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THE LINE AND THE CIRCLE: THE FAMILY AND THE ‘DIALECTICS IN INSTITUTIONS’ BETWEEN SUBVERSION AND RESISTANCE

Abstract

Hegel is *the* philosopher of the circle. He famously posits the circular logic against virtually the entirety of modern philosophy, which equates the circle with tautology, *petitio principii* and ultimately falsehood. In line with such a view, this paper poses the question: what is the relationship between the linear logic and Hegel’s circular logic when it comes to the family as an institution within the sphere of objective spirit? For Hegel, institutions, in order to be worthy of such a name (or concept), imply a circular, rather than merely linear logic. Institutions, however, may be created by linear logic of subversion and irruption in history, but whether they persist or not is entirely a question of resistance and thus circularity, that is, their own repetition and reproduction in and through time and history. Following on from this, the paper argues that the peculiar position of the family within Hegel’s system of institutions stems from what here is termed the «two bodies of the family». The two bodies of the family enable us to understand the contradictory position that the family occupies and is assigned to this day, placing it in a permanent dialectical tension between the line and circle, resistance and subversion.

Keywords: Family; Institutions; Resistance; Subversion; Two Bodies

1. The family: subverting the resistance, resisting the subversion

A feminist reading faithful to the spirit of Hegelian philosophising – starting from the end, which is always the present and hence a new beginning – would force us to admit that, to this day, «despite an excess of wealth civil society is not wealthy enough»¹ to dissolve the family. Throughout history, families – be they patriarchal or modern – have always forged their own rules with and against the powers that be. Neither evolution nor revolutions have been able to put an end to or to abolish the family. On the contrary, if anything, they have merely reinforced it. Family life has always been one of «strategy, identity and order»² – arguably the source of the persistence of the family form to this day. From procreating to refusing to procreate, from organising and maintaining the communal order to subverting and/or resisting it, from supplying to refusing to supply labour power to labour markets and thus subverting them, from waging a war within and against the labour market to mere docility in relation to it; from resisting the legal

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1 G.W.F. HEGEL, *Grundlinien de Philosophie des Rechts oder Naturrecht und Staatwissenschaft im Grundrisse*, Suhrkamp, Frankfurt a.M. 1970, English translation by H.B. Nisbet, *Elements of the Philosophy of Right*, Cambridge University Press, Cambridge 1991, § 245, p. 267, henceforth *EPhR*.

2 N. ZEMON DAVIS, *Ghosts, Kin, and Progeny: Some Features of Family Life in Early Modern France*, in «Daedalus», 106, 2, 1977, pp. 87-114, p. 87.

codification of modern family relations and norms (one only has to think of the opposition in say former Yugoslavia or Italy to the laws on abortion) to their later subversion (the right to same sex marriage): all of this suffices to understand that the matter of the family is more than the sum of its parts. It is only from the perspective of the totality of social, legal, historical and political relations that the family, this ghostly bone of history, can be understood.

Over thirty years ago, the Italian philosopher Claudia Mancina compellingly argued that reflexions on the family have always been part of philosophy and yet always consigned to its margins. From Plato through the Church Fathers, to natural law theories, to Hobbes, Locke and Rousseau, one finds sections dedicated to the family, but it is in the philosophy of German idealism, in Kant and in particular in Hegel, that the family finally finds itself fully recognised within philosophy³. Taking inspiration from Adorno's reversal in his *Three studies on Hegel*, I would like to suggest that the question we ought to be asking is not what Hegel 'means in the face of present', but conversely, 'what the present means in the face of Hegel', in particular when it comes to the family. If anything, it would appear that the labour of dialectics still points not to the paradoxical, but rather to the contradictory position of the family: its simultaneous recalcitrance and docility in relation to the external factors that affect it. The family is at once assigned a position and it occupies a position, in one and the same moment it is active and passive, it acts, and it endures.

It is precisely this active-passive dialectical tension or moment that interests me when it comes to the family within Hegel's *Philosophy of Right*. I believe that this dialectical tension sheds light not just on Hegel's own conception, but to a large extent still tells us something about the form and the place of the family in our present. If the verb to act or to be active is self-evident in its meanings and implications, the verb «endure» is perhaps less so. It originates from the Latin *indurare*, whose primary meaning is «to undergo or suffer» (especially without breaking); also «to continue in existence». But, more significantly, it stems from *durare* whose primary meaning is to «make or render something hard», to harden, where something is made to tolerate, bear, endure, keep up or maintain⁴. In other words, the verb 'endure' designates and preserves in itself the process in which something is actively made passive in the sense of being hardened, rendering it therefore resistant and resistive to the external factors and thus enabling its continued existence, protracted through time and history. The family is precisely such a peculiar institution: it endures, it is rendered hard, resistive and thus able to actively resist and subvert. The family thus subverts the resistance and resists the subversion. The family as the line and the circle. The family as the owl which detects and undergoes the «modifications produced by the epoch» and the mole in the path of the «spirit which transforms and undermines unconsciously the very foundations of an epoch»⁵. The labour of the

3 C. MANCINA, *Hegel e la famiglia moderna*, in «Studi Storici», 25, 4, 1984, pp. 985-1017.

4 *The Shorter Oxford English Dictionary. On Historical Principles*, Third Edition, Vol. I, Book Club Associates/Oxford University Press, London 1984, p. 656.

5 To somewhat exaggerate, force or even subvert the famous lines from Remo Bodei's seminal work. R. BODEI, *Sistema ed epoca in Hegel*, Il Mulino, Bologna 1975, p. 7.

family and the family as labour sustain society. It is also this meaning of sustaining, keeping up with, maintaining that we often associate with the family, where the dimension of *durare* designates its resistance through and to historical change and time.

