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# Sophocles' *Antigone* and the promise of ethical life: tragic ambiguity and the pathologies of reason

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## ABSTRACT

This article aims to demonstrate that works of art and literature can provide important insights in law and justice that are hard to grasp by one-sidedly rationalist methods of academic analysis. It takes Sophocles' *Antigone* – perhaps the most classical text of law and literature's familiar catalogue – as a case in point, drawing attention to some important aspects of that play's legal epistemic relevance that are still largely overlooked. Arguing that the widespread view on the confrontation between Antigone and Creon as a clash between 'divine' and 'human' law is mistaken, the article builds on Hegel's view that the positions of both protagonists are likewise incomplete, denying elements of law and justice that are equally essential, the one being no less divine than the other. However, it departs from Hegel's analysis in maintaining that the play does not entail the promise of 'ethical life' (*Sittlichkeit*) as some synthesis that recognizes the specific value of both Antigone's and Creon's stances on law and justice but takes away their incompatibility. Instead, it is argued that the play teaches us that such harmonization is unattainable – a no less valuable lesson indeed.

**KEYWORDS** Greek tragedy; legal philosophy; Sophocles; Hegel; Honneth; ethical life; tragic ambiguity

## 1. Introduction

Modern law tends to draw lines and mark off different realms, distinguishing legal fact and social fact, law and policy, man and animal, state and society, and much more. It typically aims to create a civilized order that enables us to get a grip on the confusing reality that surrounds us. Law, in this regard, serves as a reductive tool, an 'art of separation' that aspires to set up an artificial realm that saves us from the chaos of nature.<sup>1</sup> In its quest for control,

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<sup>1</sup>M Walzer, 'Liberalism and the Art of Separation' [1984] *Political Theory* 315. See also P Ricoeur, *The Just*, tr D Pellauer (University of Chicago Press, Chicago, 1995) 129–130, describing the Kantian understanding of the act of judging as 'separating spheres of activity' and 'delimiting the claims of the one from those of the other'. As Ricoeur has it, 'the whole of Kant's philosophy of right rests on his distinction between "mine" and "yours", on the act that draws a line between the one and the other'.

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'separative law' bleaches out a complex reality in which its many boundaries and distinctions are non-existent or at least not as clear-cut as often envisioned. In Cartesian fashion, it seeks to make itself nature's 'master and possessor',<sup>2</sup> establishing an autonomous sphere in which the phenomenal world is partitioned in different components and analysed in disintegrated manner.<sup>3</sup> Adhering to a method of abstractive reduction, it consciously distances itself from social reality, simplifying and, to some extent, deliberately ignoring the specifics and intricacies of the world as we directly experience it.<sup>4</sup> Filtering reality's complexity through the screen of concepts and categories, law carves out a domain of its own, typically governed by general rules and rational principles.<sup>5</sup> One-sidedly depending on rationalist analysis, modern separative law is inclined to disconnect man as a knowing subject from nature as an external object of scientific study and control, tending to alienate man from his surroundings and ultimately also from himself as a natural entity.<sup>6</sup>

Pointing out the shortcomings and dangers of one-sidedly separative and rationalist approaches to law, prominent representatives of the law and humanities movement such as Martha Nussbaum have made the case for the literary imagination as an effective remedy against the distortions of the legal system attributed to the ratiocinations of pure reason. In Nussbaum's view, literature may help to supplement the rigours of cognitive legal dogmatics, drawing attention to the irreducible complexity of individual human existence. Instead of ignoring the intricacies of particularity, the literary imagination would complement modern law's tendency to simplify situations to more or less objective standards.<sup>7</sup> In fact, the quality that makes literature different from abstract reasoning would be the very source of its philosophical interest.<sup>8</sup> The emotions that it evokes – abhorred by rationalist philosophers such as Plato as 'pollutions of the mind', only cured by rationalist philosophy as its 'anti-venom' – would 'not only turn out not to be more unreliable than intellectual calculations', but frequently even 'more reliable, and less deceptively seductive', embodying 'some of our most deeply rooted views of what has importance'.<sup>9</sup> Turning Plato's medical imagery upside down,

<sup>2</sup>R Descartes, *Discours de la Méthode* [1637] (Notre Dame Press, Notre Dame, IN, 1994) 86 ('maîtres et possesseurs de la nature').

<sup>3</sup>See esp Ph Nonet and Ph Selznick, *Law and Society in Transition. Toward Responsive Law* (Harper & Row, New York 1978) 53–72 for a pervasive description of 'autonomous law' as a system of general rules and principles that keeps great distance from its social context.

<sup>4</sup>Cf KM Crotty, *Law's Interior. Legal and Literary Construction of the Self* (Cornell University Press, Ithaca, NY, 2001) 86–89.

<sup>5</sup>See, for example, J Habermas, *Between Facts and Norms*, tr W Rehg (MIT Press, Cambridge, MA, 1996) 9 *et seq* on the immanent tension between facticity and legal validity.

<sup>6</sup>Cf, for example, P Ricoeur, *Oneself as Another*, tr K Blamey (University of Chicago Press, Chicago 1992), 1–23.

<sup>7</sup>MC Nussbaum, *Poetic Justice: The Literary Imagination and Public Life* (Beacon Press, Boston, MA, 1995).

<sup>8</sup>MC Nussbaum, *Love's Knowledge: Essays on Philosophy and Literature* (Oxford University Press, Oxford, 1990) 29.

<sup>9</sup>*Ibid.*, 40. For Plato's banishment of poetry and tragedy from his ideal city, see esp *Republic* 595a–608b, with poetry described as a 'pollution of the mind' (*lôbê tês dianoias*) and rational philosophy as its only

Nussbaum presents the literary imagination as a proper ‘therapy’ against the afflictions of one-sided rationalism. Augmenting our ability to think of ourselves in other people’s positions and to ‘transcend our disgust’, literature may sharpen moral judgement by extending our experience and making us ‘reflect and feel about what might otherwise be too distant for feeling’, invoking empathy even for social outcasts such as Philoctetes and foreign witches such as Medea.<sup>10</sup> Intent on broadening the field of the legally relevant, the literary imagination typically obfuscates modern law’s many boundaries and distinctions, arousing awareness of the limits of legal language and restoring law to the unreduced complexity of the social world to which it pertains.<sup>11</sup>

That is not to say, of course, that separative law is all wrong. Arguably, law can only perform its stabilizing and coordinating function by taking up a somewhat distanced position, erecting clear limits and refusing to be completely absorbed by the particularity of social conflict. In a way, law’s blindness to the intricacies of the phenomenal world is precisely its point.<sup>12</sup> Only from a more or less detached position may law authoritatively discern between mine and thine, public and private, law and morality, convincingly positioning itself as a neutral institution that is elevated above the clash of interests in society. Separative law’s ideal judge is a ‘cool examiner of human nature, who knows how to collect in one point the actions of a multitude’.<sup>13</sup> Unmoved by personal considerations, he makes sure that his verdicts are ‘in accordance with what the law requires’, sticking to a fixed set of general rules and principles.<sup>14</sup> Careful not to become a part of the conflict himself, he presents himself as the objective spokesman of a received, impersonal justice, only taking account of the facts of a given case as long as they are legally relevant.<sup>15</sup> Admittedly, the separative model of adjudication may give way to a ‘passive injustice’ that remains blind to substantive differences, reluctant to interfere with controversial societal issues and refusing to engage in full-blown scrutiny of the circumstances of each

‘anti-venom’ (*pharmakon*) at 595b. On Plato’s pharmacy at work, see esp J Derrida, *Dissemination*, tr B Johnson (University of Chicago Press, Chicago, 1981) 61–172.

<sup>10</sup>With regard to the ‘transcendence of disgust’ for Sophocles’ Philoctetes, see MC Nussbaum, *Political Emotions. Why Love Matters for Justice* (Belknap Press, Cambridge, MA, 2013) 257 *et seq*; for a similar argument regarding Seneca’s Medea, see MC Nussbaum, *Therapy of Desire: Theory and Practice in Hellenistic Ethics* (Princeton University Press, Princeton, NJ, 1994) 439 *et seq*; for an extensive overview of Nussbaum’s thoughts on empathy and compassion, see esp her *Upheavals of Thought: The Intelligence of Emotions* (Cambridge University Press, Cambridge, 2003) 297 *et seq*.

<sup>11</sup>*Cf.* for example, JB White, *The Legal Imagination*, abridged edn (University of Chicago Press, Chicago, 1985) 71 *et seq*; J Gaakeer, *Hope Springs Eternal: An Introduction to the Work of James Boyd White* (Amsterdam University Press, Amsterdam, 1998) 15–36, with further references. See also RM Cover, ‘The Supreme Court 1982 Term. Foreword: Nomos and Narrative’ (1983) 97 *Harvard Law Review* 4: ‘We inhabit a *nomos* – a normative universe. We constantly create and maintain a world of right and wrong, of lawful and unlawful, of valid and void. ... The rules and principles of justice, the formal institutions of the law ... are, indeed, important to that world; they are, however, but a small part of the normative universe that ought to claim our attention.’

