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## **Feminist Interpretation of Hegelian Notion of Marriage**

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**Abstract:**

*Hegel thinks of marriage not as an institution based on contract. For him although marriage may begin at the level of a contract, but eventually this gets replaced by the notion of a 'union'. Hegel sees marriage as a union rather than as a contract. Since the individual as different atoms is at the very heart of the contract notion, therefore it is impossible for Hegel to endorse such a notion as the basis for the institution of marriage where he sees the presence of a genuine ethical bind, where the particularities of the atomistic individual is transcended. While talking about the feminist criticisms against Hegelian notion of marriage, we should keep in mind that he was not addressing the question of womens subjugation, but nevertheless we must also simultaneously acknowledge the reality that Hegel's first moment of ethical life is the family and within it the notion of marriage as a union is of prime importance.*

**Keywords:** *Hegel, marriage, union, contract, feminist*

### **1. Introduction**

In this paper we will try to see the various kinds of criticisms that are labelled against Hegel by the feminists on his idea of marriage which he talks about in the section devoted on ethical life in his classic "Philosophy of Right" (1942). The paper shall be broadly divided into four sections dealing with different aspects of the discussion. In the first section we will see what Hegel has to say on the notion of marriage. In the second section we will try to understand the contract notion of marriage. The third section will look at the various attacks labelled against Hegels idea of marriage by the feminists. In the last section we will try to find out the different justifications for Hegel's notion of marriage. While talking about the feminist criticisms against Hegelian notion of marriage, we should keep in mind that he was not addressing the question of women's subjugation, but nevertheless we must also simultaneously acknowledge the reality that Hegel's first moment of ethical life is the family and within it the notion of marriage as a union is of prime importance. Since the institution of marriage is intrinsic to the feminist discourse, therefore we can see how and why there is a possibility of feminist reading of Hegel. So, we come to the first section now.

### **2. Hegels Views on Marriage**

For Hegel, the notion of 'ethical life' is embodied in three moments, which are: the family, the civil society and the state. The idea of marriage which we shall discuss here is prominent is in the first moment of ethical life i.e the family.

Hegel thinks of marriage not as an institution based on contract. For him although marriage may begin at the level of a contract, but eventually this gets replaced by the notion of a 'union'. Hegel sees marriage as a union rather than as a contract. Since the individual as different atoms is at the very heart of the contract notion, therefore it is impossible for Hegel to endorse such a notion as the basis for the institution of marriage where he sees the presence of a genuine ethical bind, where the particularities of the atomistic individual is transcended. He believes that those marriages taking place with the aim of economic or political gain as wrong as it shows scant respect to the women. In the Hegelian notion of marriage, there is utmost importance attached to the feeling of 'ethico-legal' love. The feeling of passion i.e the physical or the sexual union, which he sees as a sensuous moment in the marriage for him is a consequence or rather secondary. The feeling of passion is momentary in nature and therefore it cannot be the base on which the building of marriage as an institution could be erected. Rather ethico-legal love is the emotion on which the relationship between the two individuals in a marriage is to be based.

Hegel rejects the idea where marriage is based on the physical dimension seeing it as a natural order, he also rejects the idea of contract marriage based on deeply intrinsic liberal individualistic values. The kind of marriage, he argues for is based on the concept of ethico-legal love and not on the "transcient, fickle and purely subjective aspects of love" (Philosophy of Right, 161 addition, 1942). Hegel is a strong advocate of the monogamous marriage with stricter rules for divorce proceedings. He argues that divorce should not be granted to the couples on "the mere whims of hostile disposition or the accident of a passing mood" but only in those circumstances when "the estrangement is total" (Philosophy of Right, #176, 1942).

Hegel says that marriage based on the concept of “ethico-legal” love will have its external manifestation or objectification in the form of a child brought into the world by the husband and the wife. The child will then stand out to be an embodiment of the couples love. Hegel says that it is in the child that the husband loves his wife and that the wife loves her husband.

He argues that the marriage is a union wherein the particularities of the respective partners transcend their subjectivities and get universalised. In Hegel's view, marriage results from “the free surrender of both the sexes of their personality”. And it is through this surrender that two individuals in a marriage get united and that is why he sees marriage as a union, rather than a contract where the particularities shall all throughout retain its distinct place. After knowing what Hegel has to say about marriage, we can now go on to see what meaning does the contract notion of marriage hold as a contrast.

