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## Introduction to the Special Issue on “Equality and the *A Priori* in Gender and Race”

This special issue seeks to contribute to the already rich dialogue on race, gender, and moral equality. It does so by reflecting on relevant significances and problems associated with an inheritance of Kant’s *a priori* moral philosophy and aims to engage our considered views, institutions, and norms.

The idea for this collection stemmed from the conviction that equality is the most basic *universal right*. Yet, it is a concept as enigmatic and trouble-fraught as it is central to ethical life. Notably, Kant’s moral philosophy lays claim to *a priori* principles by which we can recognize equality as an innate right. Despite the radical nature of Kant’s *a priori* moral philosophy and his wide-ranging influence, he held racist and sexist views defending the inferiority of some groups to others. This special issue attends to this inconsistency and the concomitant tension surrounding reception of *a priori* morality. The contributors to this special issue participated in a session on this topic hosted by the Society for German Idealism and Romanticism at the Eastern American Philosophical Association in New York, 2019.

In “On Dealing with Kant’s Sexism and Racism,” Pauline Kleingeld reflects on Kant’s racist and sexist claims—claims to the natural inferiority of some races to others and of women to men. She asks what role our recognition of these contradictory claims should play in our valuation of Kant’s moral theory, if any. In light of Kant’s defense of universal equality and the “inviolable dignity of all humans,” how should we account for the dissonance apparent in his sustained defense of racial and sexual inequality? Kleingeld argues that we undermine a richer inheritance of Kant’s moral theory if we summarily dismiss such claims.

Charles Mills argues, in “Black Radical Kantianism,” for an appropriation of Kant’s moral philosophy for reconceiving justice in matters of race. He argues that systems of justice grounded in Kant’s moral philosophy must be “color-conscious” instead of color-blind. Recognition of the real problems of race in our actual state (*Rassenstaat*) is necessary for a healthy Kantian move toward a dynamic conception of a just state (*Rechtsstaat*).

Lucy Allais draws particular attention to the difficulty of reconciling the *a priori*, universal conditions of Kant's moral philosophy with his racism in "Kant's *A Priori* Philosophy and His Racism." Kant continues to hold and defend racist and sexist views alongside his argument for an *a priori* conception of equality as universally applicable to all rational beings. The natural question is, to what degree can his moral theory be abstracted from the inconsistency arising through these defended views? Allais argues that this question should continue to be held in view when reflecting on any part or the whole of his moral theory.

In "Rethinking Race and Gender in Kant: Toward a Non-Ideal, Intersectional Kant," Jordan Pascoe argues that Kant's moral philosophy is productively read through the "non-ideal" lens of the sociopolitical concerns he faced and espoused. This lens in turn offers possibilities for thinking differently about the particular articulation that his formal principles take. She defends a non-ideal, modified methodological approach in which Kant's problematic conception of race and gender are opportunities for expanding our reflection on Kant's moral philosophy as a whole.

In "*A Priori Equality*," Gerad Gentry approaches equality in race and gender from the opposite direction of Pascoe's non-ideal method. He argues that Kant's defense of inequality in the form of racism and sexism is relevant to his formal (*a priori*) moral philosophy, but not ground for rejecting an *a priori* account of equality. Drawing on Hegel, he argues that an adequate *a priori* conception of equality gains its complexity and validity *through problematic particularities of real systemic racism, sexism, and other subliminal inequalities*. The question is how the particularities of experience can properly refine and reform an *a priori* conception of equality without invalidating the very claim to the universality. Genuine *a priori* equality is inseparable from and only knowable through the real failures of understanding, and this inseparability is not a reduction of the validity of the *a priori* to experience.

Gerad Gentry  
Lewis University and  
The University of Chicago

# On Dealing with Kant's Sexism and Racism

**Pauline Kleingeld**, University of Groningen

## §1. Introduction

Immanuel Kant is known as an ardent defender of the moral equality and inviolable dignity of all humans. Yet he also contended that men are naturally superior to women and—for much of his life—that “whites” are naturally superior to other “races.” On these grounds, he defended the rule of men over women and—again for much of his life—the rule of whites over the rest of the world.

Kant is no exception in having held sexist and racist views, and we should not regard his views as a matter of merely contingent personal prejudice. Sexism and racism were endemic features of the Western philosophical discourse of his era and of the belief systems, social practices, and political institutions that form the historical context of this discourse.

