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# Hegel, Recognition, and Same-Sex Marriage

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## Abstract

To understand Hegel's concept of *Sittlichkeit* (ethical life) and the role that love and marriage play in it, we must understand his concept of recognition. It is a mistake, however, to think as some do that mutual recognition between equals is sufficient for *Sittlichkeit*. Rather, for Hegel, the more significant and powerful the recognizer, the more real the recognized. Ultimately recognition must come from spirit (*Geist*). Understanding this will allow us to see, despite Hegel, that he can capture, better than other theorists, many of the central concerns of contemporary same-sex marriage proponents and help provide them a philosophical underpinning.

## I.

Hegel distinguishes between *Moralität* and *Sittlichkeit*.<sup>1</sup> *Moralität*, in Hegel's view, begins with Socrates and reaches its high point in Kant. *Moralität* is rational

and reflective morality. Individuals must themselves rationally decide what is moral and act *because* reason tells them it is the right thing to do. This reflective component is relatively absent in traditional *Sittlichkeit*, which is best represented in the Greek *polis* before the rise of Socratic *Moralität*. *Sittlichkeit* is ethical behavior grounded in custom and tradition and developed through habit and imitation in accordance with the laws and practices of the community. *Sittlichkeit* is ethical life built into one's character, disposition, and inclinations. Hegel thinks ancient *Sittlichkeit* was destroyed by the rise of individuality and became inadequate to the modern world. What is needed, then, is a higher *Sittlichkeit* that can combine the undeveloped *Sittlichkeit* of the ancient world with the rational reflection and individuality of modern *Moralität*.<sup>2</sup> In the *Philosophy of Right*, Hegel tries to work out this higher *Sittlichkeit*.

In that text, in order to move us beyond Kantian *Moralität* and on to the first and simplest level of *Sittlichkeit*, Hegel takes up the family. He writes:

The family, as the *immediate substantiality* of spirit, has as its determination the spirit's feeling ... of its own unity, which is love.... Love means in general the consciousness of my unity with another, so that I am not isolated on my own ..., but gain my self-consciousness only through the renunciation of my independent existence ... and through knowing myself as the unity of myself with another and of the other with me. But love is a feeling ..., that is, ethical life [*Sittlichkeit*] in its natural form.... The first moment in love is that I do not wish to be an independent person in my own right ... and that, if I were, I would feel deficient

and incomplete. The second moment is that I find myself in another person, that I gain recognition in this person ..., who in turn gains recognition in me.<sup>3</sup>

To understand Hegel's concept of *Sittlichkeit* and the role that love plays in it, we must understand his concept of recognition. The fullest and best treatment of these matters is to be found in the work of Robert R. Williams. He argues that for Hegel reciprocal recognition is not only constitutive of love and the family but of the state as an ethical community.<sup>4</sup> Indeed, it is constitutive not only of *Sittlichkeit* but of all right,<sup>5</sup>

Simply stated, right is the relation of persons to each other, as they recognize (or fail to recognize) each other. The genesis of right therefore coincides with the recognition of the other as other. Right is present whenever the other is recognized as counting, as carrying weight against one's freedom, and vice versa.<sup>6</sup>

It is Williams' view that in the master-slave dialectic of the *Phenomenology of Spirit*, Hegel developed his concept of recognition in the shape of inequality and domination. Hegel's treatment of the family is of special interest because here he develops his concept of recognition in the shape of love—and for Williams love excludes domination and inequality. But then Williams finds it disappointing that Hegel presents a traditional view of gender roles that are anything but equal.<sup>7</sup> The point would seem to be that Hegel holds, correctly in Williams' view, that love

implies reciprocal recognition between equals,<sup>8</sup> but that Hegel does not think men and women are equal. Thus, for Williams, there is a tension in Hegel's thought.

While I agree that mutual recognition plays a fundamental and central role in Hegel's concept of the family, the state, and of *Sittlichkeit* in general, nevertheless I do not think we have a tension in Hegel's thought here. I do not think so because I think it is a mistake to hold that love requires equality and that for Hegel the form of recognition most important for *Sittlichkeit* can simply be between equals. This must be explained.

There are places where Hegel *does* in fact claim that love is between equals.<sup>9</sup> And he sticks to this in the *Philosophy of Right* in that he rejects the sort of severe inequality implied in marriages arranged arbitrarily by parents who do not consult the marriage partners. He thinks these occur among "peoples who hold the female sex in little respect ..."<sup>10</sup> Hegel also rejects polygamy, in which he thinks wives do not attain to their rights.<sup>11</sup> While rejecting such forms of inequality, it is clear in the *Philosophy of Right* that Hegel does not consider men and women to be equal in any deeper sense. For Hegel, one sex is powerful and active, the other passive and subjective. He says,

Man therefore has his actual substantial life in the state, in learning ..., etc., and otherwise in work and struggle with the external world and with himself....