More often than not, philosophy and political theory more broadly have found themselves in discomfort, hiding their own bafflement and exasperation before the institution of the family: necessary but somehow obliterated, present but only as a shadow, central and yet marginal. The family, in other words, still seems to occupy a liminal position, as it did in Hegel's *Elements*: it is at once in the sphere of pre-objectivity, as it were, and yet objective, it is in the sphere of the pre-categorical and yet productive of categories within the sphere of the state and civil society, and *vice versa*. The family's marginalisation and contradictory position have, probably, always been conditioned if not structured by the fact that it belongs both to the order of nature and that of the second nature. In this sense, from Plato onwards, there is not a single author in the history of philosophy, who places the family entirely and exclusively in the order of pure nature, nor in that of second nature.

This, I argue, is the essence of the problem when it comes to the family. Hegel not only recognised but also tried to come to terms with this. Following on, what I am interested in here is the question of *Entzweiung*, *Differenz* and institutions. These concepts permeate the family for they encompass the dialectics between 'persons' and 'things' in the section dedicated to abstract right on the one hand, and that of the objective spirit (*Sittlichkeit*) on the other. The mutual dependency of the latter concepts in relation to the family suggests that the family itself is imbued with and pervades both the linear logic and that of the circle. «Every present has its own past»⁶, writes the Swedish sociologist Göran Therborn in his important and influential book on the family. This is Hegel's view as well. The ways we understand this determines our view of the totality. The family in this regard is indeed something like an open circle: it generates and is generated by external factors, it forms, and is formed, it dissipates to generate a new and be dissipated in return, it resists only to be resisted, it produces only to be produced, it subverts only to be subverted. Indeed, the family as the living [*das Lebendige*] – after all, in both the *Encyclopaedia* and the *Elements*, it retains 'naturalness' within the sphere of the objective spirit⁷ – whose essence for Hegel is by definition discernible as the «recurring manifestation of production and reproduction, self-production and self-engendering (*sich-selbst-Hervorbringen*), mediation and realisation, as activity (*Tätigkeit*) or purposeful activity»⁸. Thus, the circle of the totality is at once the circle of the family's

6 G. THERBORN, *Between Sex and Power. The Family in the World 1900-2000*, Routledge, London 2004, p. 2.

7 HEGEL, *EPhR*, cit., § 157, p. 198, *Enzyklopädie der philosophischen Wissenschaften im Grundriss* 1830, *Dritter Teil Die Philosophie des Geistes Mit den mündlichen Zusätzen*, Suhrkamp, Frankfurt a.M. 1986 § 517, p. 319. English translation by W. Wallace & A.V. Miller, revised by M. Inwood, *Hegel's Philosophy of Mind*, Clarendon Press, Oxford 2007, p. 229.

8 M. RIEDEL, *Theorie und Praxis im Denken Hegels*, W. Kohlhammer, Stuttgart 1965, p. 46. The German word *hervorbringen* is usually rendered as 'engendering' in the translations of Hegel's work, but what I am interested in is the meaning it can have in this particular case, which is to grow, to allow to grow, to outgrow, hence in a way to resist, to result, to endure, in the process of *Hervorbringung*.

generation and dissipation, of subversion and resistance, or what I shall refer to here as the family's two bodies.

2. *The family's two bodies: the body of institution, the institution as the body*

If one of the fundamental differences between Hegel and Marx can be seen precisely in their relationship to the past, that is to say to tradition and the ways it reflects and retroactively acts upon the present, the family cannot be spared or isolated. Marx is obsessed with the past. With unsurpassed vehemence and occasionally even violence, Marx writes about the past as if his life depended on it. «Inherited, given and transmitted» the past in the form of tradition, Marx famously writes in the 18th Brumaire:

weighs like a nightmare on the brains of the living. And just as they seem to be occupied with revolutionizing themselves and things, creating something that did not exist before, precisely in such epochs of revolutionary crisis they anxiously conjure up the spirits of the past to their service, borrowing from them names, battle slogans, and costumes in order to present this new scene in world history in time-honoured disguise and borrowed language⁹.

Hegel for his part is anything but obsessed with the past. Recalling Ernst Bloch's expression in his *Subjekt-Objekt*, Remo Bodei writes of the «'anamnesic' meditation of the past»¹⁰ in Hegel, where consciousness reflects on all the forces of the past that «prefigure the future»¹¹, and we shall soon see how this relates to the family. Whereas for Marx the question is how to end the past, for Hegel the past, even as it is ending, is always already alive and active in the present as something other than it was before¹². Whereas Marx (from certain point at least) sought to abolish the past, Hegel sought to both incorporate and release [*entlassen*] it¹³.

Whereas for Marx the past was no longer the source of the legitimation of the present¹⁴, for Hegel, as he underlined already in the *Preface* to the *EPhR* the point was precisely that «there is something that is neither old nor new but enduring» to be «extracted from formlessly fluctuating reflections»¹⁵. In the *Manifesto of the Communist Party*, the

9 K. MARX, *18th Brumaire of Louis Bonaparte*, MECW, Vol. 11, Lawrence&Wishart, London 1979, pp. 103-4.

10 BODEI, *Sistema ed epoca in Hegel*, cit., p. 14.

11 *Ibid.*

12 On the declinations of the end in Hegel's Logic and the relevance for the development of the system where «putting an end to an end» is what opens and enables the new beginning, which as Angelica Nuzzo has argued is no longer immediate but becomes determinate and takes new forms, See A. NUZZO, *Approaching Hegel's Logic, Obliquely: Melville, Molière, Beckett*, State University New York Press, Albany 2018, pp. 35-73, 261-381, 383-393.

