

9 Family Structures as Fields of Historical Tension

A Case Study in the Relation of Metaphysics and Politics

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Without social formations including their concepts, by means of which they determine (whether reflexively or self-reflexively) their challenges and seek to meet them, there is no history, it cannot be experienced nor interpreted, not presented nor told.

—Reinhart Koselleck¹

The separation between state and society is now understood to be a central aspect of the modern era. In fact, this separation can serve as a criterion for the transition into modernity, which then begins in England in the seventeenth century, in France in the early eighteenth century but in Germany first toward the end of the eighteenth century. An interpretation of modern European history along these lines often follows the following path: Originally the state counted as the highest and most general estate (*Stand*), and thus was characterized by the same form and kind of unity as the other estates, that is, as society (or, better, as the various overlapping *societies* clustered together in a geographical region). In the corporate society or *Ständegesellschaft* the state counted as one estate among others, first among *equals* (or second to the church). But in Germany there is a break in the late eighteenth century. Increasingly, rational criteria were developed for the planning and evaluation of state action. There was a parallel development for society, but with different rational criteria. The state built a professional administrative corps and promulgated universal laws, whereas in civil society new forms of association and modes of production outside the church, guilds and traditional estates were deployed. Out of this break grew a tension: the goals of the state and of the new civil society partially corresponded to each other but were not entirely congruent. Furthermore, the remaining corporate society did not recognize itself as goal-oriented at all and thus found itself in fundamental tension with both state and civil society. It is in this historical field of tension that classical German philosophy from Kant to Hegel is situated.

This history of the emergence of this field of tension shows that it has three corners: an older corporate society that was composed of the innumerable particularities of each estate and region, a new civil society that was stamped by universal conceptions of personal freedom, and a state that served as the increasingly powerful individual in the social field as a whole. For those reading with Hegelian eyes my thesis will already be apparent: This field of tension is to be understood not only as the field of contest on which the German Idealists meet each other in disputation, but also as a topic that is itself conceptualized by the German Idealists (even if only implicitly). This area is formed along three axes that correspond to the three corners of the field of tension. These three axes together make up a concept in the Hegelian sense of the term, which is formed by the dimensions of universality, particularity and individuality.

In my view, these three dimensions or “moments” of the Hegelian concept are not to be interpreted as themselves objects but, rather, as perspectives from which any item can be viewed.² *The* universal, *the* particular and *the* individual (or even *universals*, *particulars* and *individuals*) are best understood as limit cases in which the standpoint of the perspective is itself understood as a kind of object. But it is really rather a location in logical space, rather than an object with its own solidity and depth.

In a similar way, corporate society, civil society and the state must themselves be understood not so much as institutions that are objects of contemporary observation and philosophical perception but, rather, as perspectives from which different dimensions of such institutional objects as the family, law and property can be observed. In this way, the political philosophies of the German Idealists should be understood as ways of conceptualizing social reality that are philosophical expressions of the way society conceptualizes itself (i.e., from the three different social perspectives).³ Though the way society conceptualizes itself is often put in an objective register of functions and causes, the philosophical conceptualization brings out the way these same relations can be put in a subjective register. It thus brings out the way that these relations are justificatory or normative rather than merely explanatory or functional.

Furthermore, these social perspectives have a temporal form: The *true* corporate society always lies in the past, the *true* civil society in the (far) future and the *true* state in the (near) future. They are never present in the present, as it were, and thus cannot be directly perceived.⁴ In Reinhart Koselleck’s terms, the present is the temporal field of tensions of these “futures past,” and the actual social objects are institutions in that present are illuminated from these different temporal perspectives simultaneously.

I proceed to argue for this thesis as follows: First, because the conceptual patterns are complex and overdetermined, I begin with two examples from German history in order to illuminate the general perspective to be taken up. Then I sketch the institution of the family as

it is conceptualized by Kant, Fichte and Hegel in order to display their philosophical debate as itself a field of tension with these three inner dimensions. In this section I hope to show how philosophical disagreement about the family is itself a form of historical experience. In a third section I show that such a field of tension can also be found *within* the doctrines of the family propounded by *each* of the three philosophers. That is, I show how the field of tension between the philosophers’ doctrines runs parallel to a field of tension internal to each philosopher. How and why this should be the case is a conceptual or metaphysical question that I try to answer in the fourth section by reference to an interpretation of Hegel’s “idea” from his *Science of Logic*. Finally, in the fifth section, I return to Hegel to illuminate and evaluate his understanding of the family from this perspective.

The chapter thus travels the following indirect route: first, the way (Hegel’s) world was, politically speaking; second, the way that Hegel and other political philosophers at the time tried to make sense of it; third, the metaphysics that makes sense of both the way the world was and the way political philosophers attempted to grasp it; and, finally, what that metaphysics tells us about the right way to grasp that political world (including normatively).

§1. Examples from German History

1.1. Sexuality

My first example is from Isabel Hull’s study *Sexuality, State, and Civil Society in Germany, 1700–1815*. Hull attempts to describe not the institution of the family but, rather, the pattern of sexual behavior and the changes in this pattern in relation to the more general changes of the state and society in the eighteenth century. Though Hull uses other terms, this network can be conceived using the triangular field of tension described earlier.

The following passage from Hull contains both a specific example as well as the general form of this network:

In the course of the eighteenth and into the nineteenth century, *Sittlichkeit* became more and more identified with matters exclusively sexual. . . . The Grimms’ examples of this shift in usage toward the narrowly sexual are literary sources from the late eighteenth century (Wieland, Schiller, Goethe). Had the Grimms included more legal sources, they would have seen that the ‘older examples’ of the more sexual usage are typical of legal discourse and that this usage was then, in the late eighteenth century, taken over by the literary shapers of civil society, who developed the sexual accent even further and, by the nineteenth century, had surpassed official usage, which still

continued to retain some of the diffuseness characteristic of earlier times. In the following pages we will see this pattern again, whereby the state shaped and accentuated a way of interpreting or using sexual behavior, passed this along to nascent civil society, which in its turn developed this interpretation or usage independently of the state. This incomplete dialectic describes the formation of our modern conception of 'sexuality.'⁵

Here the term *Sittlichkeit* and its change in meaning from a general concept of social uprightness to a narrower conception of sexual mores is the specific topic. Naturally this thesis has interesting consequences for our understanding of Hegel's doctrine of *Sittlichkeit* or ethical life, but here I want to focus on the Hegelian conceptual form of the dialectic Hull describes.