Woman, however, has her substantial vocation ... in the family, and her ethical disposition consists in this ... *piety*.... Women may well be educated, but they are not made for the higher sciences, for philosophy and certain artistic productions

which require a universal element. Women may have insights ..., taste, and delicacy, but they do not possess the ideal. The difference between man and woman is the difference between animal and plant; the animal is closer in character to man, the plant to women, the latter is a more peaceful [process of] unfolding whose principle is the more indeterminate unity of feeling.... When women are in charge of government, the state is in danger, for their actions are based not on the demands of universality but on contingent inclination and opinion. The education of women takes place imperceptibly, as if through the atmosphere of representational thought, more through living than through the acquisition of knowledge ..., whereas man attains his position only through the attainment of thought and numerous technical exertions.<sup>12</sup>

In nature, accidents can occur, there can be divergences from the essential determination. There have been women who devoted themselves to science, but they do not pursue it deeply, and they make no discoveries. In art they can produce things that are pleasant, but the ideal ... is beyond them.<sup>13</sup>

Clearly, then, Hegel does not take men and women to be equal. And his occasional claims that love requires equality, I suggest, should be understood as limited to ruling out severe inequality of the sort implied by arbitrarily arranged marriages and polygamy. At the same time, as I have argued elsewhere, it is a misunderstanding to think that love somehow requires, necessitates, or is impossible without, equality.<sup>14</sup>

Love *can* be accompanied by equality, as Hegel thinks is the case between brother and sister.<sup>15</sup> But love does not require equality. I certainly agree that it is desirable that a loving relationship between husband and wife also be a relationship of equality. But just as a relationship of equality need not involve love, so we can have love without having equality. To think that love and equality *necessarily* go together is to romanticize love—to expect something of it that it is not. It is quite normal for people to love someone they consider their inferior or their superior—God, the King, the Queen, our children, our parents. For centuries, men have loved their wives while thinking them their inferiors. And there is no good reason to think that many of these men did not really love their wives—certainly *not* because love and inequality are in some way incompatible. Those relationships, I certainly agree, would have been improved by equality, but there is nothing about loving someone that one considers an inferior that necessarily distorts the love. Love and equality are just different things. Love can be perfectly real love when it is love of an equal, a superior, or an inferior.

Furthermore, while it is quite possible to love someone who is your inferior, this is not at all incompatible with taking that person, in another sense, to be your superior. In love, I find myself in the person I love, and I am recognized by that person.<sup>16</sup> That the most wonderful and important person in the world loves me, makes me feel that I am worth such love. It reinforces and confirms me. What is it that makes that person the most wonderful and important person in the world? While the lover may not want to hear this, it is the fact that the lover takes the loved one to be such—that the lover recognizes the loved one to be the most wonderful

and important person in the world, the person from whom the lover desires recognition.

At any rate, it is clear that nobody wants recognition from a nobody and that such recognition is not worth anything. That was the problem in the master-slave dialectic. The master depended for recognition on the slave. The only thing that made the master a master, the only source of recognition for the master, the only thing that could constitute his reality as a master, was the recognition that the master in battle coerced out of the slave.<sup>17</sup> What could such recognition be worth? Moreover, it was the master himself who made the slave a nobody. What kind of reality can be constituted for the master by recognition forced from a nobody?

It is clear that adequate recognition can neither be gotten from a radical inferior nor gotten through coercion. Such recognition cannot establish my reality. Thus the recognition that one hopes for in a loving relationship like marriage cannot be coerced and it must rule out the sort of serious inequality found in arbitrarily arranged marriages, in polygamy, and, now we can add, in slavery. But, for Hegel, no greater equality is to be expected. Furthermore, it is not required.

It is not required because the recognition that takes place between the loving couple, even if they were to be *perfectly* equal, is not enough to constitute a marriage in the first place. For Hegel,

the solemn declaration of consent to the ethical bond of marriage and its recognition and confirmation by the family and community constitute the formal *conclusion* and *actuality* of marriage.... It is accordingly only after this ceremony



has *first taken place* ... that this bond has been ethically constituted.... Friedrich von Schlegel in his *Lucinde* and a follower of his ... have argued that the marriage ceremony is superfluous and a formality which could be dispensed with, on the grounds that love is the substantial element and that its value may even be diminished by this celebration. These writers represent the physical surrender as necessary in order to prove the freedom and intensity of love—an argument with which seducers are not unfamiliar.<sup>18</sup>