13 On the semantics of *entlassen* see F. RUDA, *Entlassen. Remarks on Hegel, Sacrifice and Liberation*, in «Crisis&Critique», 1, 2, 2014, pp. 111-29, p. 126.

14 See M. RICCIARDI, *Il potere temporaneo*, Meltemi Editore, Milano 2019. Preface and Chapter 1 in particular.

15 HEGEL, *EPhR*, cit., p.11. 'Enduring' captures what was earlier said about the family: to endure, to

text which we today read and understand as programmatic, Marx and Engels argued that in bourgeois society «the past dominates the present, in the communist the present dominates the past»¹⁶.

For Hegel, who adopts precisely the perspective of the present, it is about the ways the past literally spills over, overflows into the present, how the past is released and how this releasing forms and informs the present, from the *zeitlos* to the *Zeit* of history. Whereas for Marx capital forms a circle, which can only be broken by a linear irruption within it, that is, the irruption onto and into the scene of history, for Hegel, on the contrary, the circle is the *modus* of philosophical thinking because «the structure of the system is able to defeat with its circularity the linear inconclusive progression of the ‘bad infinity’ for which no end is in view and no beginning is a necessary beginning»¹⁷ – which finds its ultimate expression in the concept of the institution itself. When it comes to the family, however, I would like to underline one interesting resemblance. Marx and Engels use the term *aufheben* [*Aufhebung der Familie!*]¹⁸ when they speak about the family, where this *aufheben* is not reducible to the ‘abolition’ of the family, as the Marxist (feminist) theory has often argued and continues to argue to this day. Therefore, in Marx and Engels *stricto sensu*, it is not about abolition, but more precisely about sublation, where it is obvious that something of the previous moment or in this particular case of the previous family form remains within the new content and form.

What remains and how exactly the sublation is to be done, Marx and Engels leave unanswered. In this specific regard, they remain not faithful but certainly close to Hegel. The question of the family forces them too into the logic of circle and sublation. Hegel, on his part, sees the family as the necessary content, and therefore the form, of the externalisation of the objective spirit, past in the present and present in the past, nature in Spirit and Spirit in nature. In other words, albeit in different ways, neither for Marx nor for Hegel, as Faulkner’s Stevenson famously repeats: «there is no such thing as past either [...] past isn’t dead. It isn’t even past»¹⁹. What differentiates them is the form of the manifestation of the past and the ways of ending it. When it comes to the family, however, Hegel is far less determined of putting an end to an end than it might appear.

In *The King’s Two Bodies*, Ernst Kantorowicz famously centred his entire argument around the king’s two bodies, namely: the Body natural and the Body politic. The first is the natural, mortal body of the king subject to all things any physical body can be: contingencies such as illness, physiological or biological disability and infirmity, age, etc, whereas the body politic is the body invisible to people and in short symbolises the government, laws, guiding the people or put simply: the institution of the state. This

persists, to remain, to be durable, to be made durable, to endure as in resist; that which endures as that which resists through time.

16 K. MARX, F. ENGELS, *Manifest der Kommunistischen Partei*, available here: <https://www.digitale-sammlungen.de/en/view/bsb10859626?page=1>, p. 14, English MECW, Vol. 6, Lawrence&Wishart, London 1976, p. 501.

17 NUZZO, *Approaching Hegel Obliquely*, cit., p. 69.

18 MARX, ENGELS, cit., p. 15, English p. 499.

19 W. FAULKNER, *Requiem for a Nun*, Chatto&Windus, London 1953, pp. 68 and 85.

invisible king's body cannot in any way be harmed, impaired or usurped by the body natural. If the first is by definition corruptible, perishable and unable to resist, the second (in theory at least) is exactly the opposite: eternal and immutable²⁰ or, as we have seen, 'enduring' and resistive. Although they meet in the same (contingent) person (the King), the two bodies are never fully homologous.

What I am interested in here is to extend this argumentation (in line of principle, rather than exact analogy) to the question of the family within Hegel's *Philosophy of Right*. The same is valid for the family, and it is from the two bodies of the family, natural body and political body, that its peculiar position within the system of institutions stems. But there is an inversion in relation to the argument put forward by Kantorowicz: for Hegel, neither is perishable *in toto*, that is to say both are mutable through history and unfold in time. Neither the family as nature nor the family as second nature have always been what they are from the perspective of the present. If the history of the modern world for Hegel is the history of freedom, it is also the case that it is the history of *institutions* bound to circular logic²¹ and their *crises* qua the linear irruption(s) – without which the concrete realisation of freedom would not be possible. Institutions on Hegel's account cannot be and indeed are not created *ex nihilo*. The past in other words is already there for Hegel, it is present in every step of the concretion and the embodiment of the Spirit in history. This means that there is no *caesura* neatly separating past, present and future, as Hegel shows in his incessant insistence that one shape and one institution necessarily dissolve into another. This is why Hegel in the *Introduction* to the *EPhR* insists that the «family is a determination of the Idea»²² and as such a realisation of the concept, which differentiates itself «through an immanent process»²³ of Spirit's objective, embodied, concrete, historical realisation.

In the *Encyclopaedia*, Hegel espoused the view that Spirit, in order to concretise itself in history, has to go through or become nature, attaining the corporeal, material dimension²⁴, enabling its manifestation in the 'circle of philosophy' where the body is «the sight of the reflection of the relationship between nature and culture»²⁵. This relationship

20 E. KANTOROWICZ, *The King's Two Bodies, A Study in Medieval Political Theology*, Princeton University Press, Princeton 1957, in particular pp. 7-24 and pp. 314-451.

