relate to each other as already connected and in terms of specific identities (mother, son, daughter etc.). Women, therefore, are construed as dangerous to the public sphere because they represent a mode of mutual recognition that is fundamentally incompatible with recognition in relations of individual property owners and citizens.²⁵ Though different, both of the above interpretations of the meaning of women's threat to the public sphere present it in trans-historical terms that work across the millennia that separate Antigone's ethical life from the form of ethical life being described in the *Philosophy of Right*. In this respect, they concur on the view that women's position in

²³ PhG: 288; PR § 166A.

²⁴ Luce Irigaray, *Speculum of the Other Woman*, trans. G. C. Gill (Ithaca, NY: Cornell University Press, 1985).

²⁵ Ciavatta, *Spirit, the Family, and the Unconscious in Hegel's Philosophy*, 60.

the Hegelian family undercuts the idea that the actualization of spirit as self-determination is a historically unified and singular narrative.

In terms of the immanent logic of Hegel's argument, the danger posed by women is to the requirement that all aspects of the family can be understood as part of modern ethical life with all that this implies in terms of the development and maintenance of the modern market state through subjective identification with its ethical relations, from relations of buying and selling to citizens sacrificing their lives in war. Women are crucial to the family as an institution and to the support that institution gives to ethical life in the public realm, but they are presented either as only ambiguously inhabiting the institution that has been defined as their sphere, or as entirely outside of it. They inhabit the modern family only partially, in the sense that they blur the boundary between family and kinship; their consent and their understanding of what marriage and the family means are always limited. Unlike sons, daughters do not move from family to family via their individual existence in civil society. Instead, like Antigone, or like Roman women, they identify their fate, and are educated, to the extent that they are educated at all, with and in terms of roles into which they are born and which do not allow them to move beyond an identification with concrete universality. When Hegel identifies women with a principle which is self-consciously embraced but incapable of development, 'the law of emotive [*empfindend*] and subjective substantiality' (PR § 166R), it is not just that women's place within the family, and therefore within ethical life more broadly, is ambiguous, it is alien. Women are outside the historical stage of modern ethical life, which is characterized by the capacity of individual and collective subjects to identify themselves with spirit as self-determination. Women 'do not possess the ideal' (PR § 166) and are incapable of possessing it, and in this respect do not participate in it as individuals or citizens; they are untimely and resistant to government.

Hegel's positioning of women puts his distinction between kinship and the modern family, and therefore between *now* and *then*, into question. His account of family property creates problems for his distinctions between family and civil society and between family and state. Hegel is insistent that the family is a form of ethical life with a distinct mode of ethical relation, that of love or subjective feeling. In order for its separation from the principles instantiated within civil society to be possible, the family must be able to support itself in ways that do not disrupt and undermine this distinctiveness. This implies not only that families need resources, but also that these resources should not be arbitrarily distributed, but should be genuinely collectively owned by the family for the

good of each member. Given Hegel's account of abstract right and the principle of individual ownership in the first part of the *Philosophy of Right*, and his view that the realm of production and exchange had shifted from its traditional location in the household or kinship to civil society, this means that family property cannot simply be an aggregate of individual earnings or capital, it has to be different in kind.²⁶

As we saw above, the meaning Hegel assigns to family property necessitates a complex interaction between the realms of family, civil society and state. Family property is collectively owned but it is individually controlled by the head of the family, who is also a participant in the realm of civil society. Although the head of the family does not own the family property as an individual, it is possible for him to treat that property as if he were an individual, to dissipate or accumulate, and to distribute it according to his own will and desires, like any other member of civil society.²⁷ For this reason, the state may need to step in to regulate the maintenance and distribution of family property, not only whilst the head of the family is alive, but also when it comes to the distribution of property after his death. This account fits well with an understanding of the Hegelian state as mediating the contradictions thrown up by clashes between the realms of family and civil society. However, as we saw in the discussion above, in invoking the state's capacity to respond to the encroachment of civil society into the sphere of the family, Hegel's argument also testifies to the fragility of the boundary between family and civil society, and to the ongoing significance of the principle of kinship within the architecture of his modern state. In this case, it is men, husbands and fathers, whose liminal position destabilizes the temporal and spatial distinction through which the meaning of the modern family is secured. If women are ambiguously situated between the modern family and ancient kinship, then men are ambiguously situated between modern family and civil society on Hegel's account. Heads of families and future heads of families self-consciously identify themselves both with the surrender of individuality in their family membership and with the principle of particularity in their participation in civil society and the principle of free universality in their participation in the state. In Hegel's discussion they move literally and metaphorically between private and public spheres.

²⁶ See Ciavatta, *Spirit, the Family, and the Unconscious in Hegel's Philosophy*, for an interesting alternative reading of the meaning of family property in Hegel.