In order to see this form more clearly we must first ask, "From what source is this form of interpretation of sexual behavior taken over by the state and 'shaped and accentuated'?" Clearly this way of regarding sexual behavior cannot originate in the same society—civil society—which later takes this form of interpretation over from the state and generalizes it. Rather, the state took over this form of interpretation from corporate society (*die Ständegesellschaft*), here understood as the customs and traditions (*Sitten und Gebräuche*) of the majority of the population. The process of taking over these meanings ran primarily through the attempted regulation of sexual behavior since the attempt to manage and direct the sexual activity of the population by means of laws required sufficient contact between the laws and the activity to be regulated by them, and thus, the state was forced to familiarize itself at least with these customs and traditions of the population.⁶ Thus, we have a circuit, which leads from corporate society through the state to civil society.

Each position is something like an electronic component in an electrical circuit: It influences the circulating meaning (here, that of *Sittlichkeit*) in regular ways, similar to the way the electronic components influence the circulating electrons. This regular influence of the social stations in our circuit could certainly be described in a variety of registers, but here I want to remain at the logical level: The corporate customs normally push toward particularity ("the diffuseness characteristic of earlier times"), the governmental intervention toward individuality ("shaping and accentuating" through a legal system) and the civil-social⁷ opinions toward universality (the same sexual system for all citizens). But a misunderstanding suggested by the analogy should be avoided, which would be to think that the cycle runs from one institution to another to another. When we understand by *institution* a goal-oriented and integrated set of norms, then *Sittlichkeit* is the institution in this example, and the societies and the state are *perspectives* from which this institution is observed and regulated.⁸

1.2. Bavaria

Partially in order to dispel a second misunderstanding—that the meanings here are exclusively linguistic—our second example deals with the changes in the political representation of social interests in Bavaria. In the so-called *Vormärz* period (i.e., the period from the turn of the nineteenth century leading up to the March 1848 revolutions), the primary goal of the Bavarian state was to build a unified individual state out of the many lands that were first brought together in 1806/1815. This process of state building was pursued in the face of resistance by the corporate estates, who wanted to protect their previous prerogatives and privileges. But it was also simultaneously subject to the civil-social criticism that the proposed constitution didn't push fast enough toward this future unity.

In *Vormärz* Bavaria, the corporate perspective is easiest to recognize in the nobility and clergy. Both groups opposed the growing power of the state and in particular the power of the bureaucracy. In addition, a civil-social opposition set itself against the state, in particular against the estates system of the new constitution. Following the promise of the Vienna Congress, in 1818 Bavaria had promulgated a constitution with a bicameral legislature (a chamber of councilors [*Reichsräte*] and a chamber of deputies [*Abgeordneten*]). The members of the chambers were corporately determined: Roughly speaking, members of the high nobility and clergy belonged to the chamber of councilors, whereas representatives of the universities, towns, markets and other corporations to the deputies. Though in principle the second chamber was to represent the interests of civil society, its membership was constituted in a way that corresponded to no contemporary social actuality since that membership was derived instead from precisely the traditional prerogatives that were anathema to the new civil society. In the chamber of councilors, the nobility and clergy remained even more tightly tied to their traditional, pre-political order and thus had no relation to the newly arising liberal/civil-social opposition. In the estates assembly, then, the liberal/civil-social perspective was primarily represented by deputies who were civil servants (either as professors at the university or bureaucrats in the towns) and who were therefore also servants of the state.

In this context, the civil-social critique of the constitution was that it concerned only artificial or *state* estates, whereas in reality there were only two estates: those with traditional privileges and prerogatives taken together on one side and the general estate on the other side (which was therefore entirely without representation in the assembly). Even though this form of privilege was soon to be abolished, Wolfgang Zorn's view is that these artificial states nonetheless played an important role in precisely that abolition:

These state-estates may be understood as an element of corporate stabilization in the middle of modern constitutionalism. Their

institution built, as it were, a bridge between the political freedom which was further-advanced in Bavaria since 1818 in comparison with Prussia and the even stronger social bond as compared with Prussia.⁹

This bridge then made it possible for Bavaria in 1848 to move into modernity with political equality whereas at that time Prussia regressed to the so-called *Dreiklassenwahlrecht* (three-class voting franchise) in which voting rights were apportioned by income (tax status). Here I just want to point out the temporal dimension: the corporate recourse to traditional (i.e., past) particularities stabilized the near future because it enabled an equilibrium, and in that equilibrium the development into the further future could take place.

The circuit described here also does not run from one institution to another: as noted, the legislative advocates of the civil-social critique of the state estates were primarily servants of the state, that is, civil servants (as were roughly half of the chamber of deputies). In this debate over the proper structure of the legislature, the institution “representation” is exchanged and shared between these different temporal perspectives. In the next section I attempt to comprehend the philosophical debate about the institution of the family between Kant, Fichte and Hegel as precisely such an exchange between temporal perspectives. In order to avoid a third misunderstanding, that is, that this circuit is a necessary progressive development, I begin with the civil-social perspective before taking up the governmental and then corporate perspectives.

§2. The External Field of Tension

It is crucial to recognize at the start that the importance of the concept of “family” is relatively new in the eighteenth century. For example, in his comprehensive study of the documents of the East Prussian village Stavenow over three and a half centuries before 1840, the historian William Hagen could only find a few uses of the term.¹⁰ Instead, the writings always referenced particular familial relationships, for example, step-mother and stepchild or mother-in-law and son-in-law. According to Grimm’s *Wörterbuch*, in the course of the eighteenth century the term *Familie* asserted itself everywhere and replaced other German words. The only word with a similar extension that remained in force was *Haus*. This is not surprising, since a very important development in the *Vormärz* period is precisely the replacement of the *Hausstand* as a social unity by the family.¹¹ From the preceding discussion we should expect that this change was also accomplished through the triangular dialectic, and in the following I attempt to follow its traces in the philosophical debate.

2.1. Fichte

I begin with Fichte because the family is much more important for him than for Kant or even for Hegel. Neither Kant nor Hegel has reserved as important a role for the family as Fichte:

[H]ow can one lead the human species from nature to virtue? I answer: only by reproducing the natural relation between the two sexes. There is no moral education of humankind, if it does not begin from this point.

(*Foundations* 273/GA 4, 104)¹²

It is thus no surprise that Fichte has a lot more to say on this topic: In the critical edition of the *Foundations of Natural Right* the discussion of the family extends to fifty-four pages, twice as long as Kant’s discussion in the *Doctrine of Right* and Hegel’s discussion in the *Philosophy of Right* put together.