### 3. Marriage as a Contract

In her widely acclaimed work “The Sexual Contract” Carole Pateman tries to bring into light the fact that there was a “Sexual Contract” present and operating along with the “Social Contract”. Pateman argues about the manner in which the social contract agreed upon by free and equal individuals extends into the personal realm in an imperfect manner. The liberal feminists talking about the public-private distinction criticises the early social contractarians such as Locke and Rousseau for their reductionist stand on the question of women. The criticisms labelled against these political philosophers are that they did not consider women to be having their own identity. They were relegated to the private sphere which was kept outside the political public sphere. The division between man and woman came to be seen essentially as the difference between culture and nature (Pateman, 1988).

Feminists have also labelled criticism against Mill, where, according to Pateman “Mill assumes that when women have equal opportunity in education and thus ‘power of earning’, and marriage has been reformed so that husbands are no longer legally sanctioned slave-masters, a woman, by virtue of becoming a wife, will still choose to remain in home, protected by her husband. He explicitly equates a woman's choosing to marry with a man's choice of a career. When a woman marries and has a household and family to attend to she will renounce all other occupations ‘which are non consistent with the requirements of this’ ” (Pateman, 1988). The Contract form of marriage can be defined as the one resulting out of the consent between two consenting adults. But for feminists the term consent in itself is problematic, as they have serious doubt about the nature of the consent extracted from the women. According to the feminist criticism women are not given egalitarian acknowledgement of their individuality and as such they cannot be expected to give any real consent.

Feminist critics believe that only when women are free and treated equally, they will be in a position to give consent. Pateman in an article titled “Women and Consent” says rape laws to be a ‘parody of justice’ because of the way in which the victim's consent is interpreted. The popular public opinion and the courts, identify submission, including forced submission as consent. She talks about how women are expected to consent to men which means that it is obviously the man who is offering the woman with a contract (Pateman, 1980).

In her words “An egalitarian sexual relationship cannot rest on this basis; it cannot be grounded in consent. Perhaps the most telling aspect of the problem of women in consent is that we lack a language through which to help constitute a form of personal life in which two equals freely agree to create a lasting association together” (Pateman, 1980).

One of the major issues with the contract form of marriage is that, unlike other civil contracts it is not written down. The rules of the game are not laid out in the contract, instead it is just the law of the land governing marriage and family life.

The major elements of a marriage i.e of a husband having to support the wife and the wife to dutifully obey the husband are not written down and hence they are not alterable or changeable (Weitzman, 1981).

Also again, there is yet another problem of making the marriage contract valid. There are two essential acts required to make it valid. The first one is the ‘performative act’ or the civil or religious ceremony to celebrate it and the other is the ‘sex act’ or the ‘consummation act’ which are essential and without these acts the marriage cannot be said to be valid (Pateman, 1988).

The act of consummation necessarily leaves the woman at the sexual disposal of her husband. And this is how the sexual status subverts the supposedly contractual basis of the marital relationship. Pateman believes that the historical progress from the ‘status to contract’ in the words of Sir Henry Maine remains incomplete because it has the remnants of the unfree past.

We also have another liberal feminist Mary Wollstonecraft who argues about marriage based on the notion of friendship. She argues that the high ideals of friendship helps in creating a bond that's stronger compared to the bond that develops just out of physical love. She advocates that the ideas of individuality, freedom and equality which governs the public realm should be brought into the private realm.

It is important to take a note of the fact that Kant also held the belief that marriage should be build up on the basis of a contract. He almost viewed the marriage contract to be used for sexual satisfaction. For Kant marriage is “the union of two persons of different sex for lifelong reciprocal possession of their sexual faculties” (Philosophy of Law, pg. 110).

In the ‘Sexual Contract’, Pateman talks about the contradictory nature of Kant's claim about women being individuals. On the one hand Kant believed every human being to be possessing reason and the ability to work according to the universal moral laws, however on the other hand, he also holds the belief that reason is sexually differentiated and that women lack political or civil liberties. “Kant states that ‘women in general have no civil personality, and their existence so as to speak purely inherent’, they must therefore be kept away from the state and must also be subject to their husbands- their masters in marriage” (Kant, 1970).

With all the shortcomings in the various notions of the contract marriage, finally Pateman tries to give a “radical ‘contractarian’ ” solution, in which she says that the most advantageous arrangement for an individual would be “an endless series of very short term contracts to use another body as and when required” (Pateman, 1988).