The recognition involved in reciprocal love is not adequate to constitute a marriage. Recognition by family and community is required besides. Thus even here at this first level of *Sittlichkeit*, where we have a simple model of mutual recognition between equals (even if they are not perfectly equal), we see that recognition between such equals, while necessary, and while very important at a personal level, is nevertheless not sufficient to constitute even the relationship of marriage. Relying on recognition from an inferior, we have seen in “Lordship and Bondage,” is inadequate, but so is recognition between equals or near equals. If reciprocal recognition between equals were adequate, we could, with Schlegel, dispense with the marriage ceremony as superfluous. Even here at the level of love and marriage, I suggest, we can recognize Hegel’s general commitment to the notion that the more significant the recognizer, the more real the recognized. Moreover, if we look closely, we can find this notion in other places where Hegel discusses reciprocal recognition between equals,

In an ethical totality such as a family or a state, all are recognized. Thus the struggle for recognition has disappeared.... In society all citizens are recognized and count as free. The freedom of every individual exists only insofar as he is recognized as free by the others, and the others have in him the consciousness of their own legitimacy, [that they count for him]. In a rightful situation, every person counts, because he allows everyone else to count as free. I am free insofar as the others are free, and I let them count as free just as they let me count as free. In love and friendship this [counting] is more at the emotional level, but in civil society I count as an abstract person without regard to my subjective peculiarities.<sup>19</sup>

It is clear here that the freedom of any individual, as well as right in general, requires recognition by other individuals, and at the same time it is quite clear that this means recognition by others *in the plural*—recognition by civil society or the state.

Hegel's view can be summed up, I think, by saying that the more important the recognizer, the more valuable the recognition and the more real the recognized. The recognition gained in love is valuable and important. By itself, however, it does not even make me a husband. It certainly does not make me a citizen. It is not clear that it even makes me a person, if a person is that to which civil law applies and which it recognizes and protects. Besides, love can fade and end in separation or divorce. As valuable as the recognition of another person is, I need a recognizer that is more stable, lasting, important, and powerful than another person.

Moreover, Hegel thinks that individuals historically have known quite well that recognition by an equal is not sufficient. In the section of the *Phenomenology* entitled “Culture and its Realm of Actuality,” where Hegel describes the rise of absolute monarchy in France, we see that individuals realize that the more important and powerful the recognizer, the more real and significant the recognized. Consequently they set about constructing powerful institutions that they can collectively serve, so as to create a reality important enough that the recognition they can get back from it will make them significant.<sup>20</sup> We might ask ourselves whether Noble Consciousness would rather serve the greatest and most powerful monarch of all time or some petty regent ruling a peripheral backwater? Those who construct and serve the most powerful of monarchs become more real and important by doing so. Institutions from which we are to gain recognition, Hegel thinks, must be raised above ourselves. What we need, he thinks, is the highest and most significant recognition, recognition we cannot get even from an absolute monarch, which after all is soon to be overthrown in the French Revolution. What we need, Hegel will argue in later parts of the *Philosophy of Right*, is recognition from a modern rational state, and, as we will see shortly, ultimately from spirit (*Geist*).

And so, in the *Philosophy of Right*, as we begin to examine *Sittlichkeit* and the recognition involved in it, as we start with the simplest sort of ethical relation, a loving relationship between two individuals, we begin to see even in this relationship, if we examine it carefully, that it involves much more than a relation between two individuals. It requires recognition from family and community. Thus

even this simple relationship will force us to move on and take up more complex forms of recognition, not just to understand *Sittlichkeit*, but even to understand this simple relationship of love and marriage itself.

## II.

Hegel rejects the notion that marriage is to be understood merely as a natural, physical, sexual relationship, as he thinks it was for the natural law tradition. So also, he finds it equally objectionable to reduce marriage, as does Kant, merely to a civil contract entitling the parties to the sexual use of each other.<sup>21</sup> Furthermore, he thinks such marriages should not be arbitrarily arranged by parents. At the other end of the spectrum, however, marriage should not simply be equated with love, a feeling open to contingency, transience, and capriciousness.<sup>22</sup>

All of these conceptions of marriage fall below the ethical, and marriage, for Hegel, is an ethical relationship. Marriage should subordinate the natural drive and the contingency and transience of the passions to the spiritual bond that must assert itself as the substantial factor. This substantial bond constitutes the two individuals as a single person between whom a contract would be out of place.<sup>23</sup> The substantial ethical bond of marriage originates not in an arbitrary arrangement by parents but in the free consent of the individuals. This substantial ethical bond, however, is concluded and actualized only through recognition by the family and the community. "Marriage is the formal union of two person of differing sex, brought to public recognition and so acquiring the status of a legal relationship ..."<sup>24</sup> Schlegel's view that such a ceremony is superfluous because love is all that matters is a view

that Hegel rejects. Such a relationship would lack adequate recognition and thus ethical substantiality.<sup>25</sup>