With reference to our triangular field of tension, Fichte represents the new standpoint of civil society. In fact, the emphasis on the central role of the family is itself an important part of this newer civil-social perspective and differentiates it from the older corporate-social perspective. In corporate society, no one thought that marriage was a universal institution appropriate for all persons, whereas Fichte claims that “[i]t is the absolute vocation of each individual of both genders to marry” (GA 5, 291). Furthermore, Fichte attempts to unify the newly arisen moral interest in sexual practices with strict limits of state power in relation to private life. The second part to be unified—that is, the limits of state power—has often been noticed in Fichte. Fichte attempts to show that the power of the state should be used to establish and protect both the external rights and the inner moral private sphere of the nuclear family. Furthermore, Fichte argues for defending the institution both from the possibility of governmental intervention and traditional-corporate interference. He holds not only adultery and cohabitation outside of marriage but also (at least potentially) infanticide to be non-punishable. In addition, he defends the legality of divorce. The first part—that is, the new moral interest in sexual practices—has received less attention, but is just as much characteristic of the new civil-social perspective. Fichte argues that “[f]or the woman chastity is the principle of all morality” (GA 5, 289) and “[t]he unmarried person is only half a human being” (GA 5, 291). In fact, Fichte repeatedly transforms social experiences into moral characteristics, corporate social reputation into the ethical dignity that marked the value of those civil-social relations that were understood through the lens of universal human freedom.

This transformation is achieved through a kind of psychological projection for which one can find many examples in the bureaucratic and

cameralist writings. Hull describes the way in which bureaucrats projected their own understanding of *permanent* ethical character onto peasants as they spoke in the voice of civil society. In contrast, the overwhelming majority of the population viewed sexual shame as fleeting and not necessarily a barrier to future marriage. In Fichte, then, we see not only the civil-social perspective itself but also a trace of its arising through the transferal of corporate meanings via the administrative institutions. This is clearest in his discussion of adultery, in which Fichte interprets the phenomenon of social disrespect as a moral vice.

Here the philosophical form of this transference is relevant: to take over the corporate meanings, they must first be described as *natural* rather than *traditional* or *social*.¹³ We already saw this general form above in connection with Fichte's assertion that only through marriage do we move from nature to virtue. Of course, this step threatens Fichte's doctrine with heteronomy, but this threat is then the motivation for the development of very strict conditions for marital and familial right. Accordingly, for Fichte marriage, and hence the family in general, is "not an artificial custom or arbitrary arrangement, but is rather a relation in which the spouses' union is necessarily and completely determined by nature and reason" (GA 4, 105).

Though these natural and rational grounds come together in a conception of gender difference that is otherwise rather foreign to Fichte's thought, it is nonetheless important to understand the necessity of this appeal to gender difference. This necessity is just as much historical-political as logical: As the striving toward the new civil society brought the older corporate divisions into disrepute, there remained nonetheless a need for particular descriptions through which new laws could get a grip on society. Without the corporate differences, bodily differences between human beings emerge as the universal particulars, that is, as the species of the genus "citizen" that are regulated by law.¹⁴ Furthermore, Fichte's explicit use of the concept of an estate in his treatment of the family is the exception that proves the rule. Fichte holds marriages between spouses who come from different estates to be invalid (since the two spouses purportedly cannot share their lives completely), but there are only two estates for him: "one which cultivates [*ausbildet*] only its body for mechanical work, and one which eminently cultivates its mind" (GA4, 120). Here we have perhaps the best example of the circuit from corporate to civil society via the state: The concept of an estate is itself characterized by its indispensability for administration.

In order to build a bridge in the near future to the future proper, recourse to the recent past was necessary. Furthermore, this philosophical step from a traditional (Fichte: "*willkürbrlichen*") to a natural conception of marriage had a political function, since it provided a rationale for the replacement of the *Hausstand* through the nuclear family.¹⁵

2.2. Hegel

It is, of course, often remarked that Hegel is a representative of the state's perspective. But this remark is often combined with the failure to differentiate between state (*Staat*) and government (*Regierung*). Hegel is presented as the thinker of totality, in whose thought all social and personal differences are subsumed in the totality of the administrative state. Though, of course, Hegel does speak of the state as a totality (e.g., PR§256R), "the state (*der Staat*)" here means the entirety of politically articulated society; that is, he counts the family and civil society, as well as the government, as part of the state. This interpretation of Hegel as thinker of totality proceeds as if Hegel had not made any distinction between state and society or between state and estate; that is, it proceeds to read Hegel as an essentially premodern political thinker. In contrast to this misleading interpretation it is significant that Hegel both takes up the *governmental* perspective as one among many and saw clearly that the action of the government on society faces substantial resistance and can only be made effective by arduous effort.¹⁶ The state as the normative whole of society is just the pattern of interactions between government and societies. There are many indications of this recognition in Hegel's discussion of the family in the *Philosophy of Right*.

We find the first indication in his *idea* of the family and in the general theoretical task that this idea is supposed to accomplish. The task at issue derives from the difficulty of administration and the need for an anchor point for the new laws in actual social institutions. This difficulty and the indispensability of social particularities are to be found in the chapter on Ethical Life:

The objective ethical order, which comes on the scene in place of good in the abstract, is substance made concrete by subjectivity as infinite form. Hence it posits within itself distinctions whose specific character is thereby determined by the concept, and which endow the ethical order with a stable content which is necessary for itself and whose existence is exalted above subjective opinion and caprice. These distinctions are laws and institutions that have being in and for themselves.

(GPR §144)

When one considers the family from the perspective of this necessity, one sees an institution that serves not one but many purposes:

If with a view to framing or criticizing legal determinations, the question is asked: what should be regarded as the chief end of marriage?, the question may be taken to mean: which single facet of marriage in its actuality is to be regarded as the most essential one? No one facet

by itself, however, makes up the whole range of its content in and for itself, i.e. of its ethical character, and one or other of its facets may be lacking in an existing marriage without detriment to the essence of marriage itself.

(GPR §164R)

Thus, we find in Hegel's rather mundane discussion not a univocal institution with a similarly singular main purpose but, rather, a complex and multipolar institution that provides different advantages, rights and duties for men, women and children and that must be integrated with civil society. As Hegel puts it, "[m]arriage contains . . . liveliness [*Lebendigkeit*] in its totality" (PR§161).

Clearly, Hegel's presentation of this institution must therefore find a number of equilibria between the different aspects of its liveliness. Here are two brief examples. First, Hegel notes in a handwritten remark (to PR§166) that the wife in the nuclear family (*Hausfrau*) is in a status between polygamy (in which each wife is disrespected) and chivalry (in which the wife enjoys a higher standing) (GW 14,2: 749). Polygamy was a common thought experiment of the cameralists and Enlightenment thinkers. It served to raise the question, whether and how given family structures could be modified in the new civil society.¹⁷ The thought experiment is thus a measure for the distance to the horizon of expectations and at the same time a procedure by means of which the content of these expectations could be determined. In contrast, chivalry is a concept of corporate society and, in particular, one that magnifies the distance between corporate society and the present. The *Hausfrau* is Hegel's institutional solution to the problem of the social status of women, who no longer have any corporate duties and rights but nonetheless require a particular social position.