According to Patricia Uberoi, such kind of a radical solution would only mean that the main burden or the purpose of the contract

would be to set the conditions for the later divorce or to encourage divorce from the partner. Uberoi believes that Pateman has nothing much to offer as a solution to the contract notion of marriage, "considering it sufficient to bring to the forefront of the feminist political consciousness the intrinsic link between the overt social contract and the hidden sexual contract in a patriarchally constituted society" (Uberoi, 2003).

After the discussion on the notion of marriage as a contract and the various problems associated with it, we will now talk about the various feminist criticisms labelled against the Hegelian idea of marriage as a union and not a contract.

#### **4. Hegel as a Reductionist**

Political philosophy, according to Susan Moller Okin (1979) in 'Women in Western Political Thought', consists of 'writings by men, for men and about men'.

In her work, Okin claims that philosophers in the history of political thought have always concerned themselves with the questions regarding men. Questions concerning men were- "what are men like?", "what is man's potential?" whereas with regard to women the question asked was "what are women for?" (Okin, 1979).

Hegels treatment of the male head of the family as its only political representative is seen as an act of "disposing the female half of the human race" (Okin, 1979). This act of Hegel makes him a reductionist in the eyes of Susan Moller Okin. Okin also questions Hegels view of marriage resulting from the free surrender of the personalities by both the sexes. She argues that such kind of a surrender will only be symbolic in nature with regard to men.

The comment that Hegel makes in his 'Philosophy of Right' regarding the fundamental difference between man and woman have also earned him a lot of criticisms. The criticism is labelled against Hegel because he seems to be contrasting men and women in terms of the distinction between rationality and feeling, which he uses to exclude women from the public sphere, which has therefore qualified him as a biological reductionist. There is a paragraph where Hegel links women with plants and men with animals (Hegel, 1942).

"The difference between men and women is like that between animals and plants. Men correspond to animals, while women correspond to plants because their development is more placid and the principle that underlies it is the rather vague unity of feeling. When women hold the helm of government, the state is at once in jeopardy, because women regulate their actions not by the demand of universality but by arbitrary inclinations and opinions. Women are educated- who knows how?- as it were by breathing in ideas, by living rather than by acquiring knowledge. The status of manhood, on the other hand, is attained only by the stress of thought and much technical exertion" (Philosophy of Right, Addition 166).

The feminist critic make their reductionist argument against Hegel stronger when they take note of the fact that Hegel does not consider women 'for those activities which demand a universal faculty such as the more advanced sciences, philosophy' etc but instead considers them having 'happy ideas, taste and elegance' (Ibid).

Hegels arguments in favour of monogamous marriage, stricter divorce mechanism and controlling of the women's sexuality outside the boundaries of marriage makes him a biological reductionist in the eyes of the feminists.

The idea of marriage as a union envisaged by Hegel in the first moment of his ethical life is under the feminist scrutiny as they doubt the fact that there will be an equal surrendering of the personalities of a man and a wife. They believe that the one voice that shall prevail as the universal voice will be essentially the male voice and not female. This kind of an ideal surrender is too optimistic for Okin (Okin, 1979).

We can also say that one of the major criticisms of the Hegelian notion of the marriage as a union is that, though it is the end that Hegel envisages, but the basis on which such an end is visualised is not unbiased. There is an amount of inequality in the status among the two individuals entering in a marriage. When they are not equal, the feminist would than have serious objections to make against the Hegelian notion of marriage as a union.

Now when we come to the contract notion of marriage, we find that one of the main criticisms that could be labelled against it is that the individuality of the persons become of supreme importance.

If we talk of such a contract notion of marriage in the Indian context, than there would be serious problems in it. Patricia Uberoi suggests that in India marriage is considered to be sacrosanct. The process of divorce, which is far easier in a contract has as one of its rationale the concept of economic reimbursement to the woman. But the problem with the economic reimbursement is that it in reality devalues the work rendered by the woman out of love (though the recipient in some cases can also be a man, but we are at present not taking that into consideration). But as a reaction to such a criticism there would be arguments from the supporters of contract kind of an arrangement is that since the partners in marriage were in love that is why even when they fall out of the marriage, it becomes the responsibility of the stronger partner (mostly male) to help the weaker partner (mostly female) economically to settle down after the marriage (Uberoi, 2003).

One very important objection that the feminist would have with Hegel is that, in Hegel the women are kept outside the public sphere and are placed within the private sphere. So this is where they would see the inequality. And there will be arguments directed against Hegel that when women are not integrated into both the spheres equally than it is futile to assume that marriage is happening between two free individual and that it is a union and not a contract.