<sup>12</sup>Crotty (n 3) 84.

<sup>13</sup>C Beccaria, *On Crimes and Punishments* [1764] (Transaction Publishers, New Brunswick, NJ 2016) 7–8.

<sup>14</sup>J Rawls, *A Theory of Justice*, rev edn (Harvard University Press, Cambridge, MA, 1999) 355.

<sup>15</sup>Nonet and Selznick (n 3) 57.

particular case.<sup>16</sup> To a certain extent, however, such passive injustice is inevitable. Caught in constant oscillation between the demand for stability and predictability on the one hand and the need to take proper heed of the complexity of the particular on the other, law is destined to remain inadequate, often leaving us with 'residues of justice' that inevitably remain burdensome.<sup>17</sup>

In this regard, law seems to be in a tragic position. Swallowing too much of Plato's rational anti-venom, it is at risk of losing contact with our phenomenal 'life-world', replacing the communicative rationality and the normative grammar with which we are intuitively familiar with the abstract ratiocinations of pure reason. Imposing its many distinctions and concepts upon us from its detached position, unbalanced rationalist law may disconnect us from our natural surroundings, subjecting us to a fixed set of general rules and principles instead. On the other hand, however, a 'therapy' that consists of total immersion in the intricacies of the particular does not seem to offer a viable solution either. To a certain extent, law's many categories and definitions, the conceptual screen through which it filters reality – in other words, its method of abstractive reduction – seem to be a constitutive part of what law is. The desire for perfect justice can never be completely satisfied. In order to perform its coordinating function, law seems to have no choice but to neglect arguably relevant particulars; entirely overwhelmed by reality's endless complexity, it could never maintain public order.<sup>18</sup> Thus, law's position seems to resemble that of a tragic hero such as Agamemnon, confronted with a dreadful dilemma: he and his army could only sail to Troy if he chose to sacrifice his daughter. Should he become a deserter, giving up the alliance? Or should he pollute his hands with his own daughter's blood? There is no flawless judgement to be made, as 'none of these is without evils'.<sup>19</sup> No art or science is available to cure that tragic predicament.<sup>20</sup>

Aspiring to find ways for law to escape from its tragic position, philosophy invented several harmonizing strategies that aim to resolve law's inevitable failure to deliver total justice. A prominent harmonizing approach makes use of the Hegelian concept of *Sittlichkeit* ('ethical life'), understood as a contextualist account of law and morality in which the universal claims of one-sided rationalism are reconciled with the equally one-sided fancies of romantic particularism. Awarding tragedy a place at the heart of his thought, Hegel builds his moral and legal philosophy especially around Sophocles' *Antigone*, with that play purportedly portraying both elements of *Sittlichkeit* at work as

<sup>16</sup>J Shklar, *The Faces of Injustice* (Yale University Press, New Haven, CT, 1990).

<sup>17</sup>I van Domselaar, *The Fragility of Rightness: Adjudication and the Primacy of Practics* (PhD thesis, University of Amsterdam 2014) 68.

<sup>18</sup>*Cf.* for instance, M Minow, *Making All the Difference: Inclusion, Exclusion and American Law* (Cornell University Press, Ithaca, NY 1990) 19 *et seq* on the unsolvable dilemma of difference.

<sup>19</sup>Aeschylus, *Agamemnon* 211.

<sup>20</sup>See also MC Nussbaum, *The Fragility of Goodness: Luck in Greek Ethics and Philosophy*, rev edn (Cambridge University Press, Cambridge, 2001) 35.

separate and equal 'ethical powers' (*sittliche Mächte*). Departing from theological readings of Antigone as a pious martyr and Creon as her cruel opponent, Hegel sees Creon defending the 'abstract right' of the public order, whereas Antigone would adhere to a 'universalized subjectivism' that absolutizes her heartfelt duties to the deceased members of her family. The tragic downfall of both protagonists is attributed to their short-sightedness, blind as they are for legitimate aspects of their opponent's point of view and only subscribing to a more complete picture of law and justice when it is already too late. The readers and spectators of the play, however, would be left with a cathartic imprint of 'absolute justice', having witnessed the workings of an immanent 'Spirit' that brings abstract right and subjective morality together in a higher synthesis in which both are relieved of their previous irreconcilability.<sup>21</sup> Describing Sophocles' *Antigone* as 'one of the most sublime, and in every respect most excellent works of art of all time', Hegel thus presents the play as a solution for law's tragic inadequacy, paradoxically drawing on tragedy to exorcize its tragic nature.<sup>22</sup>

In this article, I will explain why Hegel's analysis of Sophocles' *Antigone* – fiercely opposed by later generations of scholars and philosophers such as Kierkegaard and Heidegger – is still of central importance, making the case for both Creon's and Antigone's one-sidedness and equal moral standing as key elements of my interpretation of the play. Unlike Hegel, however, I resist the idea that Sophocles' *Antigone* entails the promise of 'ethical life' in which the conflict between abstract right and subjective morality can be finally resolved. Instead, I believe that the play rather teaches us that we are caught in a universe that we do not really understand and which is guided by ambiguity and contradiction rather than rational principle and synthetic harmony. As Julen Etxabe has argued with great force and acumen in his recent analysis of Sophocles' *Antigone*, the play seems to depict a clash of two legal narratives or 'normative worlds', the demands of which are mutually incompatible.<sup>23</sup> On the one hand, Sophocles' *Antigone* seems to offer a cure for what Axel Honneth has diagnosed as the 'pathologies of reason', attributing various misdevelopments, distortions and deformations of modern social life to a one-sided emphasis on rationalist social and political philosophy.<sup>24</sup> At the same time, the play may provide a proper anti-venom

<sup>21</sup>See, for example, M Thibodeau, *Hegel and Greek Tragedy*, tr HJ Wilhelm (Lexington, New York, 2013) 99–116, with further references.

<sup>22</sup>GWF Hegel, *Aesthetics. Lectures on Fine Art*, tr TM Knox (Oxford University Press, Oxford, 1975) 464. See also G Steiner, *Antigones: The Antigone Myth in Western Literature, Art and Thought* (Clarendon Press, Oxford, 1984) 4.

<sup>23</sup>J Etxabe, *The Tragic Experience of Judgment* (Routledge, London, 2013) 88.

<sup>24</sup>A Honneth, *The Pathologies of Reason*, tr J Ingram et al (Columbia University Press, New York, 2009) 19–42; for modernity's 'misdevelopments' (*Fehlentwicklungen*) and 'distortions' (*Verstörungen*), see esp A Honneth, *Freedom's Right: The Social Foundations of Democratic Life*, tr J Ganahl (Polity Press, Cambridge, 2014) 71, 86–88, 113.

against a radical subjectivism that puts its faith entirely in heartfelt personal convictions, downplaying the importance of rational legitimization and external accountability.<sup>25</sup> Ultimately, however, the play does not promise us any mysterious synthesis of 'ethical life' in which law's tragic predicament of falling short on total justice is finally resolved.

## 2. Creon's civilized order

Let us start our analysis of the play with law and justice as it is envisioned by Creon, whom the elder Thebans of the Chorus recognize as the legitimate 'new ruler of the city by the new fortunes that the gods have given' (155–56).<sup>26</sup> As its new king, Creon finds Thebes in utter disarray, shaken by the many disasters that have fallen upon the city and its ruling house – with Laius' death, the ensuing plague, Oedipus' incestuous marriage and tragic downfall, and the common doom of Eteocles and Polynices not even giving the complete list. 'Born to the same father in one day' (144–45), Eteocles and Polynices – Oedipus' sons – fought each other in a fierce battle at Thebes' seven gates. 'Setting against each other their twain conquering spears', they were 'sharers in a common death' (147), with their 'mutual hands' shedding 'kinsman's blood' (55–56). As they enter the scene, the elders of the Chorus sing a song in which they explain how a 'white-shielded warrior, coming from Argos in his panoply ... like a shrill-screaming eagle ... flew into our land ... with an armed throng and plumage of helms' (112–15). 'Pausing above our dwellings', the enemy – set forth against his own land by Polynices, aspiring to overturn the regime of his own brother – 'ravened around our sevenfold portals', ready to 'seize our towers' with his 'jaws glutted with gore' (120–22). At last, however, the enemy was driven away by the 'spears that thirst for blood' of Thebes' heroic defenders, backed up by Zeus who 'abhors the boasts of a proud tongue', smiting the attacker as he 'was now hasting to shout victory at his goal upon our ramparts' (127–33). After Eteocles' death, Creon is hailed as the city's new king, inheriting the throne as Eteocles' nearest surviving kin (174).