Second, Hegel considers the legal permission to divorce as a middle path between the excessive strictness of the Catholic Church's doctrine and the excessive laxity of Roman law (GW 14,2: 751). In contrast, the state must not only care for the stability of the institution (its "ethical substantiality") but also recognize the contingency of love (PR§176). Here we recognize the governmental perspective of administration, from which Hegel wants to maintain a corporate property of marriage in a civil-social context, even though, in large part, marriage is stamped by the civil-social expectations relating to love and property. At first it might appear that both poles of the opposition—Catholicism and Rome—lie in the past, but Hegel often uses Roman law as a thought experiment regarding the future, since it contained the formal conception of personhood and property that seemed also to define the central values of the future civil society. Here Roman divorce law plays a similar role to polygamy, as a historical example of a future possibility, or even as a "future past" in Reinhart Koselleck's sense. Both are relationships that

are characterized by formal universality (all wives play the same role equally), whereas the "pasts past" (chivalry and Catholicism) present images of traditional particularities. Between these past and far-future possibilities Hegel searches for that which now and in the near future can be politically and socially realized.¹⁸

2.3. Kant

In this historical perspective, perhaps the greatest surprise is the extent to which Kant's understanding of the family remains rooted in corporate society. In fact, instead of a doctrine of the family he offers us a doctrine of the *Hausstand*. Here I will just point to three corporate characteristics from Kant's discussion in the *Rechtslehre*.

The most clearly corporate element of Kant's presentation of "[r]ights to persons akin to rights to things [Von dem auf dingliche Art persönlichen Recht]" is his concept of "domestic society [*häusslichen Gesellschaft*]" (AA 6:277) and more particularly his inclusion of servants in this society. In fact, Kant only speaks of the "family" in connection with servants (§§22 & 30). Neither Hegel nor Fichte even refers to servants, but for Kant they play a similar role to resources (*Vermögen*) for Hegel; that is, they make the inner economic activity and structure of the family visible. But what then comes into view is a peculiar economic society, an essentially "unequal society (of a commander or ruler and of those who obey, i.e., servants [*Dienerschaft*])" (6:283). In Kant, then, we find less economic continuity between the family and civil society than we do in Hegel, for whom the family resources have approximately the same structure as social resources.¹⁹

A second corporate characteristic of Kant's concept of the family is the equality of rights and duties of husband and wife within marriage. Purported gender differences do not play the important role in Kant that they play in Fichte and, to a slightly lesser extent, in Hegel. Section 26 is naturally the clearest affirmation of this equality, and there is also the assertion that both spouses have the authority to maintain property outside the community property of the marriage. Fichte specifically denies the moral and legal permissibility of such a practice, even though in corporate society it was widespread.²⁰ Of course, Kant allows that the law may determine the father to be head of household in charge of advancing the common interests of the family. But when the wife has the opportunity to keep a part of her property separate from community property, then she would also have greater power in the determination of this common interest. The equal bargaining capacity and sexual activity of both genders correspond to a pre-civil, corporate society, in which wives had an essential and *public* economic role to play and in which it was presupposed that the sexual drives of both genders were roughly the same.²¹

A further and final corporate property of Kant's family we have already seen in Hegel, namely the absence of a fundamental purpose. The possibility of reproduction limits, of course, the allowed use of sexual organs, "but it is not requisite for the human being who marries to make this their end in order for this union to be compatible with rights" (6:277). Even further than for Hegel, for Kant the family is not a goal-directed institution but, rather, a pattern of permissible actions.²² This follows directly out of the difference between right and virtue, but even in the *Tugendlehre* the goal-directedness of marriage is minimized.²³ In addition, Kant does not appear to be interested in the question of how the marriage and family should be integrated into the new civil society. He merely emphasizes that the actuality of marriage, family and servants shows that there is more to private law than rights to things and rights to persons (the two categories of the *Allgemeines Landrecht*), namely, a right to person akin to a right to things. This legal recognition of such a right is precisely the recognition of a kind of society, which in the civil-social sense is neither private nor public.

§3. The Internal Field of Tension

The point of this section is to exemplify the following point, the conceptual grounding of which must wait until §4: What distinguishes political *philosophy* from politics *simpliciter* is the fact that political philosophers include (at least implicitly) all of these social perspectives in their conceptions of political relations and institutions, rather than simply advocating for the interests apparent to only one perspective and suppressing the other perspectives. In this way, the apparently contradictory nature of political philosophy is redeemed since those tensions express the genuine social reality at which such philosophy is aimed. At a certain level of generality this is, of course, a familiar Marxist point. But two points of divergence must be noted: First, the point here is to be detached from any sort of historical progressivism or determinism. What is historical about the target phenomenon of political philosophy is primarily the synchronic tension between temporal layers rather than diachronic change or advance. Second, the point is that each author is more than just the superstructural mouthpiece of a particular class but also inherently incorporates the perspectives of other classes as well (even if only implicitly). As I argue in §4, both of these divergences from a certain kind of Marxism follow from the thought that political philosophy must *conceptualize* social reality and the concomitant constraints on what counts as conceptualization. But since we have already seen the diversity of perspectives explicitly in Hegel in §2.2, and in the interests of space in a chapter that is supposed to be about *Hegel's* metaphysics and politics, I restrict the discussion here to Kant before saying just a bit more about Hegel.

3.1. Kant

To sketch the tension in Kant I focus on his discussion of private right, of which the discussion of the family is one part. More specifically, I will focus on the three sections within acquired right, namely, rights to things (property), rights to persons (contract) and rights to persons akin to rights to things (family). By way of justification of this focus let me just say that it is in some sense arbitrary. That is, the methodological perspective I am attempting to illuminate should generalize so that Kant's political philosophy as a whole, or Kant's doctrine of the family itself, could be understood as presenting these three perspectives to varying degrees (with the priority of the particular-corporate); this is part of what makes that method *metaphysical*. But my concern here is primarily to give a clear example of the method whose metaphysical nature will occupy us in the following section, and for that specific purpose a focus on acquired right will be helpful. Here I want to maintain that property rights to things represent the universal perspective, contract rights the individual perspective, and family right the particular perspective. Furthermore, I also want to maintain that the particular perspective is dominant over the other two even in the discussion of property and contract and, in fact, over right as a whole.