21 See R. COMAY, *Resistance and Repetition: Freud and Hegel*, in «Research in Phenomenology», 45, 2, 2015, pp. 237-266. Comay writes about institutions, which are *per definitionem* tautologically bound to their status and stability, p. 239. Although, in principle, this is of course true, in terms of Hegel's own view of the institutions, the logic of the circle is not simply one of tautology or *petitio principii*, but rather of the contradictory relationship that exists between the linear logic of irruption and the circular logic of the totality grasped as the Idea, of philosophy's own mode of exposition.

22 HEGEL, *EPhR*, cit., § 32, p. 61.

23 *Ibid.*

24 Recent literature concerning the place and the role of the body in Hegel's system has shown that the body is not marginal, but an essential aspect in the development of Hegel's argument and the construction of his system. See: S. ACHELLA, *The Right of the Body: Hegel on Corporeity and Law*, in «Crisis&Critique», 8, 1, 2021, pp. 8-22; Id., *Pensare la vita*, Il Mulino, Bologna 2020, in particular the last chapter *Vite incorporate* pp. 251-296 and NUZZO, *Leben and Leib in Kant and Hegel*, in «Hegel Jahrbuch», 1, 2007, pp. 97-101.

25 ACHELLA, *Pensare la vita*, cit., p. 264.

is not simply left to pure nature or to mere bodily dimension, but is mediated precisely by the institutions themselves. In what is one of the densest sections of the *Encyclopaedia* – the anthropology – Hegel posits that the «Spirit came into being as the truth of Nature»²⁶ [*Der Geist ist als die Wahrheit der Natur geworden*]: body (or bodies) and by extension the institutions are part of this coming into being or becoming. It is following on from this that Hegel insists on the homology between the living (*Lebendige*) and reason, as when he says: «what the *genus* (*Gattung*) is in life as such, rationality is in the realm of spirit»²⁷. Of course, read retroactively, this clarifies why the family in the *EPHR* was understood as an Idea and why it attained the status of institution: it is historical, or to borrow a word from Derrida «historial»²⁸. The process of the transition from nature to Spirit, that is from the natural body of the family to the political body or the family *qua* institution, is unthinkable without the body understood in both its sexual/gendered and spiritual aspects²⁹.

The entire § 396 of the *Encyclopaedia* is in fact dedicated to what Hegel called the «natural alterations», that is, to the ‘cycle of life’ (*Lebensalter*). What is described here is the life which begins with the soul determined as the individual in which the «differences take the form of alterations» whereby the «unitary subject persists in these modifications» from childhood through youth to adulthood and old age-modifications, which in the anthropology fall into or belong to time³⁰. The *Lebensalter* is one with the temporal cycle, but at the level of *Gattung* cannot be exhausted in it. This is why the temporal anteriority indeed can, as in the *Philosophy of Right*, be within the order of logical priority and *vice versa*. As for the relationship existing between the world of nature and that of Spirit, Hegel, having expounded the ‘cycle of life’, clarifies in the following passage of the *Encyclopaedia* how the family appears as the mediation in Spirit’s «coming into being as the truth of nature», announcing the entry into civil society: the family, he now tells us is where the «relationship between sexes acquires its spiritual and ethical significance and determination»³¹. If the homology between the family within the ‘civil condition’ and the biological *telos* of the species is only hinted at here, in the *Philosophy of Right* it was fully disclosed and revealed³². In both instances, the family’s two bodies are necessarily inscribed into the logic of temporality. This is further elaborated in the

26 HEGEL, *Enzyklopädie*, cit., § 388, German p. 43, English p. 29.

27 *Ivi.*, § 396 *Zus.* «Was am Lebendigen als solchem die *Gattung* ist, das ist am Geistigen die *Vernünftigkeit*» p. 76, English p. 54.

28 J. DERRIDA, *Au-delà du principe de pouvoir*, in «Rue Descartes», 82, 3, 2014, pp. 4-13, p. 5.

29 Allegra de Laurentiis shows in her compelling book on Hegel’s Anthropology that the soul is for Hegel both sexed and gendered and that, more importantly, Hegel insists on the aspect of *Verhältnis* within the *Geschlechtverhältnis*, of the relationship between the sex and gender (which for him of course coincide) and that this relational aspect stems from the soul’s hylomorphic nature, where sexuality pertains to both the physiological and spiritual side, see: A. DE LAURENTIIS, *Hegel’s Anthropology: Life, Psyche, Second Nature*, Northwestern University Press, Evanston 2021, p. 123.

30 HEGEL, *Enzyklopädie*, cit., § 396 and *Zusatz* p. 75-86, English p. 53-62. We see just how close and at the same time how far away from Kant Hegel is here.

31 *Ivi.*, §397, p. 87, English, p. 62. English translation modified mine.

32 On this point see DE LAURENTIIS, *Hegel’s Anthropology*, cit. p. 126.

definitions of the family within both the *Philosophy of Right* and the *Encyclopaedia*, where the family, as stated earlier, retains the element of ‘naturalness’. As such, it is bound to the individual as it is to the species and finds its final and ultimate expression in the family *qua* (rational) institution of the objective spirit. Thus, in the *Philosophy of Right* Hegel insists that:

in these spheres in which its moments, individuality [*Einzelheit*] and particularity, have their immediate and reflected reality, spirit is present as their objective universality which manifests itself in them [*als ihre in sie scheinende objective Allgemeinheit*] as the power of the rational in necessity, i.e. as *the institutions*³³.