²⁷ PR § 170; LNR § 83.

Man therefore has his actual substantial life in the state, in learning [*Wissenschaft*], etc., and otherwise in work and struggle with the external world and with himself, so that it is only through his division that he fights his way to self-sufficient unity with himself. In the family, he has a peaceful intuition of this unity, and an emotive [*empfindend*] and subjective ethical life. (PR § 166)

For a man, therefore, maintaining the distinctiveness of the ethical life of the family is particularly difficult and vulnerable to failure. His 'peaceful intuition' of his self-sufficient unity within the family is at odds with his struggle towards self-sufficient unity within civil society and the state. He knows that an 'emotive and subjective ethical life' is not enough. And in his accumulation and control of family property he is subject to the dual demand to act like a husband and father and to act like an individual owner of property. Unsurprisingly in these circumstances, Hegel identifies the danger of heads of families using family property for private purposes. If women may corrupt the ends of government, then men may corrupt the ends of the family. But whereas women's threat to government is presented as in some sense perennial, men's threat to the family is peculiar to the modern form of the family. This danger did not exist in a world in which production and exchange were organized at the level of household and kinship. For this reason, whereas the solution to the threat women pose to the state is to keep them out of it, the solution to the threat posed by men to the family is to bring the state into the family's domain.

Even though it is fundamentally at odds with the spirit of modern ethical life, in which the acquisition and transfer of property has been relocated into civil society, Hegel argues for the need for the state to step in to regulate family property to make sure it remains secured to the family as a whole. This is for the protection of wives' and children's rights.²⁸ He has more difficulty working out how to respond to the changes in principles governing inheritance in a world in which the family as a collective owner of property is, in the person of the head of the family, inherently internally conflicted and temporary. Although the modern family is said to dissolve with the death of the parents (particularly the husband²⁹), Hegel discusses the difficulties that arise when parents die after children have formed new families in terms of the wrongs involved either in privileging distant over closer kin relations, or in allowing arbitrary will to enter into the disposition of family goods.³⁰ He is also concerned about cases

²⁸ PR § 172R.

²⁹ PR § 178.

³⁰ PR §§ 179, 179R, 180, 180R.

where following the principle of equal shares for the children of a nuclear family would potentially break up and damage the value of its assets. His response to these concerns includes state validation of the principle of primogeniture. Both in the Heidelberg lectures and in the 1821 *Philosophy of Right* Hegel identifies the value of this anachronistic principle in relation to the agricultural estate.³¹ Men connected to the land as the source of their subsistence, like women, occupy a position somewhere in between traditional kinship relations and the modern family – and are therefore peculiarly identified with the familial sphere and its incapacity to *know*, as opposed to *feel*, the ideal.³² For commentators such as Blasche, this indicates a fundamental flaw in Hegel's analysis, which is that he tries to *fix* the meaning of the family in ways that contradict his shifting historical present.³³ However, surely Hegel is in fact drawing our attention to the instability of the boundaries between family, civil society and state, and also of the temporal boundary between the *then* of kinship and the *now* of the modern family. The transitions between family, civil society and state challenge the claim of temporal novelty and spatial demarcations through which not just the meaning of the modern family but also that of modern ethical life as a whole is grasped in the *Philosophy of Right*.

Children, specifically male children, embody both the instantiation of the modern family as an ethical whole and its imminent dissolution. Sons, like husbands, are the agents of transition between family, civil society and state, and their education is the central purpose of the family's upbringing of children. Girls, who imbibe their spiritual destiny through a kind of osmosis, do not move on from their birth families in the same way as boys; like the women they will become, their ends are not in conflict with familial ethical life. Werner notes, for example, that, when Hegel discusses development through different stages of life in the third part of his *Encyclopaedia*, on the philosophy of spirit, it is the transition from boyhood through youth to manhood that is under examination.³⁴ It is the task of the family to provide an appropriate context for sons to learn how to transcend the family. Hegel suggests that in the very early years

³¹ PR § 180R; LNR § 84.

³² PR §§ 163, 164.

³³ 'Hegel fails to see that the *bourgeois* family is in the process of turning into the *petty bourgeois* form of family that pre-eminently lacks its own wealth and the security that that wealth once provided. This reveals once again that Hegel is in effect analysing only a specific historical and transitional form of family life, and therefore undermines his claim that the modern family is a definitively conceptualized self-contained institution constituting an *autonomous* intimate sphere of its own alongside society and the state.' Blasche, 'Natural Ethical Life', 193.