But first, the different perspectives. In what sense can one think of property as representing the universal perspective on private law? In three different senses: First, it is the only kind of acquisition that can be *original*—contract presupposes property rights (6:259 & 271). Second, the property right is private right *generalized*; that is, it is my right to the private use to a thing that is underwritten by "the united choice of all who possess it in common [*durch vereinigte Willkür Aller in einem Gesammtbesitz*]" (6:261). (This is true whether one is discussing provisional right in the state of nature or completed right in the civil condition.) Finally, property rights are the *collective form* of all private right: "the *sum* of all of the principles [*Inbegriff aller Gesetze*] having to do with things being mine or yours" (6:261).

It is a little more difficult to make out why contract represents the individual perspective on private law. In a technical, Hegelian sense, it is individual because it essentially involves the *connection* of *universal* property right and *particular* choice. That is, it produces a particular version of that common will that modifies the rights to specific objects. Furthermore, a contract is an individual perspective precisely because it requires *multiple individuals* who, in their reciprocal interaction with each other, clarify their specific rights and duties. Though sometimes Kant describes this in terms of causality (e.g., 6:259), it is actually closer to reciprocal interaction since it requires the consent of both the transferor and transferee and thus lacks the kind of asymmetrical power inherent in the notion of causation.

It is easiest to see why the right to family invokes the particular perspective. Since showing that was the burden of §2.3, I won't enter into more discussion of it here except to note that on Kant's view what I possess in my spouse, children and servants is their *status* (*Zustand*), and status is a suspicious category in political philosophy precisely because of the overwhelming particularity that is ordinarily associated with it. This is a feature of persons that is thing-like and provides a kind of middle term anchoring a continuum between the things that are the objects of property right and the persons that are the objects of contract right. But there is a further kind of particularity to Kant's more general approach to private law; namely, the particular perspective is dominant over the other two even in the discussion of property and contract. Since, as noted earlier, Kant claims that property is "the *sum* of all of the principles [*Inbegriff aller Gesetze*] having to do with things being mine or yours" (6:261), this priority of the particular must have a different form. Specifically, it has an *intuitive* rather than conceptual form, and here we can use the well-known recent interpretation of Kant's theory of law by Arthur Ripstein to orient our discussion.²⁴

On Ripstein's view, the key difference between Kant's account morality and his account of right is that the former concerns freedom generally but the latter specifically *external* freedom, that is, the freedom of persons who must relate to each other in space.²⁵ Put slightly differently, what the Universal Principle of Right (UPR) adds to the Categorical Imperative (CI) it adds by appeal to the a priori intuition of space as a sphere of action and choice.

Space, as a form of intuition, necessarily has something particular about it. This is deeply ingrained in Kant's doctrine of intuition as such and its contrast with concepts (KrV A320/B376–7). Moreover, the particularity in the sense of singularity of space and time is essential to the arguments by which Kant tries to show that space and time are essentially intuitions rather than concepts (KrV A24–5/B39 and A31–2/B47).²⁶ But on Ripstein's view there is something even more particular about the way space is used in Kant's argument. Specifically, space and the way persons occupy it establish different kinds of *incompatibilities* that generate different kinds of rights.²⁷ The very notion of incompatibility—if this, then not that—is, of course, deeply particular. On Ripstein's view, the structure of right as a whole (and thus the difference between the CI and the UPR) is to be understood on analogy with the structure of private right with its different sorts of incompatibilities (between possession of objects, choices, and statuses). This not only means that acquired right is understood through the lens of particularity, and thus from the standpoint to which status appears as an essential kind of possession, but that the entirety of right is viewed from that particular perspective as well. What one then has is a family of different spatial incompatibilities all of which resemble each other and each of which is governed by a separate but analogous kind of right.

3.2. Hegel

In Hegel, we already saw the other perspectives in the balancing acts he tries to accomplish in his doctrine of the nuclear family. But the presence of multiple perspectives is perhaps most clearly to be seen in the overall structure of ethical life, with its division into family, civil society and state. Here it is quite clear that the family represents the particular perspective, civil society the universal and state (in the contrastive sense of government) the individual (PR§157). And it is clear that the government has a kind of priority for Hegel. In fact, the mistake mentioned at the beginning of §2.2, namely, of confusing the state for the government, has its root in this priority. For Hegel, it is the governmental perspective that most fully illuminates the familial and civil-social perspectives, and thus most clearly illuminates the whole (i.e., the state). But this illumination from perspectives is a primarily subjective phenomenon, which is why the objective vocabulary of part/whole or substance/accident is of such limited use here. One final point, then, is the following: Though Hegel's take on the family is an individual take (in the logical sense of "individual") in comparison with Fichte's and Kant's, the institution of the family represents the particular perspective within the state (i.e., as compared with civil society and government). Hegel offers us an individual take on the way that the particular, universal and individual institutions of the state hang together.

We have then, from this and the previous section, three main results. First, in each of the three authors' observations on the family one of the three perspectives is dominant: the particular/corporate in Kant, the universal/civil-social in Fichte and the individual/governmental in Hegel. Second, for each author, the other two perspectives are simultaneously present in a secondary form. And third, there is a different kind of secondary form in each of the three authors: In Fichte, the secondary perspectives appear as a kind of genetic trace of the transfer of the institution from corporate society via the state to civil society; in Hegel, as extremes between which a mean has to be found (i.e., as goals between which a balance must be found); and in Kant really only indirectly, that is, through similarity or analogy. I want to say just briefly here why these three results are connected to each other before diving into their common conceptual ground in the following section.

They are connected because there is no point outside of political reality from which to view the whole, which means that the whole can only be seen from inside. But inside the whole, there are only the three perspectives, and thus, there are three different views on the whole, or three different ways in which the interconnections that constitute the whole as whole can look to the observer. Each of these ways of relating the dominant to the other perspectives is characteristic of the field of vision formed from that perspective. The universal perspective sees the relations

essentially *causally*, and thus, they appear as genetic traces. The individual perspective sees them as *desiderata* to be balanced in the right way. And the particular perspective sees them as a *continuum of resemblances* so that the family is like a right to a thing (the universal aspect) but also like a contractual right (the individual aspect). The universal perspective is essentially rule-governed and exploits the common conceptual form of natural (causal) and practical laws, the individual perspective aims at realizing the most comprehensive good and the particular perspective works sideways, as it were, by a principle of analogy. As we will see in the following section, when understood in terms of the Hegelian idea, the universal/civil-social perspective is that of the theoretical idea, the individual/governmental is that of the practical idea and the particular/corporate is that of the idea as life.

§4. A Metaphysics of Interlocking Perspectives

In the foregoing, I mentioned three misunderstandings of the multipolar phenomenon to be avoided: first, the mistake of thinking that societies and governments are themselves institutions, when instead they are perspectives (§1.1); second, the mistake of thinking that meanings in the circuit are exclusively linguistic, when instead they are actual institutions (§1.2); and, third, the mistake of thinking that the circuit is a necessary progressive development, when, in fact, the circuit is as much synchronic as diachronic (§2). These mistakes and their remedies are all connected to a further point made (just briefly) about the consequences of conceptualization (§3), namely, that it is essentially multi-perspectival. The goal of this section is to briefly sketch the Hegelian metaphysics that supports the last point in such a way as to lead us away from the misunderstandings and towards their remedies.