Kant's case is especially poignant, however. He is one of the greatest philosophers of all time, he was able to break with received opinions on many other issues, and he formulated egalitarian moral principles that he claimed to be valid for all human beings—and indeed more broadly still, for all rational beings. Yet he long defended European colonial rule over the rest of the world and the enslavement, by “whites,” of those he racialized as being “yellow,” “black,” “copper-red,” and “mixed”-race. Late in life, around his 70th birthday, Kant dropped the thesis of racial hierarchy and began to criticize European colonialism, but he never made parallel revisions to his account of the status of women.

Many moral theorists have been inspired by Kant's conception of human dignity, equality, and the duty of respect. Many also believe that the moral principles Kant articulated can be used precisely to show what is wrong with racism and sexism. But is it possible to do so when we know that Kant himself endorsed racist and sexist views during the very years in which he formulated his egalitarian moral principles?

Can we separate the principles from the objectionable views and use Kant's principles to criticize his own biases? These are the questions at issue in this essay.<sup>1</sup>

I first provide a brief description of Kant's view on sexual and racial hierarchies, and of the way they intersect (§2). I then move to the question whether we should 'remove and set aside' Kant's sexism and racism or 'translate' his egalitarian principles into inegalitarian ones, and I advocate a third position (§3). In §4 I argue that the use of inclusive language and female pronouns, in discussions of Kant's moral and political philosophy, carries significant risks. I conclude by proposing preconditions for fruitfully using Kant's principles to criticize sexism and racism.

## **§2. Kant on the Sexes and the Races**

In the 1780s, the decade of the *Groundwork for the Metaphysics of Morals* (1785) and the *Critique of Practical Reason* (1788), Kant defended the view that there is a sexual and racial hierarchy that justifies the subjection of women to men and of non-whites to whites. In the subsequent decade, he gave up his commitment to the racial hierarchy but not to the sexual hierarchy. I will present his views only briefly here, since my interest in this paper lies in the follow-up questions they raise.<sup>2</sup>

### **§2.1. Sexual Difference and Sexual Hierarchy**

From his early pre-critical writings to his last publications, Kant described women as having very different characteristics than men—characteristics that bear directly on moral agency. In a long chapter on the "contrast" between the sexes, in the early *Observations on the Feeling of the Beautiful and the Sublime* (1764), Kant writes:

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<sup>1</sup> In this essay, I focus only on racism and sexism in Kant's work because these are the focus of this special issue of *SGIR Review*. Many of the arguments developed in this essay can be extended to other aspects of Kant's work and to the work of other figures in the history of philosophy. I thank Gerad Gentry for inviting me to write this paper in which I combine, further elaborate, and extend several arguments originally introduced in separate contexts. I thank him for organizing the panel at the 2019 Eastern APA where this paper was first presented, and I am also grateful to the audience at that session, as well as to Elvira Basevich, Carolyn Benson, Michael Gregory, Suzanne Jacobi, Marijana Vujosevic, and Lieuwe Zijlstra for helpful comments.

<sup>2</sup> I have discussed Kant's views on race and gender in more detail in Kleingeld, 1993, 2007, and 2014, and I draw on these papers in this section.



The virtue of the woman is a *beautiful virtue*. That of the male sex ought to be a *noble virtue*. Women will avoid evil not because it is unjust but because it is ugly, and for them virtuous actions mean those that are morally beautiful [*sittlich schön*]. Nothing of ought, nothing of must, nothing of obligation. ... They do something only because they love to, and the art lies in making sure that they love only what is good. I hardly believe that the fair sex is capable of principles, and I hope not to give offense by this, for these are also extremely rare among the male sex. (OFBS 2:231–232)

Of course, Kant’s gallant ending in this passage does not diminish the gravity of his characterization of women as unreceptive to moral obligation and that of men as having to master the art of directing women toward the good. Nor does Kant’s claim that these sexual differences have been arranged wisely by “Nature” or “Providence” make this sound any better (OFBS 2:228–243).

In *Anthropology from a Pragmatic Point of View* (1798), one of Kant’s last publications, he continues to distinguish between “feminine” and “masculine” virtue, asserting that each has a different “incentive,” that women have “their own vocation,” and that this is all part of a grand providential scheme (A 7:303–311).

When two people unite, Kant writes with reference to marriage, one must be subordinate to the other. Nature has made men superior to women in strength and courage, whereas women are naturally fearful, and this gives men the right to command. Women, by contrast, are superior to men in being able to conquer the inclination of the other sex toward them. As if this was not already damning with faint praise, Kant adds that men gladly submit to their wives’ regimes so as to be able to go about their own business (A 7:303–304).