³⁴ Werner, *The Restless Love of Thinking*, 106; PM § 396R, 396A.

this is particularly a responsibility of mothers.³⁵ But he is also insistent that the loving relationship between parents and children, which is crucial to the child's emotional stability, is accompanied always by the recognition of the non-natural meaning of freedom: '... their upbringing also has the *negative* determination of raising the children out of the natural immediacy in which they originally exist to self-sufficiency and freedom of personality, thereby enabling them to leave the natural unit of the family' (PR § 175).

This leaving is one in which sons become husbands (heads of family) and daughters become wives in new families, but also one in which sons become individual persons and citizens. For sons this is a transition mediated by education. Hegel refers to the education of children (sons) at several points not only in his discussion of the family but also elsewhere, both in the *Philosophy of Right* and in the earlier lectures. In contrast to traditional family forms in which children are essentially the property of parents, who can do as they like with their children, Hegel is clear that education is ultimately a matter for, and a responsibility of, the state. In the Heidelberg lectures he notes both that parents are less effective educators than teachers from outside the family³⁶ and that in effect, in modern ethical life, 'Children become children of the state' (LNR § 158). But education in Hegel's account is not just about state provision of schools and training, but is also accomplished by the experience of the movement of spirit across various contexts of socialization and relations of recognition in civil society as well as the state. The education of spirit works through the internalization of a variety of identities, from the identity of the individual owner of property to that of the class and corporation to which particular individuals belong. It is through the experience of dependence on others as well as collaboration with them that individuals come to understand and identify themselves as self-determining beings. Above all the education of spirit leads to the internalization of the identity of the citizen in a way that incorporates but also supersedes family and other sub-state individual and corporate identities.³⁷ Citizenship is membership in the form of an explicit identification with the universal that conditions the possibility of all other aspects of spirit in its modern form. Within families, the identification of members with the family as a whole is love. Within states the identification of citizens with the state is patriotism. Patriotism, Hegel argues, is not a subjective feeling or opinion but is the

³⁵ PR § 175A.

³⁶ LNR § 85.

³⁷ PR § 187, 187R, 187A.

objective certainty that my individual interests and purposes are 'preserved and conserved' through the interests and purposes of the state.³⁸ Hegel rejects the idea that patriotism is predominantly about individual self-sacrifice or heroism. Nevertheless, it is patriotic certainty, internalized in habit and custom, that underpins the citizen's capacity to grasp the rationality of dying for the state – the radical undoing of the life-giving role of the family.³⁹ In this respect, the son's education through exposure to and engagement in the public realm links him to the forward movement of spirit, the clashes between nations and cultural forms with which Hegel completes his philosophy of right. This simultaneously distinguishes the son from women in general, from the agricultural or substantial 'class of innocence' (LNR § 103), from contemporaneous backward and barbarian people and from earlier historical stages of the development of spirit.

In order for the modern family to be sustained, the son must have defined himself in opposition to his identity as a birth family member. This entails, amongst other things, that he will not be sexually involved with other members of his birth family. It also entails that his wife is chosen. These two requirements could not be further from the example of Antigone as the exemplar of family piety, bound up in incestuous relations, due to marry her mother's/grandmother's nephew and experiencing her link to her family as necessary as opposed to contingent: 'What makes *our* tragedies so lifeless is the chance nature of the object that is loved. But with Antigone what happens is necessary: she is so firmly attached to this original bond of her family' (LNR § 87). The contingency of the founding of modern families is confirmed in their dissolution, which seems both a temporary moment of transition and a permanent swallowing up of family relations in the worlds of civil society and the state. It takes us back to the head of the household's ambiguous position in relation to family property. In order to maintain both private and public spheres men must be simultaneously family members, individual persons and citizens. And they constantly undermine the ethical specificity of the institution of which they are head and which they are required to sustain. In discussing the dissolution of old families and the founding of new ones, repeatedly in the *Philosophy of Right* we are presented with the modern family as located in the past, along with the agricultural class, women and barbarian cultures. But we are also constantly reminded of the specifically contemporary role that it plays in sustaining and being sustained by civil

³⁸ PR § 268, 268R, 268A.

³⁹ PR § 324.

society and the state. Hegel shifts between a temporal narrative, in which the proliferation of families becomes the basis of a people, and a spatial one in which the state encompasses and enables families' founding and maintenance.