In his speech as he enters the stage, Creon presents himself as the champion of a civilized order that protects its subjects against the imminent dangers of nature. Steering the 'vessel of the state' to safer waters, Creon demands absolute priority of the common good above private interests; only in that way will the 'ship of state' withstand the turbulent 'sea of troubles' that constantly threatens to overthrow it. Creon would never 'deem the

<sup>25</sup>Cf Etxabe (n 23) 188, arguing that Sophocles' *Antigone* invites the 'judicious spectator' to adopt a 'full recognition of normative pluralism' that acknowledges that 'modern pluralist societies harbor not one single and unifying legal order, but many, each with its own foundational myths and narratives that establish the self-referential priority of their own normative order'.

<sup>26</sup>All references to Sophocles' *Antigone* are to the Greek text of H Lloyd-Jones, *Sophoclis Fabulae* (Clarendon Press, Oxford, 1990). Translations are mostly emended from RC Jebb, *Antigone* (Cambridge University Press, Cambridge, 1900).

country's foe a friend or kinsman [*philos*] to himself', being aware that human life can only prosper in a prosperous city (187–90). If any man 'makes a friend or kinsman of more account than his fatherland', that man has no place in his regard (182–83). As the city's 'supreme guide' (178), Creon decrees that Eteocles – who died fighting for the city – shall be entombed and crowned 'with every rite that follows the noblest dead to their rest'. With regard to Polynices, however, he proclaims that 'none shall grace him with sepulture or lament', leaving him 'unburied, a corpse for birds and dogs to eat, a ghastly sight of shame' (204–06). Such is Creon's 'way of thinking' (*phronēma*); reason requires him to govern the city in disregard of the very 'closeness of kinship' that put him on the throne in the first place (174). As the city's ruler, Creon feels bound to forfeit loyalty to his friends and family (ie his *philoī*) in favour of the public order, thus avoiding suspicions of partiality and nepotism. As he proudly proclaims, 'never, by deed of mine, shall the wicked stand in honour before the just', whether they are close to him or not. Whoever – like his nephew Polynices – takes up the arms against his own city, seeking to 'consume the shrines of his fathers' gods with fire', shall be justly punished (199–204), whereas 'whoever has good will to Thebes' – like Eteocles – will stand in honour, both in life and death (207–10). Such are the rules by which Creon aspires to make the city great again (*tēnde auxō polin*, 191); as the elders of the Chorus acknowledge, he is the sovereign ruler of Thebes and is thus in the position to ordain any law that he wants (213–14).

Referring to a literary tradition that starts with Homer's *Iliad*, many commentators have argued that Creon's decree is transgressive because it is at odds with some divine law that prohibits the non-burial of the bodies of vanquished opponents at war.<sup>27</sup> It is true that it was a pan-Hellenic holy custom – not to say a universal value of justice – to award funeral rites even to the fallen foe.<sup>28</sup> Polynices, however, is not merely an enemy, but a traitor, the instigator of a civil strife that undermined the integrity of his house (*oikos*) and city (*polis*) as the two social circles that were generally held to be essential for the proper schemes of human life.<sup>29</sup> The tragedy's original audience should not be supposed to have believed that Creon's decree was a mistake from

<sup>27</sup>The mutilation and non-burial of enemies are usually described by Homer as transgressive outrages of the victor; see, for example, *Iliad* 16.457, 16.675, 23.9, 24.411 *et seq*; *Odyssey* 24.190, 24.296, on which pre-eminently CP Segal, *The Theme of the Mutilation of the Corpse in the Iliad* (Brill, Leiden, 1971). Such passages (also found in tragedy, eg Sophocles' *Aias*, 1332 *et seq*) led scholars like Jebb to the conclusion that Creon's decree should be viewed as 'a shocking breach of that common piety which also the most exasperated belligerents regularly respected', overlooking that Polynices is not merely an enemy, but first and foremost a traitor attacking his own city. See Jebb (n 26) xxii–xxiii.

<sup>28</sup>The Greeks ascribed the ancient maxim that conquerors are bound to allow the vanquished to bury their dead is either ascribed to Theseus (Plutarch, *Theseus* 29) or Heracles (Aelianus, *Varia Historia* 12.27). See also Euripides, *Supplikes* 524 *et seq* for Theseus' intervention to secure the burial of the Seven against Thebes. A full account of the ancient evidence can be found in DA Hester, 'Sophocles the Unphilosophical: A Study in the "Antigone"' (1971) 24 *Mnemosyne* 11–59, esp appendix C on 54–55.

<sup>29</sup>*Cf.* for example, Ph Holt, 'Polis and Tragedy in the "Antigone"' (1999) 52 *Mnemosyne* 663–66, with further references.

the outset.<sup>30</sup> As we can discern from various sources, it was quite common in ancient Attica to leave the bodies of traitors and other heavy criminals unburied, exposing their rotting corpses as a warning to those who may pass by.<sup>31</sup> With the recent horrors that have befallen the city still in mind (so vividly described in their own opening song), the elders of the Chorus do not react unfavourably to Creon's decree, although they hesitate to concede to Creon's request that they should be guardians of his mandate (215–16). Some scholars have argued that Creon may have been justified in disallowing Polynices' burial in Theban soil, but still committed an outrage because he did not cast Polynices' body beyond the borders of the state to be buried elsewhere.<sup>32</sup> Plato's *Laws*, for instance, prescribe that those guilty of fratricide should be 'killed and cast out naked at an appointed cross-roads outside the city' to be mutilated by 'magistrates acting on behalf of the state'; after this their corpses should be 'carried to the borders of the land and cast out' (873b). With Oudemans and Lardinois, however, I would note that such sophistry is not an issue in the play, as 'nobody tells Creon he should have had Polynices buried elsewhere, not even [the infallible prophet] Tiresias'.<sup>33</sup>

Although Creon's performance as a ruler does not seem to be inherently wrong, it is certainly not unproblematic in its one-sided emphasis on the common good above all else. In his frantic efforts to restore Thebes to its greatness, Creon is one-sidedly intent on the idea of law as man-made order that resists nature's 'war of all against all'. In constant fear of a clash of private interests that could instigate such a war, Creon champions the unequivocal prevalence of the *polis* over the *oikos*, suppressing all emotions that may prompt him to be loyal to his house rather than to his city.<sup>34</sup> In his discussion with his son Haemon, who comes to bid Creon to save Antigone as his future wife, Creon explains that to kill her is the only way to remain faithful to the city; her open disobedience to his orders would leave him no other choice (657–58). In fact, Creon urges Haemon to 'rescue the girl' as well (653–54), encouraging him to trust his 'good sense' (*phrenes*) rather than having his

<sup>30</sup>See also D Cairns, *Sophocles: Antigone* (Bloomsbury, London 2016) 38–39, noting, however, that '[t]here can be . . . no doubt that Creon's prohibition of burial is ultimately shown to be wrong' (emphasis added).

<sup>31</sup>See, for example, Plato's *Republic* 439d–440a for the well-known example of Leontius who could not refrain from looking at the disgusting sight of decaying corpses along the road to Piraeus. The evidence is well collected and presented in a series of publications by Sourvinou-Inwood. See, for example, C Sourvinou-Inwood 'Assumptions and the Creation of Meaning: Reading Sophocles' *Antigone*' (1989) 109 *Journal of Hellenic Studies* 137–38, where she concludes that '[i]t was normal Athenian practice for traitors and certain other categories of transgressors to be denied burial', with the public degradation of their corpses serving to mirror the glorification of war-heroes at public funerals.

<sup>32</sup>See, for example, IM Linforth, 'Antigone and Creon' (1961) 15 *University of California Publications in Classical Philology* 191 *et seq*; Nussbaum, *Fragility* (n 16) 55, n 14; Cairns (n 30) 41–42.

<sup>33</sup>ThCW Oudemans and APMH Lardinois, *Tragic Ambiguity: Anthropology, Philosophy and Sophocles' Antigone*' (Brill, Leiden, 1987) 162. See also DA Hester, 'Sophocles the Unphilosophical: A Study in the "Antigone"' (1971) 24 *Mnemosyne* 20–21.