For Hegel, the producing of children is not the sole or essential goal of marriage.<sup>26</sup> It is possible to marry even if it is not possible to have children. Marriage “unites the different aspects of a particular determinate existence, and no single aspect is an absolute end on its own account.”<sup>27</sup> It is also the case, for Hegel, that marriage should not be concluded within the natural circle of people familiar to each other, certainly not by blood relatives. It should take place between people from different families and who are different in origin. The power of spirit “increases with the magnitude of oppositions out of which it reconstitutes itself.”<sup>28</sup>

In his discussion of marriage, we begin to understand in greater depth Hegel’s concept of recognition, as well as its importance and significance. Recognition makes things real. Just as property is only property because it is formally recognized by a proper authority, just as a state is legitimate, that is, a *real* state, only if it is recognized by its citizens and by other states, just as citizens are only really citizens if they are recognized by other citizens and by a legitimate state, so a couple is only really married if their union is recognized by their family and their community, that is, only if it is brought to public recognition and so acquires the status of a legal relationship.<sup>29</sup>

To illuminate this further, I want to compare Hegel’s traditional conception of marriage to contemporary arguments concerning same-sex marriage. This might strike the reader as bizarre. Hegel would not have believed in same-sex marriage—he thinks marriage must be between “persons of differing sex.”<sup>30</sup> In fact, I cannot

imagine that Hegel would be anything but opposed to same-sex marriage.<sup>31</sup>

Likewise, no contemporary proponent of same-sex marriage that I know of makes use of Hegel's thought. The disregard, then, is mutual.

Nevertheless, I think contemporary arguments in favor of same-sex marriage can illuminate especially well Hegel's views on marriage and recognition, and I think Hegel can capture, better than other theorists, more of the central issues that concern proponents of same-sex marriage, and can help provide them a philosophical underpinning.

Some gays and lesbians, of course, are *not* proponents of same-sex marriage, and some of them even object to marriage as state regulation of personal relationships.<sup>32</sup> In this they resemble Schlegel, who thought the value of a loving relationship might even be diminished by marriage.<sup>33</sup> Those who *are* proponents of same-sex marriage often confront a similar sort of objection: Why is *marriage* necessary? Why not just a loving relationship? Perhaps we could even allow legally recognized domestic partnerships or civil unions? Why isn't that enough? Even liberals who believe in gay rights, at least some of them, find it difficult to go as far as accepting actual *marriage* for same-sex couples and wonder why it is necessary. The answer is perfectly clear to anyone who understands Hegel.<sup>34</sup>

Hegel rejects arbitrarily arranged marriages at one end of the spectrum and mere love without marriage a la Schlegel at the other end of the spectrum. Hegel wants a substantial ethical relationship between marriage partners made real by recognition, not merely reciprocal recognition between the partners, not merely recognition by family and friends, but recognition by the community, such that the

relationship is brought to public recognition and acquires the status of a legal relationship.<sup>35</sup> Though no contemporary proponents of same-sex marriage that I know of employ Hegel's concept of recognition, nevertheless, this concept, it seems to me, captures especially well what they are after. As one author puts it, same-sex couples want the existing institution of marriage, "not some back-of-the-bus version called 'domestic partnership ...'"<sup>36</sup> In other words, gays and lesbians want their relationships to be just as real as relationships are between heterosexuals. They want their marriage to be real for-themselves, for their spouses, for their families and friends, for the state—in short, they want it to be real *in-itself*. They see, just as Hegel does, that a loving relationship between two people, while highly valuable, is not enough.

To the question, why not just get all the rights and benefits of marriage without the name, the answer is that this means without the *reality*. It means that the relationship between the same-sex couple is not as real as the relationship between different-sex couples. It is not as significant. It is not worth as much. This demeans and devalues the same-sex relationship—and it does so ontologically.

One should not have to think that one's relationship is less than real—that one's marriage is not a real marriage. Marriages between two people are at the center of their lives and identities. These identities need to be recognized as real, important, and valuable. They should not be relegated to second-class status. Those involved in them should not be seen as people who have devoted their lives to something strange, quirky, or queer—something that does not have ontological significance.

That demeans them. Their marriage, like any marriage, should be an ethical-spiritual bond actualized and made real by recognition.