The metaphysics at issue comes from Hegel's *Science of Logic* and, in particular, from the subjective logic. Since I have argued for this reading in more detail and with more attention to textual evidence elsewhere, I largely summarize it here.²⁸

The first point is that Hegel's three basic conceptual moments—universality, particularity and individuality—are best understood as *perspectives rather than things*. They are neither kinds of objects nor even objective aspects of things but, rather (as one would expect from their defining role in Hegel's subjective logic), the basic taxonomy of kinds of takes on objects. At the very beginning of the subjective logic, Hegel argues for the priority of these subjective perspectives over the objective categories of the Doctrine of Essence precisely on the grounds that the three conceptual moments wear their interdependence on their face, whereas the interdependence of even the most sophisticated categories of essence is somehow concealed by their self-presentation. Thus, to understand the power of those subjective categories and their centrality

to Hegel's thinking, we have to understand the way that, as perspectives, they open up onto each other and thus each, successively, provides a take on the whole of which they are themselves the constituent parts.

A second point is that these perspectives have a historical valence as well. As we noted earlier, the social perspectives have a temporal form: the *true* corporate society always lies in the past, the *true* civil society in the (far) future and the *true* state in the (near) future. On my view, this pattern is to be found in the *Logic* as well: The concept presents the pure form of history and the idea the pure form of a historical object. Here it is helpful to use some terms from Koselleck, who conceives of historical experience as a field of tension (*Spannungsfeld*) of different temporal strata (*Zeitschichten*). These layers are temporal not primarily in the sense that they are experienced at different times or are expectations of events at different times but, rather, in the sense that they refer to different temporal scales. There are layers that are primarily about the *short-term* experience of surprising events, layers that are primarily about the *medium-term* accumulation of repeated experience over the course of the life span of a generation, and layers that are about *long-term* systems such as the Roman Empire or Christendom.²⁹ Hegel's conceptual perspectives—universality, particularity, and individuality—are temporal strata in this sense. Particularity is the perspective that registers the short-term, fine-grained surprises, individuality the perspective that registers the medium-term accumulation of repeated experiences, and universality the perspective that registers the long-term persistence of norms and laws that extend across generations, perhaps even to the point of strict universality and necessity.³⁰

A third point is that these perspectives are something to *which something else appears*. Hegel's conceptual, subjective perspective is not intellectual intuition but, rather, real perspective. Yet it is also not perception of something extra-conceptual such as intuition or sensory content; something *seems some way* to a point of view, but the visibility is merely a metaphor. What the metaphor points to is the way in which not every part of an object can equally be in focus at once. On Hegel's view, the great advantage of the subjective perspectives over the objective categories is that nothing is hidden—everything appears within the field of vision. But within any field of vision only one point is in perfect focus, and it is surrounded first by what in photography is called the “circle of confusion” (the sphere in which points are really spots but small enough to allow us to imagine them as points) and, second, by what is out of focus but nonetheless present. One cannot take up the particular perspective, for example, without the universal and individual appearing as well. In contrast, Hegel things, one can think the actuality of an object without, say, necessarily thinking its possibility at the same time (which thus remains hidden, like the back side of a visual object). And yet even if the universal and individual appear in the particular's field of vision,

the universal remains blurry, and the individual can only be made out by stressing its similarity to the particular.

A fourth point is that the way things appear to perspectives as out of focus is in *objective guise*. That is, the objective categories retain their usefulness precisely as descriptions of the ways objects seem to a subjective perspective when that perspective simultaneously sees other aspects of the object as well. Put in terms of the visual metaphor, the objective categories describe those aspects of the object that are blurry—that are present in the presentation but insufficiently clear and distinct. Objective categories describe the background content of the image, if you like. But when employed in the context of subjective perspectives, that background content is present rather than implicit (which is the mode of existence of that non-thematized content in the Doctrine of Essence). It is not a matter of bringing it out or realizing it in *another* expression but of shifting perspective on the same content in order to bring into focus another facet of it. But from this other perspective, something that was previously in focus is now blurry or indistinct and is thus best described by means of the objective categories. There is no possible presentation in which all facets of the object are in perfect focus at the same time, which means that as we shift subjective perspectives around the circuit particular-individual-universal, the objective categories always have a role to play in describing what appears to that perspective. There are systematic ways that they play this role, which we will see in the next point.

A fifth point is that *even other subjective perspectives* appear to a further subjective perspective in objective guise. This is perhaps the most difficult point, and the one which most shows up the limitations of the visual metaphor. Hegel is adamant that once we come to the subjective logic, there can be no question of the relation of the concept to something extra-conceptual. But he is just as adamant that the we still have seeming and appearing, especially in the culmination of the Logic in the Idea (WL 12.235, 29–33). Paradoxically, conceptuality appears to the concept in objective guise (12.199, 6 & 12.235, 33–38). What does this mean, and why should it be the case? The key is the plurality of conceptuality. Though Hegel often speaks of (and even emphasizes the importance of) *the* concept, this unitary designation includes an inherent plurality in the different conceptual moments of universality, particularity and individuality. None of the moments are superfluous or fully superseded by the others, and none of the moments are to be identified as *the* concept to the exclusion of the others. And yet each moment is tasked with presenting the whole, a task that is in some sense beyond its capacities and thus remains a mere “ought” (EL§160, WL 12.125). When you put all this together, it means that each conceptual moment is a view of the whole concept only as a perspective on the others. And this means that conceptuality in one sense, for example, particularity, must appear to conceptuality in another sense, for example, universality. When it does so, Hegel

says, the conceptual perspective is *für sich* from the subject position but *an sich* in the object position (12.199, 9–14; also 12.192). When it appears as *für sich* the conceptual perspective presents itself conceptually, that is, under the guise of one of the three conceptual moments. But when it presents itself *an sich* it presents itself in objective guise. Here primarily the objective categories of modality play this role: Universality appears as possibility, particularity as actuality and individuality as necessity.