The precise meaning of institutions for Hegel is best captured in the section cited above: «the power of the rational in necessity», where the homology pointed to earlier is inseparable from the dialectical process pertaining equally to nature and second nature, or in our case to the family’s two bodies. This does not preclude the linear logic of irruption which in our reading of the family pertains to the element of nature and the *telos* internal to it, but at the same time it does show how the very logic of irruption is subsumed and sublated within the logic of the institution itself with each new successive transition within the system and in its real temporal and historical concretisation. Ultimately, the two bodies of the family reflect the *Entzweiung* characteristic of it – not identical, but similar to the dialectics between persons and things in the section on abstract right³⁴ – the body natural comprised of the individual bodies [*die Einzelne*] forming the family as members, the body politic which in relation to others (civil society and the state) is represented as one «legal person»³⁵ [*Rechtliche Person*], the latter being its unitary institutional *persona* so to speak. The dialectical relationship between the two bodies of the family within the ‘civil state’, as Hegel describes it in the *Philosophy of Right*, reaches its limit and its point of no return: the ‘natural’ family is formed only to dissipate after the children leave the parents’ (or father’s) home and be dissipated in return, whereas its body political, represented in its legal person or the institution, cannot perish. As an institution, it must exist inscribed into the very logic of Right as the supreme institution. This despite the fact that Hegel is extremely progressive for his own time, upholding the right to divorce and the equality of inheritance for men and women alike (to be clear,

33 HEGEL, *EPhR* cit., § 263, p. 286.

34 In her essay dedicated to the relationship between persons and things, that is, to the body as the object of property and the subject of right in the *EPhR* section on abstract right, Angelica Nuzzo has shown how this relationship offers an insight into Hegel’s view of the corporeity in its totality. It is precisely via the question of the body that we can follow the development of Hegel’s view, which goes from the immediate or natural to the (artificial) one mediated by the will and juridical recognition, a key moment in the passage to objective spirit. In the latter, we can follow the passage from the «representation of the body as object of property to its being a person and as such the real and proper subject of rights». See NUZZO, *Libertà e corporeità. Il corpo come oggetto di proprietà e soggetto di diritti nella sezione ‘diritto astratto’ nella Filosofia del diritto*, in R. Bonito Oliva, G. Cantillo (eds.) *Natura e cultura*, Guida, Napoli 2000, pp.123-145, p.128.

35 HEGEL, *EPhR*, cit., § 171, p. 209.

Hegel in this context *is not* talking about the family that existed in his own time, as the right to divorce and the equality of inheritance was still a dream to come true, and would wait more than a century to be realised in large parts of the Europe and world)³⁶.

It is only by understanding the family as an institution, or rather as taking the shape of a ‘modern institution’, that we are able to still see Hegel as our contemporary, and to understand the crisis cutting through the institutions of objective spirit as still our very own. From Plato, through Aristotle to the Church Fathers all the way to political modernity, exemplified in Hobbes’ «civil family», Locke’s «natural family» or Kant’s hybrid, the «juridical family»³⁷ – the family is present as the necessary corollary of the historical, social and political discourse that Hegel inherits. The ‘body political’ of the family has not (yet) died and it is difficult to imagine its imminent death. Within the dialectical relationship between the parts and the whole, the family’s political body appears as the sphere that, precisely in its being external, affects the internal dynamics of the family life. Exposed to permanent crises, which are external and therefore necessarily already internal to it, the family continues to exist in the gap between civil society and the state.

3. *The line and the circle: the family and the ‘dialectics in institutions’*

In relation to all previous family forms, Hegel’s conception of the family is at once their «‘dissolution’ and ‘completion’»³⁸. In *nuce*, we could say that two crucial problems remain open: a) as mentioned, the family Hegel theorises *is* and *is not* the bourgeois family of his time; b) the family is based not on contract, but on love³⁹. However, the problem with love, one that Hegel was probably aware of, but true to form and to his time, did not address, is that love as the basis of marriage presupposes the will of the free (contracting) individual who is able to choose. Love as free choice is inseparable from the contract Hegel wants to avoid, although there is of course the irreducible difference between Hegel’s and Kant’s respective positions on the issue. Having said this, I now turn to the question of institutions and the relationship existing between the family, civil society and the state in more detail. Specifically, I am interested in two issues: institutions and the economic aspects of Hegel’s thought developed in the *EPhR*. In terms of institutions, the first point is famously defined by Manfred Riedel as the «dialectic in institutions»⁴⁰, and more recently by Roberto Esposito who also, invoking Hegel, poses the questions of institutions in our own present and contemporaneity⁴¹. Following Hegel, albeit in different ways, what both Riedel and Esposito share is their belief that by their

36 *Ivi*, § 172, §176 and §180 English pp. 209-218.

37 MANCINA, *Hegel e la famiglia moderna*, cit. p. 989.

38 A paraphrase of Bobbio’s great opening line dedicated to Hegel’s *Rechtsphilosophie* and *giusnaturalismo*. N. BOBBIO, *Hegel e il giusnaturalismo*, in «Rivista di Filosofia», 4, 1966, pp. 397-407, p. 397.

39 HEGEL, *EPhR*, cit., § 75, and § 158, pp. 105-6 and 199-200

40 RIEDEL, *Between Tradition and Revolution, The Hegelian Transformation of Political Philosophy*, translated by W. Wright, Cambridge University Press, Cambridge 1984, English, p. 53.