We must also notice that for Hegel marriage is a *spiritual* union,<sup>37</sup> that the recognition involved is not just reciprocal recognition between two individuals, and not even just recognition by family and community that has acquired a legal status; it is recognition by spirit. To get a feel for what Hegel means by spirit (*Geist*), we should think of things like the ‘spirit of an age,’ or the ‘spirit of capitalism,’ or the ‘American spirit.’ That is, spirit implies a worldview in which a people expresses its aims, aspirations, values, role, significance, meaning, and goals to itself. This people, then, through its activity in the world will embody this spirit in its laws, practices, customs, social and political institutions, ethical life, art, culture, philosophy, religion, and so forth. In this way spirit gets objectified, concretized, institutionalized. And, as this concretized spirit is recognized by its people, it will animate their will, passion, activity, and drive.<sup>38</sup> A people constructs its spirit. They set its aims, build its institutions, establish its laws. Spirit is not heteronomous. It is their own. At the same time, spirit also constructs this people. It forms their practices, inspires their work, molds their values, gives them meaning, and shapes their culture. It produces character and disposition. In Hegel’s view it is stamped on every aspect of their life. One spirit permeates everything in an age.<sup>39</sup>

Spirit gives us the ethical—it gives us *Sittlichkeit*.<sup>40</sup> It tells us what is right. We do not derive the right merely from our own personal rational analysis. Nor do we derive it merely from the customs and traditions of our group. It is given by spirit. Spirit is the historical outcome of reason embedded in our laws, institutions, and



practices. It is given to us, objectively and concretely. Moreover, the universal will have played a central role in the development of this given. Any principles or practices that are less than universalizable will sooner or later come into conflict with other principles or practices and drive us toward something more universalizable. Anything short of the universal, anything that does not apply equally to all, will sooner or later produce conflict and will sooner or later drive us to extend the law—universalize it—to avoid the conflict. We will be driven on toward the universal, the rational, the right—toward what the categorical imperative would demand.<sup>41</sup> Thus, what spirit gives us as right *will* be universalizable. If not, it will sooner or later be destroyed and be moved toward the universalizable.

Lacking recognition by spirit, same-sex marriages would not be real. The couple may recognize their marriage as real, their family and friends may, their community (if they live in the right community) may, the state of Massachusetts may, but if most other states and the people that live there do not, the reality of this marriage will not be fully actualized. At a certain point in the history of spirit's development (and it certainly seems that in Europe and the United States we are close to that point, if not already there), spirit may recognize same-sex marriage. At that point, it will not matter what Catholic Bishops, right-wing Fundamentalists, or even neighboring states say. The couple will be married. Their marriage will be as real as any marriage. This does not mean that same-sex marriage will be accepted as real by all people, any more than that all people accepted the emancipation of slaves at first. It *will* mean, however, that such people are now put in the position of failing to

recognize a human right. Despite such people, slaves *are* free and same-sex couples *are* married. And, at a certain point, such people no longer matter. They are swept aside by spirit. Prejudice against Irish-Americans and Italian-Americans in the United States has diminished to the point where if one encounters people who express such prejudice they are just taken to be fools. The point is that spirit can move beyond you and make your views wrong. No matter how deeply and sincerely you believe that slavery is right or same-sex marriage wrong, you are swept aside and begin to look like a fool.

However, Hegel has said that the power of spirit “increases with the magnitude of oppositions out of which it reconstitutes itself.”<sup>42</sup> Hegel does not think that people who are close to each other in origin should marry.<sup>43</sup> One might think this same principle should be extended, and that only individuals of different sex, not the same-sex, should marry. And Hegel might well agree with such an extension. He certainly believes that only differing sexes should marry.<sup>44</sup> Nevertheless, while it is true that same-sex marriages are between individuals who are close to each other in the sense that they are of the same sex, they are not at all close to each other in another very important sense. Certainly in the past, same-sex marriage has appeared to many as a joining of what is utterly alien, a joining of what cannot or should not be joined. For spirit, then, to succeed in joining what cannot be joined would be a *triumph* of spirit: a bringing together in the most intimate type of unity of what previously seemed utterly alien.

One very standard argument against same-sex marriage is the slippery slope argument: if you allow gays to marry, you start down a slippery slope toward

polygamy, bestiality, incest, whatever. Hegel's concept of spirit can provide an effective counter here. For example, in many places in the world, polygamy is legal and accepted. But I can detect no hint that in the spirit of the United States or Europe there is any movement toward recognition of polygamy. Indeed, I suspect that in polygamous countries there is possibly a slight movement away from polygamy. At any rate, if the actual *existence* of polygamy in the world is not pushing us down a slippery slope toward the recognition of polygamy, how could same-sex marriage push us toward it?