In his legal and political philosophy, Kant never criticizes the legal tutelage of women; indeed, he justifies it explicitly by reference to male superiority. In the *Metaphysics of Morals*, Kant asserts that the only “*human right*” is the “innate right to freedom” that “belongs to every human being by virtue of his humanity.” He further explicates this as a right to freedom, equality, and independence (including the right to be *one’s own master* [*Herr*], MM 6:237). Yet Kant also argues that the “natural superiority” of men gives a husband the right to command over his wife as her master (*Herr*) (MM 6:279; cp. A 7:209). Further, he classifies “*all women*” as “passive citizens,” that is, as lacking civil independence and the right to vote. Dependent men

(such as domestic servants) are also passive citizens, but Kant explicitly states that they should always have the option of working their way up to active citizenship (MM 6:314–315). Nowhere does Kant condemn the subordinate legal and political status of women or call for their emancipation.

Kant shows some awareness of the tensions in his own account. He feels the need to declare that the characteristics of women and their subordinate status do not run counter to the fundamental equality of men and women (MM 6:279), but his comments hardly move beyond a reaffirmation of natural male superiority. Moreover, he admits that the very notion of “passive citizenship” “seems to contradict the concept of a citizen as such” (MM 6:314). But this does not motivate him to apply his own republican principles to the internal organization of the family or the legal status of women. His claim in the *Anthropology* that when two people unite one must be subordinated to the other (see above) contradicts his account of the freedom and equality of the citizens who are united in the republic (MM 6:314).

In his moral theory, the characteristics he assigns to men, such as courage, appear as the virtues of *human beings*. These are qualities that—he there claims—all human beings ought to strive to realize fully and in a morally appropriate way. The female characteristics do not appear to mark potential *human* excellences, however, and what Kant calls “feminine virtue” is not moral virtue in the strict sense of his ethics.

Kant repeatedly acknowledges that there are women whose conduct does not fit his characterization, such as women scientists. Rather than celebrating their exceptional accomplishments and calling for their civil and political emancipation, however, he describes them as aberrations (OFBS 2: 229–230; LA Parow, 25: 355; A 7:307).<sup>3</sup> He says that he “would rather not deal with such women,” and that, as a rule, “nature has put something into the man for which one will look in vain in a woman” (LA Parow 25: 355). The women he does praise are “upright women who, in connection with their household, laudably maintained a character suitable to their vocation” (A 7:308).<sup>4</sup> He praises *womanly* women, women who do their *womanly* duties.

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<sup>3</sup> I thank Kate Moran for the reference to the Parow lectures.

<sup>4</sup> Mari Mikkola (2011:102) claims that in this sentence Kant gives an example of women acting on *moral principles*. But given the reference to “their household” and to “a character *suitable to their vocation*” rather than character *simpliciter*, this does not seem to be the case. Moreover, immediately following

## §2.2. *Racial Difference with and without Racial Hierarchy*

Whereas Kant attributes to women characteristics that *contrast* with those of men, while also asserting their equality, until the mid 1790s he explicitly describes the “yellow,” “Negro,” and “copper-red” races as having increasingly serious *deficits* compared to “whites” and as lacking the capacity to govern themselves. On this basis, Kant defends white colonial rule over the rest of humankind, including the exploitation of non-white slaves. (It is worth noting here that Kant does not restrict the original region of “whites” to Europe but includes Africa north of the Sahara and large parts of Asia, see DCHR 8:92.)

Kant portrays whites as occupying the highest rung of the racial ladder and as entitled to give laws to all other parts of the world. In his 1782 lectures on Physical Geography, Kant claims that the peoples of India would be much happier under European rule (LPG Doenhoff, 178–178’). In drafts of his anthropology lectures, he notes that “Americans and Negroes cannot govern themselves. Thus, [they] serve only as slaves” (R 15:878). In the lectures, he is reported as having said that [Native] Americans are the lowest of the four races because they are weak and incapable of being educated. He places Negroes above them because they can be trained to be slaves (but are incapable of other forms of education), and he remarks that although the inhabitants of India can be educated, this does not extend to the use of abstract concepts (LA *Menschenkunde*, 25:1187), and hence they are incapable of being magistrates (R 15: 877). Kant also refers to this hierarchy in his published works, such as the 1788 essay “On the Use of Teleological Principles in Philosophy,” which appeared just months after the *Critique of Practical Reason* (UTP 8:176).