Conclusion

In the *Philosophy of Right* Hegel's women are wives and daughters, whereas his men are husbands and sons, persons and citizens. Although very differently placed, in all cases the being and self-consciousness of family members is disruptive of Hegel's narrative, not only of the separateness of the ethical life of the family but also of the overarching story in which Hegel's state instantiates the explicit identification of spirit as self-determination. For Hegel it seems that women transcend time and may therefore not traverse the space that separates household from market or state. Men are able to traverse the space between family, market and state, but through moves that either leave them inexplicably dwelling in two worlds and multiple times, or suggest the subsuming of family into the space of civil society and state. The peculiar position of the family in Hegel's story has been interpreted in three different ways. The first underplays apparent anomalies and tensions and focuses on those aspects of Hegel's discussion that fit with his broader story, essentially subsuming family into the categories of civil society and the state, or arguing that Hegel ought to have done this even if he actually did not. On these interpretations, Hegel is speaking specifically of the family at the point of transition into capitalist market society, and Hegel's account remains firmly anchored in the terms of modern ethical life.⁴⁰ The second way is to embrace the idea of the temporal and spatial specificity of the family, underplaying those areas where it crosses or is crossed over by civil society and the state. On these interpretations, the dynamics of the family in itself and the ways in which those relations are in tension with the public sphere become the focus of scrutiny, and Hegel is held to be telling us perennial truths about human emotional, psychological and physical needs.⁴¹ The third way is to read the family as the point through which Hegel's bigger story of the development of spirit can be criticized. On these interpretations the position of

⁴⁰ Blasche, 'Natural Ethical Life'; Steinberger, *Logic and Politics*; and Paul Franco, *Hegel's Philosophy of Freedom* (New Haven, CT: Yale University Press, 1999).

⁴¹ Jessica Benjamin, *The Bonds of Love: Psychoanalysis, Feminism and the Problem of Domination* (London: Virago Press, 1988); Honneth, *Suffering from Indeterminacy*; and Ciavatta, *Spirit, the Family, and the Unconscious in Hegel's Philosophy*.

women or the clash between caring responsibilities and the pursuit of self-interest in the person of the head of the family demonstrates the political and ethical inadequacy of Hegel's idea of the meaning of spirit as self-determination and its instantiation in the modern market state.⁴²

All of the above lines of interpretation can be supported on the basis of Hegel's text, and all of them tell us something valuable about the meaning of the family in Hegel's philosophy of right. However, none of them in isolation does sufficient justice to the complexity of Hegel's argument, which is neither a description of, nor a prescription for, modern family life, but rather an exposition of how it might be possible to reconcile the idea of spirit as self-determination with its concrete actualization in lived experience, identities, beliefs and institutions. Hegel tells us that the family is both inside and outside history, inside and outside civil society and inside and outside the state. We can understand this when we grasp Hegel's *Philosophy of Right* as an investigation into how the modern state can be subjectively and objectively identified as the work of freedom. Essentially this can be possible only through a range of beliefs, identities and practices, some of which are sharply at odds with a linear temporal and spatial story, in which spirit is self-consciously actualized as self-determination in nineteenth-century Europe. In crude terms, Hegel shows us that, for the state to be understood in terms of freedom, not only does a great deal of unfreedom have to be in place, but also a constant effort has to be made to render that unfreedom intelligible in terms of freedom. Those efforts create meanings that are in perpetual tension with the overarching narrative they are intended to serve and therefore create an ongoing challenge to the workings of the modern state, whether through over- or under-identification with its self-understanding.⁴³

As Hegel describes it, rather than being a secure structure, underpinned by solid, complementary building blocks of family and civil society, the modern state is fragile and vulnerable. The family is the sphere where this fragility and vulnerability is most obviously experienced. The state needs persons and citizens, but it can secure them only through a range of contradictory beliefs and practices in which the family is both separate from

⁴² Jagentowicz Mills 'Hegel's *Antigone*'; Pateman, 'Hegel, Marriage and the Standpoint of Contract'; and Alison Stone, 'Matter and Form: Hegel, Organicism, and the Difference between Women and Men', in Kimberly Hutchings and Tuija Pulkkinen (eds.), *Hegel's Philosophy and Feminist Thought* (New York: Palgrave Macmillan, 2010), 211–232.

⁴³ Arguably, for Hegel problems arise primarily from an over-identification with spirit as self-determination at the level of the individual, since this leads women to meddle in the public sphere and men to neglect their duties as fathers and husbands.

and colonized by the public sphere. These contradictions have to be lived out in the self-conscious understanding and labour of family members. The family is a sphere in which women are equal and free, but also incapable of taking on a public role, where men need to be fathers and husbands but struggle to fulfil those roles in the face of the requirements of work and citizenship, where sons require the bonds of love and trust but also are obliged to shake off those bonds as soon as possible and to identify more absolutely with the state for which they may be willing to die than with the parents who gave them life. Regardless of what appears to be Hegel's normative stance on the nature of the modern family, his philosophical exposition of its presuppositions and implications undermines the representation of the family as a self-contained, safe ethical realm of private virtue which grounds and enables the proper operation of freedom in the public sphere. On his own account, the lived experience of wives, husbands and sons is always both necessary and dangerous to the work of freedom.