As for bestiality, I see nothing to suggest the possibility of its recognition as a legitimate form of marriage within our spirit, and the suggestion that same-sex marriage would lead to bestiality, it seems to me, is an attempt to denigrate homosexual acts by likening them to bestiality. On the other hand, if I may be excused a science fiction moment: if an intelligent alien species were to be discovered that looked, say, like cats,<sup>45</sup> and it was a species that could choose to marry, then to object to marriage between members of our species and this new species would be more like objecting to mixed race marriages, and thus like racism, than like objecting to bestiality. Our spirit has gotten beyond objections to mixed race marriages and, I suspect, would be able to get beyond objections to inter species marriages. Bestiality cannot amount to marriage if one party is forced, or does not choose, or is not able to choose to enter into a relationship of reciprocal recognition. If the two parties are fully able to choose to enter into a relationship of reciprocal recognition, then their species, like their race, should not matter. And I suspect that our spirit would eventually recognize this.

Again, I see no tendency in our spirit toward the recognition of incestuous marriages and I do not see how the recognition of same-sex marriages could lead in that direction. Basically, Hegel's concept of spirit forestalls the slippery slope argument. The slippery slope argument operates at the level of sheer abstraction. It proceeds by arguing that if we allow one new thing that is strange, different, or bizarre, then why not all other strange, different, and bizarre possibilities? Hegel is always opposed to such abstraction and his concept of spirit gives us a concreteness that allows us to meaningfully explore whether one change in spirit might concretely lead to another, rather than assuming it could simply because both are new, strange, or bizarre. We can tell concretely whether our spirit is likely to recognize polygamy, bestiality, or incest.

Furthermore, Hegel's concept of spirit should make it easier for us to see what some proponents of same-sex marriage argue would be the result of legalizing it, namely, that marriage in general would be strengthened and reinforced. Marriage would be made even broader in scope—more universal.<sup>46</sup>

Opponents, on the other hand, often argue that same-sex marriage would be a threat to marriage. The only way, it seems to me, that this makes any real sense is that same-sex marriage would take away the priority of different-sex marriage much as the discovery that the earth orbits the sun made the earth no better than any other planetary body. While this disturbed contemporaries of Copernicus, it does not disturb anyone today.

However, I suspect that when conservatives say that same-sex marriage trivializes or demeans marriage,<sup>47</sup> what they mean is that since they do not view

same-sex marriage as marriage, if whatever goes on there is given the name 'marriage,' it weakens 'real' marriage by blurring the distinction between 'real' marriage and whatever it is that goes on among same-sex couples. But if we have a Hegelian concept of spirit, and we see that its recognition of same-sex marriage makes same-sex marriage real marriage, makes it ontologically real, then we see that the reality of marriage has been extended, just as in a previous era it was extended to mixed race couples and before that to couples from different religions. This is hardly to erode marriage. It extends marriage, deepens it, and makes it more universal. It gives us another example of the power of spirit to bind together what had previously been found alien. This is a strengthening of spirit, not its erosion. As we have seen earlier, anything short of the universal, anything that does not apply equally to all, anything that denies a right to some, here the right to marry, will sooner or later produce conflict and will sooner or later drive us to extend the law—universalize it—to avoid the conflict. Spirit will be driven on toward the universal, the rational, the right. Hegel's theory of spirit and recognition philosophically illuminates same-sex marriage better than any theory I know of.

A somewhat better argument by opponents is that approval of same-sex marriage says to devout Christians, Jews, and Muslims that what their faiths teach is false.<sup>48</sup> This is true, but so did the discovery by Copernicus that the earth is not the center of the cosmos, or by Darwin that humans are a product of evolution, tell these faiths that some of their beliefs were false. Nevertheless, it is important to see here that we do not have a case in which it is some alien entity (another church, a political party, a government) that is condemning these faiths from outside or

forcing them to change. Hegel shows us that it is spirit, their spirit as well as ours, that produces change, and not as an alien force from outside, but from within us all. At an early point in this process, it will appear to be an alien force, but sooner or later we will see that it is our own spirit. That is certainly what has happened to us with slavery. I suspect it is happening to us with same-sex marriage.

A similar objection by opponents is that the legalizing of same-sex marriage implies approval of same-sex marriage, and they do not approve. Recognition, however, needs to be distinguished from approval. Recognition makes the relation objective and real. It says that the ex-slave is equal to anyone else. It says that a marriage between people of different races or the same sex is as real as any other marriage. It does not matter what I feel about ex-slaves, inter-racial marriage, or same-sex marriage. What I feel is reduced to a subjective reaction irrelevant to the objective reality. Recognition is ontologically much more important than approval, though, of course, being around people who do not approve of your relationship can be uncomfortable and cause you self-doubt. If we compare this to property, which is made real by recognition from a proper authority, we see that your property really is your property. It does not matter, for example, that I am a socialist and do not approve of your ownership of this property. That may make you uncomfortable when you are around me, perhaps even make you feel guilty, but it in no way changes the fact that the property is your property—*really* your property. And so, while approval would be nice, what proponents of same-sex marriage need is recognition—the ontological reality of their marriage.