41 R. ESPOSITO, *Istituzione*, Il Mulino, Bologna 2021.

nature institutions are not static and monolithic entities. Both underline their fundamentally dynamic and dialectical nature: institutions are peculiar for they both remain and persist because of and despite change. That institutions are malleable is both their strength and their weakness. Institutions, in other words, are in permanent tension between the processes of destitution and institution, between resistance and subversion. Riedel perceptively distinguishes between the «institution in narrower and broader terms», where for the latter Hegel used the term *Einrichtung*, so as to underline the «stable content» of ethical life and «ethical powers»⁴² – institutions here give meaning, sense, direction and ‘normalise’ certain roles, functions and processes. Esposito, on his part, insists that the logic of institution as instituting logic is one of «continuous tension between external and internal, freedom and necessity, positive and negative»⁴³. For Hegel, once instituted, the institution «acquires a reality external to the movements that produced it», which is why the political state is not «understood or experienced as oppression, but rather as the expression of civil society»⁴⁴. The family – and this is where the contradiction resides – follows the same logic.

Hegel is aware that he too like any «individual is a child of his own time»⁴⁵. He was writing in the post-revolutionary period when civil society was either consolidated or consolidating, a fact directly reflected in his views about the institutions of objective spirit and the necessary separation between the concepts of nature and freedom⁴⁶. The family Hegel has in mind is a «civil family»⁴⁷ and as such it is at the same time productive of and produced by what is external to it, namely civil society and the state⁴⁸. The trouble with the family is that it does not belong entirely neither to civil society nor to the state. It retains elements of the unmediated, immediate [*unmittelbare*] and natural as its presuppositions. This is why the family finds itself caught in the dialectical relationship between resistance and subversion, where it is the family itself that can subvert or resist or undergo the subversion and be resisted in facing moments external to it.

Resistance and subversion are then to be understood here in their double meaning, verging on the precarious line separating them: as rendering the family resistant and enduring in the face of change and external circumstances, thus effectively blocking or disabling the full exercise of elements and moments external to the family, enabling it to resist and thus to subvert them, or in the opposite sense, in allowing external moments to

42 RIEDEL, *Between Tradition and Revolution*, cit., p. 33.

43 ESPOSITO, *Istituzione*, cit., p. 19, 70-71. He uses the expression «instituting practice» (*prassi istituyente*).
44 *Ivi*, p. 69-70.

45 HEGEL, *EPhR*, cit., p. 21.

46 On this point see RIEDEL, *System und Geschichte. Studien zum historischen Standort von Hegels Philosophie*, Suhrkamp, Frankfurt a.M. 1973, p. 116.

47 M. THEUNISSEN, *The Repressed Intersubjectivity in Hegel's Philosophy of Right*, in D. Cornell, M. Rosenfeld, D. Carlson Gray (Eds.), *Hegel and Legal Theory*, Routledge, New York 1991, p. 7.

48 In relation to the family, Hegel closes or brings to an end those elements initiated earlier by Rousseau, whose contractualism is at the same time the object of Hegel's criticism. See F. KUSTER, *Vom Naturzwang zur Sittlichkeit. Stationen der bürgerlichen Familie: Rousseau-Kant-Hegel*, in «Hegel Jahrbuch».

A. Arndt, P. Cruysberghs, and A. Przyłębski, (Eds.), *Akademie-Verlag*, Berlin 2008, pp. 288-295.

subvert it from the outside, a determination that on the inside effectively paralyzes and blocks its resistance. It is just in such a context that Siegfried Blasche puts forward the thesis that the family in Hegel cannot be understood unless we comprehend the philosophy of right as the theory of *civil society*, and that it is precisely on condition that the *EPhR* is the theory of the civil society that Hegel can think the family as modern, and not the other way around⁴⁹. The second point of our interest lies in the fact, as Remo Bodei argues, that the economic dialectics in Hegel is not foundational (as Lukács claims) but «expressive in that it refers or points to the tendency that pervades an epoch; the economy too for Hegel is part of the great transformation, of the transition from the circular flux of substance to the process of the development of subject»⁵⁰. This process is unthinkable without the idea of the contract and property, which is why Hegel's casual remark (right after his criticism of Kant's subsumption of marriage under contract) is significant for us today and helps us to still read Hegel as our contemporary:

the intrusion of the relationship of contract, whether it is assumed that the State is a contract of all with all, or a contract of all with the sovereign and the government- and the intrusion of the relationships concerning private property in general, into political relationships has created the greatest confusion in constitutional law [*Staatsrecht*] and in actuality⁵¹.

Although, for Hegel, the family itself is not based on contract but on love, this nonetheless brings him to the conclusion— the one he seeks to avoid— that there is a relationship between contract and the family externalised in property⁵². This is the point at which the family's two bodies appear as subverting and resisting, as the line and the circle. For Hegel, modern society is modern precisely to the extent that it is mediated by civil society as the place of exchange and acquisition of property, as the place of property and societal relations proper, a moment that does not exist in antiquity or prior to the English and French revolutions. This is why ultimately in a society such as ancient Greek,

49 S. BLASCHE, *Natural Ethical Life and Civil Society: Hegel's Construction of the Family*, in R. Pippin, O. Höffe (Eds.), *Hegel on Ethics and Politics*, Cambridge University Press, Cambridge 2004, pp. 183-207. Original edition *Natürliche Sittlichkeit und bürgerliche Gesellschaft: Hegels Konstruktion der Familie als Sittliche Intimität im entsittlichten Leben*, in RIEDEL, *Materialen zu Hegels Rechtsphilosophie*, Vol. II, Suhrkamp, Frankfurt a.M. 1975, pp. 312-337.

50 BODEI, *Hegel e l'economia politica*, in S. Veca, (Ed.), *Hegel e l'economia politica*, Gabriele Mazzotta Editore, Milano 1975, p. 41.