<sup>34</sup>Oudemans and Lardinois (n 33) 164–65; Nussbaum (n 20) 59–63.

mind beguiled by the erotic ‘pleasure of a woman’ (648–49). With his mind fixed on the civic common good, Haemon should treat her as a foreign enemy, repudiating her as a ‘dear one [*philos*] who has now turned out to be evil’ (652). As Creon has it, the absolute integrity of the city’s public order is the only way to guarantee its citizens’ safety. Therefore, he maintains that ‘whomsoever the city may appoint, that man must be obeyed, in little things and great, in just things and unjust’ (666–67). Whereas ‘obedience to the law’ (*peitharchia*) would make cities great, ‘disobedience’ (*anarchia*) would ‘break up the ranks of allies’ and destroy human life, ‘ruining cities [*poleis*] and making houses [*oikous*] desolate’ (673–75). In his tireless efforts to defend the public order against the disruptive force of private interests, Creon is particularly concerned about the divisive power of money as a ‘ruinous institution’ that ‘lays cities low’ and ‘drives men from their homes’ (295–97). His constant fear of corruption (with even Tiresias falling under suspicion) should not merely be understood as a sign of dictatorial paranoia, but also as a manifestation of his zealous efforts to save the civilized public order from a return to a ‘state of nature’ that only knows of conflicting private interests.<sup>35</sup>

### 3. ‘Self-consciousness’

In his seminal analysis of Sophocles’ *Antigone* in his *Phenomenology of Spirit*, Hegel labels Creon’s understanding of law and justice as the one-sided product of rationalist ‘self-consciousness’, setting up the state as a procedural order, an artificial construct with the Hobbesian idea of the unbound human subject as its most basic fundament.<sup>36</sup> In order to maintain itself, the civilized order is intent on breaking up cultural and historical contingencies as obstacles to the ruler’s ability to protect its subjects against nature’s ‘war of all against all’. Disregarding the ‘immediate knowledge’ of unreflected attachment to others, Creon would cling to nothing but the ‘abstract indefiniteness’ of reason as a force that is committed to ‘the overthrow of all existing and given circumstances’.<sup>37</sup> Constructing itself ‘on the basis of pure thought

<sup>35</sup>Cf B Honig, ‘Antigone’s Laments, Creon’s Grief: Mourning, Membership and the Politics of Exception’ (2009) 37 *Political Theory* 5–43, who explains Creon’s fear of corruption from his capacity as the representative of a democratic era of citizens and money replacing the old times of aristocratic values and status.

<sup>36</sup>See A Paolucci and H Paolucci, *Hegel on Tragedy* (Anchor Books, New York, 1962) for a useful collection of translated primary texts of Hegel on tragedy. On Hegel’s interpretation of Sophocles’ *Antigone*, see esp Thibodeau (n 21); Steiner (n 22) 19–42; J Billings, *Genealogy of the Tragic: Greek Tragedy and German Philosophy* (Princeton University Press, Princeton, NJ, 2014) 161 *et seq*; AC Bradley, ‘Hegel’s Theory of Tragedy’, in A Paolucci and H Paolucci (eds), *Hegel on Tragedy* (Anchor Books, New York, 1962) 367–88; J Butler, *Antigone’s Claim: Kinship between Life and Death* (Columbia University Press, New York, 2000).

<sup>37</sup>GWF Hegel, *Outlines of the Philosophy of Right*, ed S Houlgate, tr TM Knox (Oxford University Press, Oxford, 2008) §258.

alone', a republic such as Creon's would oppose itself to family ties, downplaying them to prevent a return to the state of nature. Inevitably, rational 'self-consciousness' as it is represented by Creon would aim to absorb the familial sphere into its own orbit, reducing the human subject to its capacity as 'burgher' and denying its substantial particularity as a private 'bourgeois'.<sup>38</sup> For Hegel, Sophocles' *Antigone* illustrates the devastating effects of such reductive reasoning. Obsessed with the abstract integrity of the civilized order, Creon is blind to the private sphere as the necessary complement of the public order. Constantly emphasizing the importance of the 'ship of state' as the only hope to protect the state's citizens against the wildness of nature, he disregards the equal importance of the family's integrity for the survival of the state. In his neglect of the private dimension of existence, Creon ultimately destroys his own family. As it turns out at the end of the play, he has not only executed Antigone, but has also driven his son and wife to suicide – not only making his house (*oikos*) desolate, but also ruining his city (*polis*), robbing it of the heroes that stained it, but also made it great.<sup>39</sup>

Many commentators understand Hegel's interpretation of Sophocles' *Antigone* as an analysis of what happens as a result of a clash between 'human law', represented by Creon, and 'divine law' as it would be epitomized by Antigone.<sup>40</sup> That analysis derives from a mistaken conception of what is meant by 'human' and 'divine' law in Hegel's *Phenomenology of Spirit*, that stages 'the human law' (*das menschliche Gesetz*) as 'conscious law' and 'divine law' (*das göttliche Gesetz*) as 'the immediate essence of the ethical sphere', accessible to us only as the unreflected knowledge of intuition.<sup>41</sup> Even Derrida is led astray when he assumes that 'la loi humaine' in this regard is merely 'faite par l'homme', whereas 'la loi divine' is of a more elevated nature.<sup>42</sup> Such readings misunderstand Hegel's fundamental stance on any human endeavour – including his own philosophizing – as inherently situated in its own time, the emanation of the workings of an immanent 'Spirit' that moves history towards its 'telos' of absolute freedom.<sup>43</sup> In all its devastating force, these workings also comprise the hubristic notion of the state as an artificial construct, a 'civilized order' that has come to stand apart from nature. The artificial state is a 'work of art' that has been put together by a rational 'consciousness' that should not be regarded as some strictly 'noumenal' or 'transcendental'

<sup>38</sup>GWF Hegel, *Phenomenology of Spirit*, tr AV Miller (Oxford University Press, Oxford, 1977) 269: '[B]ear[ing] on the truly universal, the community ... has, rather, a negative relation to the family. It consists in expelling the individual from the family, subduing its natural aspect and separateness of existence, and training him to be virtuous, to a life in and for the universal.'

<sup>39</sup>Cf 673–75, in which Creon dismisses anarchy (*anarchia*, 672) as an evil force that 'ruins cities and makes houses empty' – precisely the effects of his one-sided emphasis on the importance of absolute obedience to his rule, ie on a system that ascribes absolute weight to law and order (*peitharchia*, 676).

<sup>40</sup>See, for example, Nussbaum (n 20) 67–68.

<sup>41</sup>Hegel (n 38) 266–78.

<sup>42</sup>J Derrida, *Glas* (Galilée, Paris, 1974) 161.

<sup>43</sup>Steiner (n 22) 34.

subject at a distance from or independent of temporal reality, but, instead, as a crucial and integral part of that reality.<sup>44</sup> In all its 'fury of destruction' (*Furie des Zerstörens*), the rise of consciousness is still a 'delightful sunrise', an essential step of the spirit on its way to the realization of freedom – albeit finally counterbalanced by the particularity of mere unreflected 'being' on the higher synthetic level.<sup>45</sup> The 'self-scission' of the absolute, as Hegel envisions it, could also be recognized in the Greek pantheon as it is evoked in Sophocles' *Antigone*. Whereas Creon represents the Olympian 'Tagesgötter', Antigone is connected to the 'chthonic Gods' who have their dwellings in the dark earth. To say that one of those parties is 'more right' or 'more divine' than the other is a mistake; neither can claim to prevail above the other.<sup>46</sup>

Hegel's analysis of Creon's perspective on law and justice as one-sidedly depending on human reason but equally 'divine' as Antigone's stance on those matters finds solid ground in both the play itself and in Greek thought about law and religion in general. The Chorus repeatedly invokes Zeus as the supreme god who sustains a civilized order, abhorring any rebellious behaviour that may threaten such order from the inside. While vowing to execute anyone who may violate his decree not to bury Polynices, Creon appeals to Zeus as the ultimate defender of the established order – that is, to Zeus Basileus (Zeus in his capacity as king), revered and worshipped as the prime defender of harmonious order throughout Greece in cultic fashion (304–05).<sup>47</sup> Alongside Zeus as the emblem of human and divine order (*kosmos*), we find his daughter Dikē as the goddess of justice, relentlessly punishing evildoers and rewarding benefactors as a crucial instrument of both political and cosmic order.<sup>48</sup> Therefore, it comes as no surprise when the Chorus – lamenting Antigone when she is led away to be buried alive – determines that Antigone has 'rushed forward to the utmost verge of daring' and must now succumb to 'that throne where Dikē sits on high' (853–54).<sup>49</sup> However, there is far more to the divine realm than the rational order as it is established by Zeus and the other Olympian Gods alone. For

<sup>44</sup>Cf, for example, T Pinkard, *Hegel's Phenomenology: The Sociality of Reason* (Cambridge University Press, Cambridge 1994) 331 *et seq.*

<sup>45</sup>GWF Hegel, *Vorlesungen über die Geschichte der Philosophie*, ed E Moldenhausner and KM Michel (Suhrkamp, Frankfurt am Main, 1979) 529.

<sup>46</sup>See, for example, Hegel (n 22) 464, where Hegel explains that Antigone worships the 'underworld gods of Hades', the 'inner gods of feeling, love, and kinship', whereas Creon appeals to the 'daylight gods of free self-conscious national and political life'. Cf *ibid.*, 1213: 'Antigone honours the bond of kinship, the gods of the underworld, while Creon honours Zeus alone, the dominating power over public life and social welfare.'

<sup>47</sup>For Zeus Basileus, see, for example, W Burkert, *Greek Religion*, tr J Raffan (Blackwell, Oxford, 1985) 125–31, also drawing attention to the political capacities of Zeus as Zeus Polieus and Zeus Boulaios; for the Boeotian cult Zeus Basileios, see E Mackil, *Creating a Common Polity: Religion, Economy and Politics in the Making of a Greek Koinon* (University of California Press, Berkeley, 2013) 207 *et seq.*

<sup>48</sup>Burkert (n 47) 130.