Feminists with contract notion of marriage would have serious trouble with Hegels recommendation for monogamous marriage with stricter divorce laws. They would see it as a curtailment of their individual freedom and one's own sexual autonomy. They would argue that such a notion of marriage would make it impossible for women to come out of abusive marriages.

### 5. Hegel as Anti-Reductionist

In an article titled 'Hegel and Feminism', Susan M. Easton (1987) tries to figure out the anti-reductionist streaks in the thoughts of Hegel in his work 'Philosophy of Right' and also his other works.

In the words of Susan Easton, Hegel "Instead of grounding his conception of the family in the biological dimensions of the human existence, he describes the family as an institution which offers a means of transcending them. Marriage constitutes a partnership between men and women, the ethical aspect of which is irreducible to either the biological necessity of procreation or the sexual passions of the individuals. The ethical bond of marriage has a universality which surpasses the sexual relationship contained by it. It is this emphasis on the ethical dimension, rather than the appeal to biological needs which underpins his arguments for monogamy and for diversity in the selection of marriage partners" (Easton, 1987).

Easton also talks about the fact that Hegel while arguing that marriage is not based on passion alone, but it is just a consequence of the ethico-legal love that is there between the husband and the wife definitely makes a mark as someone different from those who believe in marriages solely focussed on passion.

Hegel was against the Kantian notion of marriage, which sees marriage as a contract happening between two individuals, for mutual use of each others sexual property. Hegel believes that such a notion of marriage is nothing but a contract of mutual caprice and the marriage getting degraded to a level where it is being used for reciprocal use. For Hegel marriage is an ethico-legal bond where the particularities of the individuals are transcended and any attempt to make it subordinate to contract or sexuality is completely ruled out by him. These are definitely some instances which have been overlooked by the feminists while criticizing Hegel as a biological reductionist.

Infact the attempt which Susan M. Easton makes to look if there is any scope of Hegelian understanding of women's potential freedom is very important because there are certain very important things to be picked up from Hegels master-slave dialectics from his 'Phenomenology of Spirit'.

Hegel's work on slavery offers insights into the suppression of women and provides further affirmation of its anti reductionist stand. (Easton, 1987)

Hegel in the phenomenology of spirit talks about two kinds of consciousness, one being independent i.e existence of oneself and the other being dependent i.e essence is life or existence for others (Hegel, 1977).

He says that both the master and the slave wants recognition from the other and are in constant struggle with each other at the risk of their lives but than one of the will realise that the life is more important for him than death and would become ready to recognise the other and therefore create a master for himself and in turn become a slave himself. Hence the latter becomes the bondsman and former the master.

But the irony lies in the fact that the slave living with fear and working for the master realises his productive labour and in turn gains wisdom. The slave starts acquiring knowledge. Hegel believes that the master represents a purely transient stage while the significant movement is taking place in through the development of consciousness of the servant because the servant meets the two preconditions for freedom, namely fear and service.

The master throughout the time remains trapped in his egotism, while for the slave the experience of fear according to Hegel is the first moment of freedom. The necessary precondition for the development of the self consciousness being fear combined with labour or service, the slave starts moving towards gaining consciousness. "His divestment of the self and 'fear of the lord' mark, for Hegel the beginning of knowledge and the movement to universal self consciousness". Thus self consciousness is experienced by the slave and not the master, who remains dependent on the slave for recognition.

According to Easton there can be implications of the Hegelian notion of slavery on social changes and particularly in the lives of women, though in the beginning it might sound a little pessimistic since Hegel puts the entire responsibility of the slavery on the slave and also suggests that the slave enjoys his position. He treats it essential and inevitable in the process of social development. But he also opens a possibility of a dramatic change in the social relationship through the power of rational reflection because he attributes slavery to the will of the individual or the people.

According to Easton, "Applying Hegels analysis to the position of women, we find that the acceptance of the patriarchal ideologies is matched by examples of women's resistance to their exploitation. In struggling against their subordination women at the same time precipitate a qualitative improvement in social relations for men who are also constrained by these ideologies" (Easton, 1987).

Towards the conclusion we can say that we are actually not committing any kind of 'Mythology of Doctrine' (Skinner, 1969) when we are talking about the feminist interpretation of Hegel because we are only trying to read what Hegel had to say on marriage in his first moment of ethical life, and from thereon see what are the various criticisms that can come out if we put it in contrast to the contract notion of marriage. We certainly understand that Hegel was not answering the question of women's subjugation, but at the same time we can also not overlook at the fact that he had actually devoted a moment of his ethical life on family and marriage constituted a major part of it.

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