Kant’s discussions of chattel slavery until the mid-1790s are strikingly matter-of-fact.<sup>5</sup> He reports on the types of slaves needed for various types of labor (VRM

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this passage, Kant gives several examples of men (Milton, Socrates) who displayed “masculine virtue” when faced with unlawful or dishonorable requests from their wives, and who did so “without diminishing the merit of feminine virtue” (A 7:308; where Kant also presents Milton’s rather condescending response to his wife).

<sup>5</sup> By “slavery” I mean chattel slavery. Kant distinguishes this from slavery imposed as criminal punishment. In the *Doctrine of Right*, he argues that this punishment is permissible within (very wide) limits and as long as it is imposed only on the person who committed the crime (MM 6:329–330). Presumably he refers to the use of prisoners for forced labor, but in this paper I leave this issue to the side.

2:438n.), endorses an anti-abolitionist tract (UTP 8:174n.), and remarks that Negroes “seem to be made to serve others” (LA Ko 363) and “were created for” the harsh labor conditions on the so-called [Caribbean] “Sugar Islands” (LPG Dohna, 421). The 1780s lecture transcripts include passages such as the following:

The Mandinka are the very most desirable among all Negroes up to the Gambia river, because they are the most hardworking ones. These are the ones that one prefers to seek for slaves, because these can tolerate labor in the greatest heat that no human being [*Mensch*] can endure. Each year 20,000 of this Negro nation have to be bought to replace their decline in America, where they are used to work on the spice trees ... One gets the Negroes by having them catch each other, and one has to seize them with force. (LPG Doenhoff: 189)

Note in this passage the implicit contrast between “slave” and “human being” and Kant’s adoption of the perspective of the slave owner when explaining to his students which kinds of slaves “one prefers” and which “have to be bought.”

In the middle of the 1790s, however, not long before the publication of *Toward Perpetual Peace*, Kant *abandoned* the thesis of racial hierarchy and white superiority. In contrast to his earlier characterization of Native Americans as weak, for example, he now calls them courageous, on a par with medieval European knights (TPP 8:365). Whereas he had previously described conditions on the “Sugar Islands” without any hint of criticism, merely educating his students on the use of these territories for European profit, he shifts to being a vocal critic of colonialism and slavery. In *Toward Perpetual Peace* Kant writes:

The worst of this (or, considered from the standpoint of a moral judge, the best) is that they [viz., the European states] do not even profit from this violence; that all these trading companies are on the verge of collapse; that the Sugar Islands, this place of the cruelest and most calculated slavery, yield no true profit. (TPP 8:359)

Importantly, not only does Kant begin to criticize colonialism and slavery, but he simultaneously adds a new category of public right to his legal and political theory. This is the category of “cosmopolitan right.” Cosmopolitan right grants full and equal

juridical status to all humans—to all “citizens of the earth” (*Erdbürger*, MM 6:353). It covers relations between states and foreign individuals or groups, including non-state peoples. Among other things, cosmopolitan right prohibits states from imperialist intrusion. No one has a right to settle land used by others, except when expressly permitted through a treaty (TPP 8:358–359). Kant appeals to this new type of right when he condemns European colonialism and slavery. He calls the “trade in Negroes” a grave violation of their cosmopolitan right (R 23:173–174). He sharply criticizes the fact that the inhabitants of “America, the Negro countries, the Spice Islands, the Cape, etc.,” were treated as ownerless things and “displaced or enslaved” by the Europeans (TPP 8:358; R 23:173–174). He now strongly condemns the founding of colonies by annexation, mentioning territories of “American Indians, the Hottentots, and the inhabitants of New Holland” as examples (MM 6:266). Instead, he now expresses the hope that “remote parts of the world can establish relations peacefully with one another, relations which ultimately become regulated by public laws and can thus finally bring the human species ever closer to a cosmopolitan constitution” (TPP 8:358).

The fact that Kant abandons the racial hierarchy of intellectual and agential capacities does not, however, mean that he also drops the notion of race as a physiological concept. He retains this as a biological notion, but he no longer argues that the *physiological* differences between the races are associated with differences in their capacities for *thought and action*. Accordingly, he emphasizes that racial differences are irrelevant to his project in *Anthropology from a Pragmatic Point of View* (1798) since they have no bearing on action (A 7:120; cp. A 7:320). And indeed, the *Anthropology* no longer offers—as his earlier lectures on the subject had—an account of the different “characters” of the races (A 7:320–321).