<sup>49</sup>Jebb (n 26) 157 explains *Dikē* here wrongly as 'the law of the State – not those [divine laws] which Antigone prefers to obey', thus completely ignoring the interconnectedness of the human and the divine that pervades ancient Greek thought. See also Oudemans and Lardinois (n 33) 191.

one thing, there is the ambiguous – both fostering and devastating – force of Love (*Erōs*), whom ‘no immortal can escape, nor any among men whose life is for a day’ (786–87). Moreover, the Olympians as ‘the Gods above’ have no authority in the mysterious realm of death as the domain of ‘the Gods below’. As Tiresias assures us, the burial of the dead falls within the jurisdiction of ‘the Gods infernal’ – the dark and raging powers that are frequently invoked by Antigone (1068–76).<sup>50</sup>

The order established by men in the realm of the living is of a similar nature. Like the Olympian Gods, humans are caught in a constant fight against natural powers from which they cannot break loose, jeopardizing and fostering their existence at the same time. On the one hand, the civilized order of the *polis* has to be kept free from forces of nature, protecting its citizens from confusion and destruction. On the other hand, however, it should be acknowledged that the human order can never *transcend* nature – in fact, the human ‘consciousness’ aiming to control and restrain nature is *itself* a natural force, fundamentally unable to overstep that nature of which it is itself an integrated part. The human spirit may be ‘self-aware’, but it can never obtain ultimate control over, or objective knowledge about, the ‘unalienated spirits of nature’, for human consciousness cannot be ‘detached’ from nature so as to critique and dominate it from some external vantage point.<sup>51</sup> Without the substance of being, in fact, consciousness would be empty and thus not able to subsist. In related vein, the Chorus in Sophocles’ *Antigone* sings of man’s ‘furious moods that build a state’ (*astunomous orgas*, 354–55), referring to the wild human temperament that urges him to construct a civilized order that protects him from nature. The phrase underlines the paradoxical character of natural wildness, for man has to expel the wildness of nature from civilization whilst acknowledging that wild nature supplied the urge and strength to build the walls of the very civilization by which wildness is excluded.<sup>52</sup>

#### 4. ‘Immediate knowledge’

What, then, about Antigone’s conception of law and justice? In her discussion with her sister Ismene that opens the play, Antigone expresses her extreme and unreflected loyalty to her family above anything else. The tragedy’s

<sup>50</sup>Burkert (n 47) 199–203.

<sup>51</sup>Hegel (n 38) 261, referring to *Antigone* 456–57: ‘They are not of yesterday or today, but everlasting/ Though where they came from, none of us can tell’; in Hegel’s view, this applies both two written and unwritten, ‘human’ and ‘divine’ law, with the one no less than the other reflecting the workings of Spirit.

<sup>52</sup>Cf Oudemans and Lardinois (n 33) 91: ‘Man has to expel natural power from nature, but also needs this power to uphold it’. See also L van den Berge and Ch Caspers, ‘The Right and the Good in Aeschylus’ *Oresteia* and Yael Farber’s *Molara*: Transitional Justice between Deontology and Teleology’ (2015) 11 *Utrecht Law Review* 93 for the essential position of the Furies, goddesses of chaos and destruction, at the heart of the Athenian legal order.

very first words construct an evocative periphrasis by which Antigone addresses her sister as ‘common head of Ismene, sharer of the self-same womb’ (*ō koinon autadelphon Ismēnēs kara*, 1) – an expression that is as strange as it is affectionate.<sup>53</sup> The raging way in which Antigone addresses her sister in the opening lines of the play sets the tone for the drama as it unfolds. Ismene’s repeated attempts to mend her sister’s frenzy and bring her to reason come to no avail; Antigone remains completely obsessed with her heartfelt duty to bury her brother Polynices, with or without Ismene’s help. Strongly determined to remain faithful to the deceased members of her *oikos* and the Gods that live below, she does not shiver at the idea of being put to death. The prospect of dying and resting ‘as a loved one [*philē*] with whom I have loved’ (*philou meta*, 73), ‘over-bold in my holy crime’ (*hosia panourgasasa*, 74), even appeals to her, expecting that her deed will bring her the eternal fame that will ultimately enable her to transcend death. Ismene urges Antigone to think straight (*phronēson*, 49; *ennoein chrē*, 61) and to abandon her foolish plan.<sup>54</sup> Bidding Antigone to avoid all ‘risk’ (*kinduneuma*, 42), Ismene begs her to acknowledge that women are not supposed to overstep the boundaries of their *oikos* and interfere with the *polis* established by men, as even the spirits of the underworld (*hoi hupo chthonos*, 65) would be able to understand. Devout in her persuasion that she can only honour the Gods by breaking the law, however, Antigone implores Ismene to leave her in her folly (*dusboulia*, 95) and permit her to suffer a glorious death. As Antigone has it, the prudent behaviour of her sister could only lead to an anonymous life in the dark, a wretched existence as an object of ‘justified hate’, culminating in a shameful death (94–97).<sup>55</sup>

Thus, as Antigone is caught by a guard while burying her brother, it is no surprise that she does nothing to conceal her act. Brought before Creon, she openly defies his edict as nothing more than one of these ‘proclamations of yours’ (*ta sa kerugmata*, 453–54), describing the prevailing civilized order as nothing more than a human construct, disregarding its origins in the divine *kosmos* established by the Olympian Gods. In her transgressive neglect of the divine nature of Creon’s public command as an integral part of a God-given order, Antigone one-sidedly emphasizes the importance of the ‘unwritten and unchanging ordinances of the Gods’ (*agrapta k’asphalē theōn*

<sup>53</sup>The translation is adapted from Cairns (n 30) 94. A literal translation leads to even stranger phrases like ‘Oh common self-sibling head of Ismene’.

<sup>54</sup>Note that Ismene constantly emphasizes the irrationality of Antigone’s desire, reminding her that she ‘loves the impossible’ (*amechanōn erās*, 90) while pursuing the impossible is highly inappropriate (*thērān ou prepei t’amēchana*, 92). In short, ‘there is no sense to reach what falls beyond our grasp’ (*to perissa prassein echei noun oudena*, 68).

<sup>55</sup>Cf. for example, Pindar, *Olympian* 1.81–85, giving voice to Pelops, who prepares to undertake great, but dangerous and possibly transgressive deeds: ‘Great risk does not take hold of any cowardly mortal. But if it is destined for humans to die, why should anyone sit around in the darkness and boil his life to a futile old age without a name, having no share in the beautiful things in the world?’

*nomima*, 454–55). Whereas human laws were generally regarded as reflections of divine law, Antigone dismisses Creon's edict as a 'product of the human mind' (*andros ... phronēma*, 438–39), a mere mortal thought that could ever stand apart from the divine.<sup>56</sup> Now that Zeus was 'not the one who has personally pronounced it' (*ou ... Zeus ēn ho kēruyas tade*, 450), the Gods would have nothing to do with Creon's edict. Unlike the Chorus, Antigone thus fails to acknowledge the important cult of Zeus Basileus, that is, of Zeus in his capacity as the defender of the human political order. Instead, she seems to focus upon Zeus Herkeios ('Zeus of the front court') as the God that defends the *oikos*.<sup>57</sup> Not only is Antigone in determined denial of the political order, but she also neglects Creon's status as her closest surviving male relative and, therefore, as her legitimate ruler not only in the sphere of the *polis*, but also (at least until her marriage) within the sphere of the *oikos*. Paradoxically, she can only stand up for her family by breaking a central obligation that holds the family together – the duty to acknowledge the absolute authority of Creon as its rightful head.<sup>58</sup>

Whereas Creon's stance on law and justice is one-sided in only acknowledging a substanceless rationality of formal procedures, Antigone is shortsighted in her obsessive claim to 'immediate knowledge' of 'unwritten and unchanging' moral principles as the determinants that guide her actions. In his *Philosophy of Right*, Hegel recognizes the importance of the 'principle of subjectivity' as an essential element of law and justice from which no legal order should distance itself. On the objective side, law should incorporate Kantian 'good will' as a 'pure' rational principle that is devoid of personal emotions and desires as the impure 'Triebfeder' that may lead humans astray.<sup>59</sup> In its tendency to draw the life out of the law, however, the Kantian approach should be counterbalanced by acknowledgement of the fundamental particularity of human life on the subjective side. Only in its concrete, partially unreflected and affectionate or otherwise impassioned relations to others may the human subject gain a particular identity,

<sup>56</sup>For the 'intertwinement of law and religion', see, for example, R Parker, 'Law and Religion', in M Gagarin and D Cohen (eds), *The Cambridge Companion to Ancient Greek Law* (Cambridge University Press, Cambridge, 2005) 61–81. The idea that *all* law is divine, the 'man-made law' of the state not excluded, is particularly well expressed in Demosthenes, 25.16: 'The law is that which all men ought to obey for many reasons, but above all because every law is an invention and gift of the gods, a tenet of wise men, a corrective of errors voluntary and involuntary, and a general covenant of the whole state, in accordance with which all men in that state ought to regulate their lives.'