51 HEGEL, *EPhR*, cit., § 75, *Remark*, p. 105.

52 *Ivi*, p. 105-6. On this point see S. BENHABIB, *Obligation, contract, exchange: on the significance of Hegel's abstract right*, in Z.A. Pelczynski (Ed.), *The State and the Civil Society. Studies in Hegel's Political Philosophy*, Cambridge University Press, Cambridge 1984, pp. 159-178. I share Benhabib's overall criticism that Hegel confined the validity of contract exclusively to the private or civil sphere but am not convinced by her conclusion that Hegel is a formidable opponent, and not a guide in our attempts to rethink and 'repoliticise' the public sphere of late capitalism. The question is precisely one of the enduring force of the institutions for which Hegel can hardly be said to be responsible. On the contrary, Hegel's insights into the tensions and relationships existing between the sphere of production and reproduction can still help us comprehend our time in thought.

where there was no mediation of civil society, «the struggle between two equally valid rights was irreconcilable [...] the conflict between *jus sanguinis* and *jus civitatis* is tragic precisely because it does not pass through the recognition of singularity and particularity»⁵³, while this recognition is the absolute precondition of modern societies. That is to say, while it is true that, on the one hand, Hegel appears to systematically downplay the influence of the civil society on the family, on the other, he is able to think the family as explicitly modern precisely because he is finally able to think of civil society as a place of dialectical tension between the family and the state, precisely as the space of the «intrusion of the relationships concerning the private property in general» where the family as *sittliche Lebensform* is affected by civil society as the «*entsittlichte Lebensform*»⁵⁴. Defining civil society, Hegel insists that it is:

the [stage of] difference [*Differenz*] which intervenes between the family and the state, even if its full development [*Ausbildung*] occurs later than that of the state; for as difference, it presupposes the state, which it must have before it as a self-sufficient entity in order to subsist [*bestehen*] itself⁵⁵.

Only from the vantage point of this specific *Differenz* and the *Entzweiung* do we understand why Hegel can define the family backwards (from the most developed form, the modern state and civil society) as it were, in that the family objectivizes itself through: «a) marriage as its immediate concept; b) in its external existence [*Dasein*] as the property and assets [both of which imply contractual relations] of the family and their administration; c) in the bringing up of children and the dissolution of the family»⁵⁶. Although it is true that within family life, for Hegel, one does not have the experience of oneself as a separate person for oneself, but is rather a member of a whole, because the family, as previously mentioned, is treated as one legal person [*Rechtliche Person*] where each of its members «freely surrenders» their personality, which is why the family, as immediate ethical totality, lies outside the sphere «of legal obligations of contract». Nonetheless, the family is mediated by these relations, to the extent that the necessary division between the private and the public sphere affects the family— for the property and assets, as the external existence of the family, can only come from the private (legal) sphere, in particular from within what Hegel earlier, in the abstract right, understood under the «contract of exchange»⁵⁷. If the pre-modern conception of the family was closely bound to the sphere of *oikonomia* where the *oikos* «was itself part of the state as a whole»⁵⁸, a sphere in which economic activity was centred around the family, where the family was to find the means of reproduction for its own subsistence, it is now civil society that

53 BODEI, *Hegel e l'economia politica*, cit., p. 57. Perhaps an even better translation of irreconcilable would be irremediable, that which cannot find its mediation.

54 On this point see BLASCHE, *Natural Ethical Life and Civil Society*, cit. p. 186.

55 HEGEL, *EPhR*, cit. § 182, and addition, p. 220.

56 *Ivi*, §160, p. 200.

57 *Ivi*, § 80, pp. 110-111.

58 RIEDEL, *Between Tradition and Revolution*, cit., p. 46.

occupies the position previously taken by the family. Property and assets in this sense are no longer exclusively confined to the space of *oikonomia* but are transferred to the sphere of civil society.

The family «in its external existence» is thus defined and constituted through property, which for Hegel is not merely an economic, but rather juridical/legal category, not «the place of an autonomous economic function, but the juridical place of the relationship of the family and civil society»⁵⁹. Thus, Hegel's attempt to save the family from the limitations of contract succeeds only in part, because the law (abstract) extends to the family precisely in virtue of it entering into a relationship with civil society⁶⁰. Interestingly, however, here we are obliged to note that the contract itself, although arising from the linear logic that instituted it, once instituted, is inevitably bound to the logic of the circle, that is, of the institution. The contract, unwillingly, strangely appears as the third, in that any contract in the private sphere is not just or not simply between any two private parties, but between two private parties and the logic of the third, that is, the state as the ultimate and therefore mediated ethical unity⁶¹.

The dialectical relationship between civil society and the family as institutions cannot exhaust itself because civil society is the place where the reign of arbitrariness and contract necessarily rule its necessary moment, is «the mediation of need and the satisfaction of the individual [*des Einzelnen*] through his work and through the work and satisfaction of the needs of all the others»⁶². The relationship between the family and civil society appears therefore as one of the most important and difficult aspect of the *EPhR* as it deals not only with the logical elements of Hegel's system, but more importantly tries to come to terms with the real, historical events as they were unfolding⁶³, where the logical and the historical can never exhaust one another but are bound to incessant interaction and mutual conditioning. The family then is modern only to the extent that the civil society operates as a sort of «*retro-action*»⁶⁴ on the family, working both backwards and in the present, ensuring the freedom of each individual subjectivity, a presupposition of the Hegelian determination of the family in the first place. The family's two bodies, however, are not overcome by this logic, if anything they are enforced both from within and from without. The family thus appears to be assigned and occupy the specific position of resisting the subversion and subverting the resistance. It appears in a different shape/form (*Gestalt*), that is, it is at the same time a unity of opposites and differences: «between the ancient and medieval family – domestic society, the 'home' endowed with economic and

59 MANCINA, *Differenze nell'eticità. Amore, famiglia, società civile in Hegel*, Guida, Napoli 1991, p. 195.

60 On the aporias of the treatment of civil society within the section on abstract right and morality and the repercussions for the understanding of the family. See BLASCHE, *Natural Ethical Life and Civil Society*, cit., p. 185-6.