Even if all objections to same-sex marriage could be answered, still opponents of same-sex marriage are likely to say that marriage just *is* something between a man and a woman and always has been throughout history. However, this is simply not true. There are many places in the world today where one can marry a member of one's own sex. And of course in many societies and for a very long time, marriage has been a relationship between a man and *women*, not just *a* woman. Moreover, Eskridge, in an impressive book, has shown that same-sex unions have been legally sanctioned at quite a few times and places in human history.<sup>49</sup> The stage seems to be set for spirit's recognition of same-sex marriage. We will see if it occurs.

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### Notes

<sup>1</sup> G.W.F. Hegel, *Elements of the Philosophy of Right* (hereafter PR), tr. H.B. Nisbet (Cambridge: Cambridge University Press, 1991), §33. I will cite the section number, rather than the page, so that any edition, English or German, may be used. I will usually use the Nisbet translation, but occasionally I will use *The Philosophy of Right*, tr. A. White (Newburyport, MA: Focus Publishing, 2002) and cite it as: PR (White).

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<sup>2</sup> For an earlier and lengthier treatment of these matters, see my *Hegel and the Other: A Study of the Phenomenology of Spirit* (hereafter H&O) (Albany: State University of New York Press, 2005), 88 ff.

<sup>3</sup> PR §158.

<sup>4</sup> R.R. Williams, *Hegel's Ethics of Recognition* (hereafter HER) (Berkeley: University of California Press, 1997), 25. Also in the *Philosophy of Mind*, Hegel writes: "Universal self-consciousness is the affirmative awareness of self in an other self ... each has 'real' universality in the shape of reciprocity, so far as each knows itself recognized in the other freeman, and is aware of this in so far as it recognizes the other and knows him to be free.... This universal reappearance of self-consciousness ... is the form of consciousness which lies at the root of all true mental or spiritual life—in family, fatherland, state, and of all the virtues, love, friendship, valour, honour, fame" (*Hegel's Philosophy of Mind*, tr. A.V. Miller [Oxford: Clarendon Press, 1971], §436).

<sup>5</sup> For Hegel, right includes both *Sittlichkeit* and *Moralität*; see PR §33.

<sup>6</sup> HER, 117.

<sup>7</sup> HER, 220.

<sup>8</sup> HER, 222-3. See also R.B. Pippin, *Hegel's Practical Philosophy: Rational Agency as Ethical Life* (Cambridge: Cambridge University Press, 2008), 205.

<sup>9</sup> "Love," in *On Christianity: Early Theological Writings*, tr. T.M. Knox (Gloucester, MA: Peter Smith, 1970), 304. Also "Two Fragments of 1797 on Love," in *Clio*, 8 (1979), 261. There are also places where Hegel speaks of "ethical equality;" *Lectures on the Philosophy of World History, Volume 1*, tr. R.F. Brown and



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P.C. Hodgson (Oxford: Clarendon Press, 2011), 318. Also see the passage translated in HER, 224.

<sup>10</sup> PR §162.

<sup>11</sup> *Lectures on Natural Right and Political Science* (hereafter LNRPS), tr. J.M. Stewart and P.C. Hodgson (Berkeley: University of California Press, 1995), §80. See also the passage translated in HER, 224.

<sup>12</sup> PR §166. See also LNRPS §77. Also *Lectures on the Philosophy of Spirit 1827-8*, tr. R.R. Williams (Oxford: Oxford University Press, 2007), 101-2. I have argued elsewhere that Hegel holds a more conservative view of women in the *Philosophy of Right* than in the *Phenomenology*; see H&O, 147-8.

<sup>13</sup> PR (White) §166 Supplement.

<sup>14</sup> See H&O, 148 ff.

<sup>15</sup> *Phenomenology of Spirit*, tr. A.V. Miller (Oxford: Clarendon Press, 1977), 288.

<sup>16</sup> PR §158.

<sup>17</sup> This is the way the “Lordship and Bondage” section of the *Phenomenology* must be understood. It is a mistake to think the master could have gotten recognition from elsewhere, say, from other masters. In that early section of the *Phenomenology*, there are no other masters. There are no other people. They only emerge at a later and higher stage of the *Phenomenology*’s development. In fact, we do not even have persons in “Lordship and Bondage.” We have something like abstract Kantian self-consciousnesses (see H&O, Chapt. 2, Sect. I). That recognition constitutes reality, see H&O, 40 ff.