<sup>57</sup>For the ambiguous nature of Zeus as both Zeus Basileus and Zeus Herkeios, see, for example, Burkert (n 47) 130. The double nature of Zeus seems to be explicitly thematized in 487, where Creon – who has repeatedly invoked Zeus as the defender of his legitimate regime in the *polis* – states that Antigone must die, even if she were 'even nearer to me in blood than any that worships Zeus Herkeios, defender of our house'. See also 558–59, in which Creon answers Ismene's plea on behalf of her sister with the cynical advice to 'let her appeal if she will to Zeus defender of kindred blood' (*ephumneitō Dia Xunaimon*, 658–59; note the vicious pun on Haemon's name).

<sup>58</sup>See also Cairns (n 30) 43; Oudemans and Lardinois (n 33) 167.

<sup>59</sup>Hegel (n 37) §5.

overcoming the empty indeterminacy of the 'rational self' as it is envisaged by Kant.<sup>60</sup> The right fundament of law should thus integrate 'pure' objective reason with the immediate knowledge of direct subjective experience.<sup>61</sup> One-sided emphasis on either of these two elements leads to destruction. Whereas the predominance of objective rationality tends to destroy all particularity, thus alienating the human subject from the life-world in which he finds a specific identity, the 'absolute title' of subjective conscience to know 'in itself and from within itself what is right and obligatory' would mean the end of the legal order as we know it.<sup>62</sup> In fact, taking one's 'own particularity' and one's subjective morality as an ultimate guide for one's actions, as Antigone does, is regarded by Hegel as an outright 'evil', or, in pathological terms, a delusional fantasy of self-grandeur and 'self-certainty', a dangerous 'inwardness of the will' that threatens the subsistence of all communal life.<sup>63</sup>

The destructive nature of Antigone's stance on law and justice clearly emanates from the play as it unfolds. In her blind allegiance to the deceased members of her *oikos*, Antigone is happy to 'die before her time' (461–62); now that 'many evils' have befallen her, she counts death nothing but a 'gain' (*kerdos*, 462, 464), a glorious deed (*ergon*, 542) that will be properly recognized as a heroic act by all those who live below. By choosing an early death, Antigone will die before having a share in the 'bridal bed and bridal rites', unmarried and childless, buried alive in a rocky cavern that will serve as a 'bridal chamber' (*parakoitēs thalamos*, 804) in which she can only hope to be 'Acheron's bride' (*Acheronti numpheusō*, 816). The Chorus recognizes the greatness of her deed, underscoring the praise (*epainos*, 817) that will befall Antigone 'both in life and death' (838). However, the Chorus also acknowledges the extreme sadness of her fate, as she prepares to die 'unwept, friendless and unwedded' (876), overwhelmed by Creon's authority that she has wrongfully overstepped and destroyed by the one-sidedness of her 'self-willed temper' (*autognōtos orga*, 875). As the Chorus has it, only a fool is 'enamoured of death' (*thanein erāi*, 220); a wise person combines the recognition of death and finiteness with the approval of life as a God-given feature of existence that is equally beyond his control.<sup>64</sup> Antigone's intention to 'lie with' (*keisomai*, 73) Polynices in excessive loyalty to her deceased brother borders on the incestuous; equally transgressive is her disregard for her duty to marry, join her husband's *oikos* and leave that of her own, attaching both families to the wider fabric of society and securing their continuity by procreation.<sup>65</sup> As a Hippocratic

<sup>60</sup>*Ibid.*, §6.

<sup>61</sup>*Ibid.*, §7.

<sup>62</sup>*Ibid.*, §136.

<sup>63</sup>*Ibid.* §§137–39.

<sup>64</sup>Oudemans and Lardinois (n 33) 168; Steiner (n 22) 263–66.

<sup>65</sup>Cairns (n 30) 104–07; JP Vernant, *Mythe et pensée chez les Grecs* (Maspero, Paris, 1965) 90. See also M Griffiths, 'Psychoanalysing Antigone', in SE Wilmer and A Zukauskaitė (eds), *Interrogating Antigone in Postmodern Philosophy and Criticism* (Oxford University Press, Oxford, 2010) 114, diagnosing Antigone

writer informs us, virgins who do not take a husband at the appropriate time for marriage are prone to fall prey to 'insanity' (*mania*), suffering from 'erratic fevers' that make them 'force evil on themselves'. The prescribed remedy consists of 'getting married and cohabiting with a man' as soon as possible; if they become pregnant, they are cured.<sup>66</sup> For Antigone, such treatment comes too late: she hangs herself in her rocky cavern before Haemon arrives to save her. Instead of being fertilized by Haemon's seed, she only receives 'the swift stream of his oozing blood' on her 'stained cheek' as he kills himself, falling on his own sword.<sup>67</sup> There they 'lie' (*keitai*), a 'corpse upon a corpse', achieving their 'marriage rites' (*nymphika telē*) in the house of Hades (1240–41).<sup>68</sup>

## 5. Ethical life

Both Creon's and Antigone's short-sightedness – with one-sided emphasis either on rational 'self-consciousness' or the 'immediate knowledge' of subjective conscience – subsides as both protagonists have their moments of recognition as the plot progresses. In her final speech to the Chorus before she is led away, Antigone seems to doubt the absolute rightness of her decision to choose life over death, now not scorning the importance of proper marriage rites and longing for a bridal bed in the underworld, but rather horrified by the prospect of dying alone (*erēmos*, 919) in wild nature, at great distance from anything civilized. Accordingly, Antigone acknowledges the importance of the *polis* as an essential social structure besides the *oikos*, only now recognizing the members of the Chorus as her fellow citizens (*ō gās patrōias politai*, 806), revering the Gods of the city (938) and admitting that she has acted in transgressive violence against its citizens (*biāi politōn*, 907).<sup>69</sup> On the

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with an 'Electra complex of the classic Freudian type, in that she remains trapped in a fixation on her father, and proves unwilling and unable to transfer her emotional attachment to an exogamous male replacement'.

<sup>66</sup>Hippocrates, *De Virginitus* (Littré 8.466–71); see H King, 'Green Sickness: Hippocrates, Galen and the Origin of the "Disease of Virgins"' (1996) 3 *International Journal of the Classical Tradition* 372.

<sup>67</sup>*Cf.* for example, Cairns (n 30) 106, who describes the scene as a 'bizarre triangle of love and death' that has Antigone united in death with Polynices and then Haemon.

<sup>68</sup>Note the repetition of *keimai* ('to lie with') in 1240, referring back to 73, where Antigone announces her intention 'to lie with' her brother Polynices. On the sexual connotation of *keimai* in both these passages, see, for example, Griffiths (n 65) 115; *cf.* also Cairns (n 30) 105, with further references.

<sup>69</sup>*Cf.* Nussbaum (n 20) 66; Oudemans and Lardinois (n 33) 186–93. Antigone's reversal is completely missed by commentators such as Jebb (n 26) xxiv, who see in Antigone 'a true heroine', a 'true woman, most tender-hearted, most courageous and steadfast', whose unwavering 'sense of duty' compels her 'in doing a deed for which she knows that she must die'. The neglect for Antigone's reversal explains many critics' unease with her arguments for staying faithful to Polynices in 904–20, described by Goethe as 'ganz schlecht'. While Antigone has given 'the most admirable reasons' for her conduct, she now puts forward reasons that would be 'unworthy of her', seeming to doubt the absolute justness of her cause. In Goethe's footsteps, many critics have felt confident in correcting the transmitted text, dismissing the passage as spurious on no other grounds. See the appendix in Jebb (n 26) 258–63, who decides that 'a great poet' such as Sophocles could never have written the passage. See on this matter also Steiner (n 29) 50 and, more detailed, M Cropp, 'Antigone's Final Speech' (*Antigone* 891–928) (1997) 44 *Greece and Rome* 137, analysing the contested passage as an integral part of Antigone's final speech before she leaves the stage.

other side, Creon recognizes that he was actually ‘full of malady’ (*nosou plērēs*, 1052) when he thought to be ‘of good counsel’ (*euboulias*, 1098, 1050), putting his full trust on his rational self-consciousness as his – as it now turns out – not so reliable guide. Cured from his one-sidedness by Tiresias and the Chorus, Creon is quick to acknowledge ‘the established laws’ (*katesthōtas nomous*, 1113) of the nether Gods that provide the natural substance that the human civilized order should never lose sight of. Like Antigone’s relief from her erratic frenzy, however, Creon’s reversal comes too late; as the Chorus remarks, he has ‘seen justice’ (*tēn dikēn idein*, 1270) only when he has already set the workings of a disastrous fate in motion, unable to rescue either his house or his city as he had done before.<sup>70</sup>

As Hegel explains, however, Sophocles’ *Antigone* offers timely guidance to its readers and spectators as a representation of an important step of the spirit on its way to ‘absolute knowing’. Staging the unfolding of ‘Spirit’, the play leaves us with a synthesis of Creon’s ‘self-conscious action’ on the one hand and Antigone’s representation of ‘simple and immediate essence’ on the other hand.<sup>71</sup> Thus, the play’s outcome lays the foundations for ‘ethical life’ that would reconcile the private individual’s particular essence with the public community as the artificial construct of consciousness in an ethical realm that acknowledges the specific value of both but takes away their incompatibility.<sup>72</sup> On the one hand, ‘ethical life’ offers a proper foundation for law and justice by providing it with concrete and heartfelt substance as the life of the law from which the procedural ‘abstract right’ remains deprived. On the other hand, it rises above ‘the subjective opinion and caprice’ (*das subjektive Meinen und Belieben*) of one-sided individual ‘morality’ as a threat to the public legal order.<sup>73</sup> Ethical life subscribes to Antigone’s claim to immediate knowledge of the laws, with the human mind unable to determine ‘where they came from’. At the same time, however, ‘the substance of ethical life

<sup>70</sup>See Oudemans and Lardinois (n 33) 193–201 for an interpretation of Creon’s reversal as a ‘repetition of Antigone’s, although not an exact replica’.