61 Hegel, of course, criticises the contract as the basis of the state, but the state appears as the ultimate guarantee in its virtue of being the substantial will. On the other hand, problems that arise for Hegel in administering justice bear witness to this.

62 HEGEL, *EPhR*, cit., §188, p. 226.

63 MANCINA, *Differenze nell'eticità*, cit., p. 201.

64 BLASCHE, *Natural Ethical Life and Civil Society*, cit., though the English translation does not retain this sense contained in the original.

administrative self-sufficiency; and the bourgeois family, the circle of privacy or *Privatleben*, from which all working activity and all juridical relations are excluded⁶⁵, which is why the family Hegel describes is and is not the bourgeois family of his own age comprehended from a post-revolutionary perspective. And this is precisely the meaning of the term ‘institution’ with which we began: institution precisely because it contains in itself the moments of the past and those of the present and of change in which the family finds itself. The family is – but not entirely– substituted by the civil society which now valorises the labour of its members by

tearing the individual [*Individuum*] away from family ties, it alienates the members of the family from one another, and recognizes them as self-sufficient persons. Furthermore, it substitutes its own soil for the external inorganic nature and paternal soil from which the individual [*der Einzelne*] gained his livelihood and subjects the existence [*Bestehen*] of the whole family itself to dependence on civil society and to contingency⁶⁶.

By this, the individual becomes «the son of civil society»⁶⁷. But the problem Hegel sees is that the dynamics of the system of needs in which the «sons of civil society» find themselves is such that it is premised on the idea that everyone can participate in the welfare of civil society only by virtue of the mediation «offered by the division of labour»⁶⁸ and, moreover, only on the account of utterly external and accidental conditions. The family, of course is not spared this accidentality. Moreover, this accidentality determines and conditions the family’s peculiar position of not being in the sphere of ‘objective’ exchange, and yet objective, of being pre-categorical and yet productive of the categories (of civil society). In other words, Hegel recognised all too well that there is no guarantee that everyone, each individual [*Einzelne*] will be able to work, that is, participate in the sphere of exchange – neither the state nor civil society can nor do they in our day guarantee this. Civil society with its reign of accidentality negatively influences the family, but precisely because it affects the family it also affects the state – and in this Hegel is still our contemporary. This is why the crises of civil society are the crises of *Privatleben* and the state, and as such demonstrate how the crises of the institutions are interrelated and contingent one upon another. If anything, the last fifty years of our history, and the last two years of the pandemic, reveal all that is living and actual in Hegel’s *Elements*: when neither civil society nor the state are able to provide for the members of society, when moreover the wealth of the state is increasingly «concentrated in few hands»⁶⁹, when the ‘production’ of pauperism is the outcome of the long historical crisis of and within the institutions, when individuals are left to the tyranny of the «contract of exchange»: in situations like these, for many people the family appears as the only space of safety, representing a mechanism of mutual aid in the face of the collapse of welfare and the fai-

65 MANCINA, *Differenze nell’eticità*, cit., p. 201.

66 HEGEL, *EPhR*, cit., § 238, p. 263.

67 *Ibid.*

68 MANCINA, *Differenze nell’eticità*, cit., p. 206.

69 Hegel, *EPhR*, cit., § 244, p. 266.

lures of civil society. This is why it is difficult to agree with Blasche when he argues that Hegel fails to see or notice that «society can continue to exist only if it also in turn exerts an influence on the family»⁷⁰, and that this produces an effect on the internal moment of the family itself, which in turn becomes a «social institution»⁷¹, turning it into something other and beyond its original or even origin moment.

Hegel precisely sees this – after all, he is not Adam Smith – as when he, not incidentally, offers us the insight in the section dedicated to the civil society and the system of needs, that in the last instance the family is there *contra* the arbitrariness of the uncontrolled sphere of contractual relations and particularity, to ensure the «security, consolidation, lasting satisfaction of needs», which for him are nothing short of «forms of universality»⁷². Finally, Hegel leaves many questions open. This is both perfectly philosophical and humanly understandable as he was trying to grasp both the historical development of society as well as that unfolding before his eyes, a task as difficult as it is impossible. Most importantly, it remains the case that Hegel’s inability to address all the nuances of the society to come forces each new posterity that is present to be the «child of its own time». The family as the irreducible and unsurpassable moment of reality within Hegel’s system of institutions (still) tells us something important about the ways it is subverted and the ways it subverts, the ways it is resisted and the ways it resists. It is (perhaps) because the family is incessantly and unsparingly made both to subvert and resist that it cannot be *aufgehoben*. A spectre is haunting philosophy – the spectre of family.

70 BLASCHE, *Natural Ethical Life and Civil Society*, cit., p. 187.

71 *Ibid.*

72 HEGEL, *EPhR*, cit., § 203, p. 235, and *Zusatz*. On this point, see also THEUNISSEN, *The Repressed Intersubjectivity in Hegel’s Philosophy of Right*, cit. p. 55, who does not address the important addition Hegel makes in the *Zusatz*.