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<sup>18</sup> PR §164.

<sup>19</sup> *Lectures on the Philosophy of Spirit 1827-8*, 194.

<sup>20</sup> *Phenomenology of Spirit*, 305 ff. Also see H&O, 164 ff.

<sup>21</sup> PR §§161, 162. LNRPS §79. See also Kant, *Metaphysics of Morals*, 6:277-78; I have used the edition found in *Immanuel Kant: Practical Philosophy*, tr. M.J. Gregor (Cambridge: Cambridge University Press, 1966), but, so that any edition, English or German, may be used, I cite the volume and page (given in the margins of this and of most texts) of the standard edition of Kant's works: *Kant's gesammelte Schriften*, ed. Königlich Preussischen Akademie der Wissenschaften (Berlin: Georg Reimer, 1910-55).

<sup>22</sup> PR §§161, 162. However, see LNRPS §76.

<sup>23</sup> PR §163.

<sup>24</sup> LNRPS §78.

<sup>25</sup> PR §§161, 162, 164.

<sup>26</sup> PR (White) §167 Supplement.

<sup>27</sup> LNRPS §78.

<sup>28</sup> PR §168. LNRPS §87.

<sup>29</sup> For a more extended discussion of recognition constructing reality, see H&O, 40 ff.

<sup>30</sup> LNRPS §78.

<sup>31</sup> F. Engels, generally more progressive than Hegel on marriage, certainly would have opposed same-sex marriage; see *Origin of the Family, Private Property*,

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and the State, in *Marx Engels Collected Works* (New York: International, 1975 ff.), XXVI, 173.

<sup>32</sup> E.R. Gill, *An Argument for Same-Sex Marriage: Religious Freedom, Sexual Freedom, and Public Expressions of Civic Equality* (Washington, D.C.: Georgetown University Press, 2012), 15.

<sup>33</sup> PR §164.

<sup>34</sup> Very few Hegel scholars discuss same-sex marriage. See D. Knowles, *Hegel and the Philosophy of Right* (London: Routledge, 2002), 251. T. Nicolacopoulos and G. Vassilacopoulos, *Hegel and the Logical Structure of Love: An Essay on Sexualities, Family and the Law* (Aldershot: Ashgate, 1999), Chaps. 10-11. J. Vernon, "Free-Love: A Hegelian Defense of Same-Sex Marriage Rights, *The Southern Journal of Philosophy*, XLVII (2009): 69-89.

<sup>35</sup> LNRPS §78.

<sup>36</sup> E.J. Graff, "Retying the Knot," in *Same-Sex marriage: Pro and Con*, ed. A. Sullivan (New York: Vintage, 1997), 137.

<sup>37</sup> PR §161; see also §158.

<sup>38</sup> *Lectures on the Philosophy of World History: Introduction: Reason in History*, tr. H.B. Nisbet (Cambridge: Cambridge University Press, 1975), 52, 56, 58, 82, 101, 112, 138.

<sup>39</sup> G.W.F. Hegel, *Introduction to the Lectures on the History of Philosophy*, tr. T.M. Knox and A.V. Miller (Oxford: Clarendon Press, 1985), 44, 88, 110.

<sup>40</sup> PR §138.

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<sup>41</sup> For a fuller treatment of these matters, see my *Marx and Modern Political Theory* (Lanham, MD: Rowman & Littlefield, 1993), Chapters 4-5.

<sup>42</sup> PR §168. LNRPS §87.

<sup>43</sup> PR §168.

<sup>44</sup> LNRPS §78.

<sup>45</sup> For example, the hana, in C.J. Cherryh novels.

<sup>46</sup> J. Rauch, *Gay Marriage: Why It Is Good for Gay, Good For Straights, and Good for America* (New York: Henry Holt, 2004), 5, 86.

<sup>47</sup> "House Debate on the Defense of Marriage Act," in *Same-Sex Marriage: Pro and Con*, 225-6.

<sup>48</sup> See, e.g., R.H. Knight, "How Domestic Partnerships and 'Gay Marriage' Threaten the Family," in *Same-Sex Marriage: The Moral and Legal Debate*, ed. R.M. Baird and S.E. Rosenbaum (Amherst, NY: Prometheus Books, 1997), 108.

<sup>49</sup> W.N. Eskridge, Jr., *The Case for Same-Sex Marriage: From Sexual Liberty to Civilized Commitment* (New York: Free Press, 1996), esp. Chapt. 2. Hegel also rejects the notion that the production of children is the sole, essential goal of marriage (PR [White] §167), and thus he would lend no support to the opponent of same-sex marriage in arguing that the production of children is the primary goal of marriage.