This language of *für sich* and *an sich*, of course, harkens back to the Doctrine of Essence, but it must mean something slightly different here. In fact, it means something shockingly different. As Continental critics of Hegel have long pointed out, conceptuality is a kind of narcissism: Following on Kant, the concept (or reason) looks for a reflection of itself in its object. But what these critics have largely missed is the way that this feature is one among many features of conceptuality and is, in fact, harnessed by Hegel to tell a story about plurality. Here is how that story goes. Conceptuality looks for itself in the object, but this is underdescribed. In fact, conceptuality in one sense (e.g., universality) looks for itself in the object and, thus, has difficulty seeing the conceptuality of the object in the other senses (e.g., particularity and individuality), even when those conceptualities are staring it in the face, so to speak. Now, the subject-position conceptuality can perhaps make out one of the other conceptualities in the object if it looks closely (or squints? The metaphors certainly fail us here). But the third remains blurry, and logically speaking that means it remains in the guise of objectivity. For example, Hegel claims that the theoretical idea is a predominantly universal perspective, which manages to recognize the particularity in its objects (e.g., as a sensory manifold) but cannot bring its individuality into focus (which thus remains in the objective form of *necessity*). Individuality as such remains merely an ideal that is crucial to connecting universal and particular but is not to be identified with any object. (Here Hegel is certainly thinking of Kant [see KrV A567–8/B595–6 and A576/B604].) Similarly, the individual practical perspective can also make out the universality of moral rules but struggles to give meaning to the particularities of moral judgment that therefore appear objectively as brute actualities to be accommodated. Finally, the particular perspective of life can grasp individuals as self-organizing (i.e., subjective) functional wholes with given needs and drives, but the universal (the genus) can only be grasped as one of those given drives (the reproduction of the species is experienced as the sexual drive that ranges over multiple possible mates).

A sixth and final point is that the necessary blurriness of some part of the subjective field of vision entails the necessity for switching perspectives as a remedy. This is perhaps the most difficult point to see on the basis of this short summary, but it is, in fact, the heart of the normativity of Hegel’s metaphysics. It is also difficult to see because Hegel tried to express the point by tracing the continual turning from one kind of

that of civil society. In fact, in order to construct a universal perspective for the family, Hegel has to shade over from individual “substantial personality” in PR§169 to persistence and commonality (*ein Gemeinsames*; PR§170). But the content of that commonality remains entirely empty, and from the particular perspective of the family itself these resources remain essentially a sphere of possibilities of different kinds of work, property, and capital. The subjective side that is apparent from the civil-social perspective is here present only in its objective guise and thus as a contrast to the organizing subjectivity of the family. From the civil-social perspective on other institutions (markets, corporations, and industries), the subjective organizing principles of the family’s property can be made clear. But from the family’s own perspective Hegel has little to say about the disposition of these resources, except that the husband is responsible (PR§171) and children have a right to support and education out of those resources (PR§174). But the husband is responsible precisely because he is a member of the productive institutions *outside* the family in which the requisite subjective principles are to be located. In fact, Hegel makes the foreignness of the civil-social principle of formal universality to the family quite clear in his extensive criticism of Roman family law (PR§179R).

Of course, the main failing of Hegel’s analysis is the gender roles introduced, and the rationalization of a certain take on biology (EL§165–6). This is a logical failure on Hegel’s own terms and one that we should even expect for a view articulating the individual perspective on the family as an institution. The failure is twofold: First, in the absence of any direct access to the particular perspective, Hegel has the same recourse as Fichte to sex differences (i.e., to an objective conception of that particularity). Second, even granted the assumption of the social significance of natural sex, Hegel subverts the necessary repair strategies by defining the husband as head of household.

The metaphysics described here entails that every subject is not only in principle capable of taking up each of the conceptual perspectives, but that also in some sense they already do. To suggest, as Hegel does, that biological sex could have the rational significance of preventing different individuals from taking up different perspectives is impossible to square with this pluralistic doctrine.

The fundamental normative demand made by Hegel’s metaphysics on politics is, in fact, to magnify the visibility of these different perspectives and their ability to illuminate the public institutions shared by all citizens and to mitigate the inevitable distortion that is produced by such perspective. This is a commitment to the maintenance of this field of tension as both in tension and yet one field. Hegel’s insistence (in stronger terms than Kant) on a male head of household is a normative disaster even on his own assumptions because it institutionally discourages the reciprocal repair strategies of the spouses.

Hegel’s doctrine of the family thus fails for similar reasons as Fichte’s: In the absence of any meaningful recourse to the way the past informs the present of the family, Hegel appeals to biological sex to secure that end of the field of tension. The attachment cannot hold, however, precisely because the concomitant interpretation of gender roles is so radically new. Thus, there is some truth to the charge that in Hegel’s state (as in reality), the family is essentially abandoned to economic institutions (even if quite against Hegel’s own wishes). This then puts a great deal of pressure on the particular aspects of civil society (the estates and the corporations), a pressure that they cannot bear because their new status as primarily productive entities prioritizes the universal perspective and thus continually pulls them away from their role as “second family.”

I offer one final note, just to register my opposition to a common feature of interpretations of Hegel’s political philosophy that ground it in his metaphysics. Even if the metaphysics is externally fixed (something I deny), the question of what could play the institutional role of the presupposition of the demand of normativity is essentially open and context-bound. It is certainly Hegel’s view that no just society can fail to have institutions that play this role and, thus, that such institutions can be defended as just along the metaphysical lines indicated here. But such justification is compatible with the possibility of other institutions that would play the role equally well. The nature of the justice (or right) that must be so realized is conceptually constrained by the possibility of justification, but the choice between such realizations may nonetheless be primarily a matter of politics.³⁴

Notes

- 1 *Begriffsgeschichten*. (Frankfurt am Main: Suhrkamp Verlag, 2010), 12.
- 2 See my “Power as Control and the Therapeutic Effects of Hegel’s Logic,” *Hegel Bulletin*, vol. 36, no. 1 (2015): 33–52, and “Historical Subjectivity and Logical Pluralism,” *Hegel Bulletin*, (forthcoming). A longer but still summary presentation of this view is below in §4.
- 3 I use *society* and *society itself* here as placeholders for describing corporate society, civil society and the state collectively. It is actually an entailment of the logical perspective taken up in this paper that there is no truly neutral conception of all three combined to be had; there are only three different substantive conceptions, that is, the collection of the three viewed sequentially from the perspective of each of the three. Though a crucial result for the overall project of which this chapter is a part, it introduces expository difficulties that are best left to the side here.
- 4 For a contrasting view of the meaning of *civil society* in this period, see Christof Dipper, “Übergangsgesellschaft: Die Ländliche Sozialordnung in Mitteleuropa Um 1800,” *Zeitschrift Für Historische Forschung*, vol. 23, no. 1 (1996): 68.
- 5 *Sexuality, State, and Civil Society in Germany, 1700–1815*. (Ithaca, NY: Cornell University Press, 1997), 95.