<sup>71</sup>Hegel (n 38) 268. See also GWF Hegel, *Lectures on the Philosophy of Religion*, tr EB Speirs (Kegan Paul, Trench, Trübner & Co, London, 1895) 264–65: ‘In tragedy, ... destiny operates within a sphere of ethical Justice. We find this expression in its noblest form ... in that absolute exemplum of tragedy, *Antigone*. Here, familial love, the holy, the inward, belonging to inner feeling, and therefore known as the law of the nether gods, comes into collision with the law of the State. ... Each of these two sides realises only one of the moral powers, and has only one of these as its content; this is the element of one-sidedness here, and the meaning of eternal justice is shown in this, that both end in injustice just because they are one-sided, though at the same time both obtain justice too.’ See also Hegel (n 22) 1163: ‘[T]he “spiritual power” of family piety is independently personified in [*Antigone*], while Creon is the independent personification of law and the state. The drama exposes the one-sidedness of both; and the tragedy is the result of the hostility arising from this one-sidedness, which is “dissolved” in the sense that both powers are ultimately and truly seen to be complementary and not independent of one another.’

<sup>72</sup>See, for example, Hegel (n 37) §142: ‘Ethical life (*Sittlichkeit*) is the idea of freedom in that, on the one hand, it is the living good – the good endowed in self-consciousness with knowing and willing and actualised by self-conscious action – while, on the other hand, self-consciousness has in the ethical realm its foundation in and for itself and its motivating end.’

<sup>73</sup>*Ibid*, §144.

also has a consciousness', that is to say, the 'objective and subjective moments are alike present', now not contradicting each other but brought together in a harmonious synthesis in which they are relieved of their previous one-sidedness.<sup>74</sup> In its ultimate form, 'ethical life' manifests itself in the Hegelian 'state' as a synthesis of the 'immediate substantiality' of the unit of the family (held together essentially by love) on the one hand and the wider sphere of the civil society as a 'stage of difference' (*Stufe der Differenz*) that rather relies on 'abstract right' on the other. As an 'ethical domain', the state is dominated neither by the *objective* standards of 'pure reason' nor by the one-sidedly *subjective* claims of inward-looking conscience; instead, its laws and institutions reflect the *intersubjective* nature of Hegelian ethics.<sup>75</sup>

In his reactualization of the Hegelian notion of 'ethical life' as a remedy against the modern inflictions of social life, Axel Honneth discerns between modern conceptions of law and justice that are based on substanceless proceduralism – such as Creon's – on the one hand, and those clinging to universalized subjectivism – as exemplified by Antigone – on the other. A mere procedural understanding of law would lead to an unhealthy 'legal formalisation of social relations' that induces subjects to hide behind their 'masks' (*personae*) of formal legal personality while rejecting the intersubjective obligations that were formerly accepted as self-evident.<sup>76</sup> One-sided procedural law would tend to misconceive both public and private legal powers as absolute, with negative 'legal freedom' taken as law's 'exclusive reference point'. Suffering from substanceless proceduralism, Creon-like we would focus on our role as 'bearers of rights and legal powers' to such an extent as to 'lose sight of the 'normative grammar' of ordinary social life. The emptiness of proceduralism induces an 'interruption of communication' (*Kommunikationsabbruch*) as a pathological way of interacting and solving our conflicts with others, giving preference to the reductive reason of formal legal dogmatics above the broader scope of the 'communicative rationality' with which we are intuitively familiar.<sup>77</sup> One-sided moral subjectivism would be equally destructive. As Honneth argues, a healthy understanding of law entails that we acknowledge that our relations to others are 'always already regulated by norms of action that we cannot control at will'. Only a pathological inwardness could result in a 'blindness' to intersubjective normativity that urges the individual to reduce his social world to nothing but 'a field of circumstances' that should be shaped in accordance with his own moral convictions as universal standards.<sup>78</sup> Only Honneth's updated version of

<sup>74</sup>Hegel (n 38) 261; see also Hegel (n 37) §144.

<sup>75</sup>Hegel (n 37) §§ 257–59. For an excellent account of the Hegelian state, see, for example, ZA Pelczynski, 'The Hegelian Conception of the State', in ZA Pelczynski (ed), *Hegel's Political Philosophy: Problems and Perspectives* (Cambridge University Press, Cambridge, 1971) 1–30.

<sup>76</sup>Honneth, *Freedom's Right* (n 24) 88.

<sup>77</sup>*Ibid.*, 86–88.

<sup>78</sup>*Ibid.*, 113–14.

Hegelian 'ethical life' – relieving both proceduralism and moral subjectivism from their one-sidedness and bringing them together in a harmonious synthesis – would provide a proper cure.<sup>79</sup>

## 6. Tragic ambiguity

But does Sophocles' *Antigone* really leave its readers and spectators with a cathartic imprint of harmonious 'ethical life'? An analysis of the 'tragic ambiguity' as it is conveyed most compellingly in the well-known 'ode to man' suggests something else. In the first stasimon, the Chorus sings of man as a most 'awesome' (*deinos*) being, with the original Greek adjective carrying positive and negative connotations at the same time.<sup>80</sup> In his 'awesomeness', man dares to 'cross the gray sea', even through the surging waves of winter (334–36). He is bold enough to scourge 'Earth, the eldest of the Gods', turning the soil with his plough (338–39). He, man excellent in wit (*perifradēs anēr*, 347), masters wild animals, tames furious horses and with his nets captures 'the light-hearted race of birds' and the 'sea-brood of the deep' (342–47). He has taught himself 'speech, and wind-swift thought and all the moods that mould a state [*polis*]', so that he is able to 'flee the exposure to frost' and the 'arrows of the rushing rain' (353–60). In other words: man is an animal that is capable of controlling nature to a degree that almost brings him on a par with the Olympian Gods, who spend their days 'unshaken by winds nor wet with rain', their 'safe abode' (*hedos asphales*) untouched by the harsh forces of nature.<sup>81</sup> Man is even cunning enough to find 'means of flight from baffling maladies'; only death is inescapable for him (361–64). Skilful 'beyond hope' (*huper elpida*) is the contrivance of man's art (*technē*, 366). However, his advances come 'sometimes to evil, other times to good'. Man can only be 'high in the city' (*hupsipolis*, 370) when he accomplishes the impossible by honouring the laws of the nether Gods and the Olympians at the same time. Whenever he acts in 'recklessness' (*tolmā*, 371) by choosing between those two he is at risk of losing his godlike position by becoming 'citiless' (*apolis*, 370), standing helplessly alone against the forces of nature, bereft of any of his proud resources against the harshness of nature.

The Chorus thus portrays the human condition as precarious, both glorious and fragile, determined by a logic of ambiguity and contradiction that does

<sup>79</sup>*Ibid.*, 131–32.

<sup>80</sup>Again, Jebb (n 26) 70 misses the point as he understands *deinos* as not 'dread', nor 'able', but 'wonderful', totally denying the ambiguity of 'progress and pessimism' (Cairns (n 30) 59) that pervades the ode. Literature on the 'ode to man' is vast; among its interpreters are not only classicists, but also writers and philosophers such as Hölderlin, Hegel, Kierkegaard, Heidegger and Lacan. See Cairns (n 30) 59 *et seq* for an overview of classical scholarship and 122 *et seq* for a handsome summary of its philosophical reception.