- 6 Ibid., 92.
- 7 I have adopted the somewhat cumbersome neologism “civil-social” to describe this perspective, rather than the usual “bourgeois.” In my view, *bourgeois* has come to mean so many things that it is now unsuitable as a term of art to describe a particular social position. For similar reasons, I will use *governmental* to describe the perspective of the state, though in many respects, *administrative* might have served just as well.
- 8 The different authors writing on sexuality had the norms of *Sittlichkeit* in common, and these norms reflected governmental, corporate and civil-social interests. As a further twist, Hull points out that the unique social position of the supporters of the civil-social interests played a role in their observations, since many, if not most, of these writers and advocates were, in fact, government officials of one sort or another. Because of his corporate status as a civil servant, such an official could have a kind of family that would have been unimaginable for an innkeeper or farmer or guild master, and it was precisely this very particular and unusual kind of family that formed the universal image of the nuclear family that he then advocated for all (Hull, *Sexuality, State, and Civil Society in Germany, 1700–1815*, 183–84). More on this unique situation in which civil-social interests were represented and advanced by bureaucrats in the following §1.2.
- 9 Wolfgang Zorn, “Gesellschaft Und Staat Im Bayern Des Vormärz,” in Werner Conze (ed.), *Staat Und Gesellschaft Im Deutschen Vormärz*. (Stuttgart: Ernst Klett Verlag, 1962), 141.
- 10 *Ordinary Prussians: Brandenburg Junkers and Villagers, 1500–1840*. (Cambridge: Cambridge University Press, 2007).
- 11 Reinhart Koselleck, “Die Auflösung des Hauses als ständischer Herrschaftseinheit,” in *Begriffsgeschichten*. (Frankfurt: Suhrkamp Verlag, 2010), 465–85.
- 12 This citation and the following from GA 4 come from the *Foundations*. Those from GA 5 come from the *System of Ethics*, where Fichte simply summarizes his understanding of marriage from the *Foundations*. English translations are from J. G. Fichte, *Foundations of Natural Right*, ed. Frederick Neuhouser and trans. Michael Baur. (Cambridge: Cambridge University Press, 2000) and Johann Gottlieb Fichte, *The System of Ethics*, eds. Daniel Breazeale and Guenter Zöller. (Cambridge: Cambridge University Press, 2005).
- 13 See also his discussion of the importance of reproduction in the *System der Sittenlehre*, GA 5, 287–8. In his *Philosophy of Right* Hegel saw this step and its meaning clearly but did not manage to present this insight very clearly. See my *The Expansion of Autonomy: Hegel’s Pluralistic Philosophy of Action*. (New York: Oxford University Press, 2015), sec. 5.1.
- 14 Hull, *Sexuality, State, and Civil Society in Germany, 1700–1815*, 5.
- 15 However, the Prussian legal reforms did not succeed in replacing the *Hausstand* with the family by means of the *Allgemeines Landrecht* and in this respect Prussia was in no way an outlier in Germany. See Reinhart Koselleck, *Preussen Zwischen Reform Und Revolution: Allgemeines Landrecht, Verwaltung Und Soziale Bewegung von 1791 Bis 1848*. (Stuttgart: Klett, 1967), 69–70.
- 16 Above all, we must avoid the Whiggish history according to which the new civil society represented progressive interests against the reactionary state and nobility.
- 17 Hull, *Sexuality, State, and Civil Society in Germany, 1700–1815*, 176–79.
- 18 For a recent interpretation of Hegel’s theory of the family that also emphasizes its attempt to find a middle way between extremes, see Rahel Jaeggi, *Kritik von Lebensformen*. (Berlin: Suhrkamp Verlag, 2013), sec. 4.3.

- 19 The significance of servants in Kant is not archaic since at the time of the publication of the *Rechtslehre* roughly one-seventh of the Prussian population consisted of servants. Koselleck, *Preussen Zwischen Reform Und Revolution*, 133.
- 20 Hegel allows the practice but in a somewhat more subordinate role (i.e., as really prospective decisions about how to distribute property upon the dissolution of the family). See PR§172R.
- 21 Hull, *Sexuality, State, and Civil Society in Germany, 1700–1815*, chap. 3.
- 22 In many sociological definitions of *institution* these two sides (goal-directedness and a pattern of norms) are brought together, but Kant’s corporate separation of the two reveals the distinctively modern expectations that such definitions contain.
- 23 There Kant is prompted to consider the casuistically question whether “without consideration” for the goal of reproduction one is nonetheless allowed to have sexual intercourse, and proposes a “permissive law of moral practical reason” (AA VI, 426).
- 24 Arthur Ripstein, *Force and Freedom: Kant’s Legal and Political Philosophy*. (Cambridge, MA: Harvard University Press, 2009).
- 25 Ibid., 358.
- 26 This piece of evidence is admittedly less probative than the pieces before and after it, since in those passages one might also understand Kant to be appealing to the *individuality* of space or time, in Hegel’s sense.
- 27 *Force and Freedom*, 366.
- 28 Yeomans, “Power as Control and the Therapeutic Effects of Hegel’s Logic” and Yeomans, “Historical Subjectivity and Logical Pluralism”.
- 29 Reinhart Koselleck, *Zeitschichten: Studien zur Historik*. (Frankfurt am Main: Suhrkamp Verlag, 2003), 34–41.
- 30 Strictly speaking, one should say that the Hegelian perspectives embody different *scales of variation* rather than *temporal scales* (since there is officially no time in the Logic), but this is a complication from which we can safely abstract here. For more discussion of this point see Yeomans, “Historical Subjectivity and Logical Pluralism,” sec. 4.
- 31 Thus, it does turn out that practical reason has the conative direction of fit (objectivity should adjust to subjectivity) rather than the cognitive (subjectivity should adjust to objectivity), but this is a consequence of the difference in conceptual orientation.
- 32 From Hegel’s logical perspective, life is a limit case because in talking of normativity we take up the practical (individual) perspective, and that perspective can come to see the universal (i.e., it can come to see the lawlike aspects of normativity) but struggles and generally fails to clarify the particular features such as habits and drives (on the one subjective side) and preconditions and consequences (on the objective).
- 33 On this notion of a tractable plurality, see my “The One and the Many in the Philosophy of Action,” in Vivasvan Soni and Thomas Pfau (eds.), *Judgment & Action: New Interdisciplinary Essays*. (Evanston, IL: Northwestern University Press, forthcoming).
- 34 This essay was written while on a sabbatical leave from Purdue University generously funded by the Alexander von Humboldt Foundation, and was presented to audiences in Münster, Dresden and Munich. The author would like to thank Günter Zöller, Ansgar Lyssy, Amir Mohseni, Dagmar Ellerbrock, Manuel Bastias, Cristiana Senigaglia, Simon Derppmann, Nadine Mooren and Thomas Meyer for valuable feedback on earlier versions of the paper.