<sup>81</sup>Homer, *Odyssey* 6.42–45. See also Hesiod, *Theogony* 117–18 on the 'safe abode' (*hedos asphales*) where the Olympian Gods dwell in permanent security.

not seem to allow for synthesis in a 'cancellation of conflicts' between contradictory forces of human action.<sup>82</sup> Instead, the ode to man's 'tragic ambiguity' expresses a conflict that man inevitably has to live and die with.<sup>83</sup> Defenceless against the forces of nature on his own account, man has no choice but to use his skills (*technai*, 366) in developing all kinds of devices to help him to cultivate and control nature; without these devices, man 'meets nothing that must come' (*aporos ep' ouden erchetai to mellon*, 360–61). By using these skills, however, man is not only 'awesome' (*deinos*) in the positive, but also in the negative sense. In his dependence on his *technai* to survive, man has no choice but to overstep all kinds of sacred boundaries, potentially coming into conflict with divine forces.<sup>84</sup> Imposing his order on nature, man gains wealth by navigating the wild sea, neglecting Hesiod's pious advice to stay at home during stormy winter and instead confronting the sea's wildness as the waves wash over his ship.<sup>85</sup> He collects food while imposing his will on 'unwearing Earth' (*Gān akamatān*, 338–39), audacious enough to 'wear her out for his own gain' (*apotruetai*, 339).<sup>86</sup> Man's 'wind-swift intelligence' (*anemoën phronēma*, 353) has not only brought him the means to tame savage beasts, but also the ability to build a common political order that keeps him safe from the perils of nature. To the extent that he will be able to harmonize his political order with 'the justice that the Gods have sworn to uphold' (*theōn enorkon dikān*, 369), man may hope to stay 'high in his city' (*hupsipolis*, 370), untouched by violent nature like the Gods on Mount Olympus. Occasionally, however, the maintenance of his political order requires man to transgress his divine duties as the only hope for survival, even when this means that he runs the risk of setting in motion a divine resentment that ultimately leaves him 'citiless' (*apolis*, 370).

The fragility of the good human life as it is depicted in Greek philosophy and literature has been aptly described by Martha Nussbaum. Tragedy

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<sup>82</sup>Hegel, *Aesthetics* (n 40) 1215: '[T]he two sides that are in conflict with one another preserve the justification which both have, but what each upholds is one-sided, and this one-sidedness is stripped away. ... The true development of the action consists solely in the cancellation of conflicts as conflicts, in the reconciliation of the powers animating action which struggled to destroy one another in their mutual conflict.' Cf Nussbaum (n 20) 67.

<sup>83</sup>For 'tragic ambiguity' as a key concept in the philosophies of Nietzsche and Heidegger, see, for example, Oudemans and Lardinois (n 33) 221–33.

<sup>84</sup>The inevitability of conflict in Greek tragedy is particularly well described by Nussbaum (n 25) 33–38, describing Agamemnon's predicament of having to choose between two courses of action (abandoning his fleet or giving up his daughter) that both entail heavy doom, without any hope of keeping his hands clean.

<sup>85</sup>Hesiod, *Works and Days* 641–77: 'But you, Perses, remember all works in their season but sailing especially. ... Fifty days after the solstice, when the season of wearisome heat has come to an end, is the right time for ... sailing ... At that time the winds are steady and the sea is harmless. Then trust in the winds without care; ... but make all haste you can to return home again and do not wait till the time of the new wine and autumn rain and oncoming storms with the fierce gales of Notus who accompanies the heavy autumn rain of Zeus and stirs up the sea and makes the deep dangerous.'

<sup>86</sup>Mark the 'indirect-reflexive' use of the middle voice in *apotruetai*, signifying the special interest of the agent in the state of affairs in which he is involved.

shows man in his heroic aspiration to ‘rational self-sufficiency’, understood as the desire to make the human life ‘free from luck through the controlling power of reason’.<sup>87</sup> Paradoxically, however, the aspiration to control nature’s contingency through reason is *itself* a natural desire, a passionate attempt to cleanse human life from the ‘barnacles’ and the ‘seaweed’ of the emotions which, like ‘many stony and wild things ... have been encrusted all over it’.<sup>88</sup> In its impassioned desire to overcome nature, the aspiration to rational self-sufficiency may destroy human life rather than fostering it, reducing human beings to pure ‘noumenal’ creatures and denying (or actively suppressing) the natural life-blood that drives the rationalist desire itself. Creon’s ‘furious moods that build a city’ (*astunomoi orgai*, 354–55) are no exception. As the city’s great saviour, Creon has brought back public order to Thebes, steering the ship of the city straight when it found itself in the midst of an unprecedented ‘war of all against all’. Arguably, Creon’s transgressive decree to leave Polynices unburied is a heroic attempt to save Thebes as its citizens’ only hope for a ‘safe abode’ (*hedos asphaltēs*) that may protect them from the destructive forces of nature. However, his heroic behaviour is countered by the equally transgressive heroism of Antigone, who defies Creon’s God-given authority as the only way to do justice to the spirits of the underworld. That Creon and Antigone are both short-sighted, each actively repressing the validity of the other’s point of view, does not mean that either of their actions is morally wrong, ignoring some ‘middle way’ or other harmonizing strategy that would have been preferable.<sup>89</sup> Instead, their downfall (taking their family and city with them) rather illustrates the precariousness of human luck, fragile ‘like a vine tree, fed by the green due, lifted by wise and just men to liquid heaven’ – with the workings of fate potentially mowing it down at any time.<sup>90</sup>

## 7. Conclusion

What, then, could Sophocles’ *Antigone* teach us moderns? No less than the Greeks, we tend to set up a public order as a political device, a *technē* that enables us to control the harsh forces of nature that surround us. Law, in this regard, serves as an art of separation, a reductive tool that helps to protect us from being overwhelmed by the endless complexity of human social life. In Sophocles’ *Antigone*, the reductive nature of law’s separative art clearly emanates from the interconnectedness between the public domain of the *polis* and the private sphere of the *oikos*, neglected by both Creon and Antigone in their desire for clear demarcations between those

<sup>87</sup>Nussbaum (n 20) 3.

<sup>88</sup>*Ibid.*, 5, referring to Plato’s *Republic* 612a.

<sup>89</sup>*Cf* Oudemans and Lardinois (n 33) 115–17.

<sup>90</sup>Nussbaum (n 20) 1–2, referring to Pindar, *Nemean* 8.40–42.

spheres. However, these demarcations are far less obvious than both protagonists envision them. Creon suppresses the demands of the nether Gods, one-sidedly emphasizing his allegiance to the city and denying his obligations towards Polynices as a deceased member of his family. Antigone not only denies the public rule of Creon as the only way out of chaos and misery, but also Creon's private position as the head of her *oikos* that she aims to defend. For both, the separation between public and private is the fundament for further separations between friend and foe, divine and human, just and unjust; as it turns out, however, their one-sided approaches to these matters seem at least partly flawed, as Creon and Antigone both close their eyes to important facts and circumstances that evade their schematic ways of thinking.

All that being said, the downfall of the play's main protagonists does not determine that 'separative law' is all wrong. For the ancient Greeks as for us, law's artificial distinctions and demarcations are the only way in which law may hope to bring order to the chaos of nature. The challenge laid down by the Chorus is to seek the virtues of separative law while acknowledging that law's art of separation *itself* is a natural force, driven by the human desire to emulate the Olympian Gods in creating an abode safe from natural violence. Separative law may be a human invention, but that does not mean that it is not a natural phenomenon as well, with humankind not standing *apart* from nature, but being an integral part of it. In his heroic efforts to overcome nature and improve the human condition, man – and as moderns we naturally mean woman too – makes ample use of artificial contrivances derived directly from 'wind-swift' thought – with the *technai* of law and politics among the most significant of them. These contrivances have brought us enormous benefits, but may also bring about our downfall. The dangers of our awesomeness loom large when artificial law takes on an overly rationalist character, not only drawing more or less artificial boundaries and distinctions, but absolutizing its artificiality and denying its own identity as a natural force altogether.

One-sided recourse to the artificial distinctions and generalizations of separative law destroys human life even as it seeks to secure it against destruction by other forces. An unbalanced emphasis on subjective particularity provides no viable alternative; a legal system that one-sidedly relies on unreflected personal morality is bound to fail in its coordinating function. Contrary to Hegel's interpretation of the play, Sophocles' *Antigone* does not offer the possibility of a dialectical movement that can bring rationalist law into a stable synthesis of 'ethical life' free from tragic loss. The residues of justice will inevitably have to be dealt with; there's no therapy or harmonizing strategy that may absolve us from that burden. Still less does the play direct us to some unheroic 'middle way' in which human greatness is denied in favour of a miserable and meaningless life in the dark, spared by the Gods but

unnoticed by posterity. Instead, Sophocles' *Antigone* makes us aware of our precarious position in which we are bound to make use of law and politics as rationalist devices that at once elevate us but in that elevation endanger us. We created our legal orders and cities to assist us in our human lives, controlling and cultivating wild nature and protecting us from its harsh forces. In our frantic attempts to become nature's masters and possessors, we are constantly and inevitably at risk of being overcome ourselves, now *led* by the intricate legal and political structures that we created to *assist* us in the first place – a *deinos* fate indeed.

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