### **§2.3. Where Hierarchies Intersect**

The two previous sections discussed Kant’s sexism and racism separately, and it is important to do so, if only to show the difference between Kant’s characterization of women in terms of a *contrast* with men and his characterization of the races in terms of the *deficits* of non-whites (“non-white” being an appropriate expression indeed in this context). With this said, separate discussion of racism and sexism presents only part of the picture. They *intersect*: they exist simultaneously, and this is evident in

Kant's description of each.<sup>6</sup> “*The woman*” described in the *Anthropology* is clearly not a “yellow, black, or red” slave living in a European colony; she has her “own household,” and this is not a corner in the slaves’ quarters. “*The family*” described in the *Metaphysics of Morals* is a single household with one married heterosexual couple, their offspring, and their male or female dependent servants (MM 6:282–283), not the extended family common in many regions outside of Europe.

Conversely, when Kant defends the racial hierarchy, he describes the deficiencies of the “yellow, black, and red” races in terms of their lack of qualities that he attributes to white *men*. As we saw, he claims that other races cannot govern themselves, that they lack courage, and that some lack physical strength—these are all weaknesses that he also attributes to all *women*. Similarly, after Kant discards the idea of a racial hierarchy, he begins to attribute “courage” to Native Americans (TPP 8:365), a characteristic that he then still claims *women* are lacking. In other words, “the” Native Americans he describes are *men*.

Kant does not thematize the different ways in which the intersection of various hierarchies and forms of subordination impact those involved. As a result, important questions remain unaddressed. Let me mention just one example. Kant writes: “When I make a contract with a servant, he must also be an end ... and not merely a means. He must also want it.” (FLNL 27:1319). Kant further argues that a servant ought to obey the head of the household but should have the right to cancel the contract (MM 6:283). Although he explicitly includes both “male and female servants” in the household (*ibid.*), he does not discuss whether a *female* servant has a right to enter or cancel the contract on her own, or whether this must be done by—and hence with the approval of—her male “*Herr*,” guardian, and representative (e.g., her husband, her father). Presumably, Kant’s position is the latter since he defends women’s civil dependence and writes that the contract is between the (male) head of the household (*Hausherr*) and “free persons” (*ibid.*). But nowhere does he discuss the normative principles that govern the guardian’s conduct in such cases, that is, the conditions under which he *ought* to give approval to a female charge who wishes to terminate her job. Nor does Kant thematize the compounded dependence of female servants in the household—let alone that of female servants of color.

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<sup>6</sup> Black feminist theorists have long pressed this point. See Crenshaw, 1989; Davis, 1982; Hooks, 1984; Collins, 2000. For more recent discussions, see Alcoff, 2006; Collins and Bilge, 2016.

In sum, by examining Kant’s account of the races in light of his sexism, and by examining his account of the sexes in light of his racism, we can expose implicit assumptions in each that might otherwise go unnoticed.

### **§3. Inconsistency, Inegalitarianism, and Race-Neutral and Gender-Neutral Language**

With regard to his racism and sexism, there is debate over the question of whether Kant is best seen as an inconsistent egalitarian or a consistent inegalitarian. The motivation behind this debate is not so much to determine whether it is possible to “save” our dear Kant from inconsistency but rather to determine whether it is possible to use Kant’s principles to criticize his biases. After all, if Kant’s prejudice contradicts his principles it seems much easier to shed the first and retain the second than if they form one coherent set of beliefs.

Some authors argue that Kant was a consistent inegalitarian. Charles Mills, for one, suggests that Kant’s sexism and racism are clear indications that his moral theory is meant to apply only to white men, despite the seemingly inclusive terminology in which it is articulated. Mills argues that Kant saw only white men as “humans” in the *full* sense and that he meant the Categorical Imperative to apply only to white men. All others were, to Kant, inferior beings, *Untermenschen* or sub-persons: biologically human but below the threshold of full personhood on a par with white men (Mills, 2005). On this view, it is impossible to use Kant’s principles against his biases since Kant’s principles themselves *carry* the bias. As Mills puts it: “the racist texts are *part* of his theory, not contradictions to it,” and “race in a racist sense is central to his thought” (Mills, 2019, 31-32; see also Eze, 1994; Bernasconi, 2001). Mills argues that we should “translate” Kant’s principles:

In my opinion, there is no “tension” here, and putatively universalist Kantian egalitarian proclamations really need to be translated as restricted in their scope to the white male minority. (Mills, 2019, 34)

Others argue that Kant should be considered an inconsistent egalitarian. They maintain that his hierarchical views on the sexes and races *contradict* his moral and political principles. As a consequence, they argue, we can and should focus on the principles and leave Kant’s racist and sexist comments to the side. In this vein, David

McCabe has recently argued that Kant's views on race are "not worthy of our serious attention" and that "our eyes should be on Kant's moral theory" (McCabe, 2019, 7; cf. Louden, 2000, 105). He writes:

[I]t is not clear why we should be interested in someone's views except where they seem likely to be *philosophically* significant and fruitful, and Kant's views on race are certainly not that. (McCabe, 2019, 7)

Similar views have been defended with regard to Kant's sexism. Mari Mikkola has argued that in those cases where Kant's views on women are inconsistent with his main claims about the use of reason, they should "be bracketed off" or "put to one side" (Mikkola, 2011, 105, 107).<sup>7</sup>

McCabe argues that the "logic" of Kant's moral theory is "at odds with other views he had endorsed" and that "Kant's developed moral theory is unambiguous in asserting equal status for all rational beings" (McCabe, 2019, 7). In other words, McCabe justifies his claim that Kant's racism contradicts his egalitarianism by appealing to the fact that his moral principles are articulated race-neutrally.

In light of Mills's challenge, however, the view that Kant is an inconsistent egalitarian requires more argumentation than a mere reference to the race-neutral and gender-neutral terms in which his principles are formulated. Mills asserts that Kant assumes that only white men are "humans" in the *full* sense and hence that Kant restricts the applicability of the Categorical Imperative to white men. It does not suffice to respond that the Categorical Imperative *must* apply to all women and to all men of color too ("yellow, black, and red" and "mixed"-race) because Kant writes that it is valid for all humans. After all, what is required for showing that Kant grants equal status to women and men of all races is proof that he attributes to women and non-white men those qualities that he claims are required for counting as human *in the full sense*.

Now one might believe that establishing this is easier in Kant's case than in the case of philosophers who wrote in English. Kant wrote in German, and unlike English, where "man" means both "human being" and "male individual," German has a

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<sup>7</sup> She also argues that Kant's views on women are not as dim as they are usually made out to be, Mikkola, 2011; see also Varden, 2017.



separate word for each. “Mensch” means “human being,” and “Mann” means “male human being.” Hence it might seem that whenever Kant makes claims about “Menschen,” we can safely assume that they apply to both sexes and all races distinguished by Kant. Helga Varden has recently defended this view, adding that it seems “somewhat unfair” to “accuse Kant ... of saying one thing while meaning something else entirely” (Varden, 2017, 683–684).

The relevant texts make clear, however, that things are more complicated. As far as race goes, the passage quoted above in which Kant discusses the Mandinka is a case in point. Here Kant asserts that “no human being” (*Mensch*) can allegedly stand the heat, *but that the Mandinka can*. Here, “Mensch” clearly does *not* refer to the Mandinka, although there is no doubt that Kant regarded them as belonging to the human species. Apparently, however, not everything that Kant predicates of “humans” also holds for “Negroes” (just as not everything Kant predicates of the races applies to their female members, see section 2 above).<sup>8</sup> Whether general terms are indeed used in this way can be determined only on the basis of their context.

The same point applies in the case of sex and gender. There are many passages in which Kant moves back and forth between “Mensch” and “Mann.” Consider this claim from the *Critique of Practical Reason*: “There are cases in which human beings [*Menschen*] show from childhood ... early wickedness and progress in it ... continuously into their manhood” [*Mannesjahre*] (CPrR 5:99–100). Similarly, the “children” [*Kinder*] of a household eventually become “their own masters” [*ihre eigene Herren*] (MM 6:282). Thus, we cannot validly infer from Kant’s use of the general term “Mensch” that he includes all humans in its scope.

This phenomenon is of course by no means peculiar to Kant. In the years after the 1789 declaration of the “rights of man and citizen,” Olympe de Gouges in vain claimed “human” rights for women, and she died under the guillotine. Some particularly interesting examples are found in high-profile legal cases. Nineteenth-century Dutch laws concerning citizenship and voting rights were formulated in gender-neutral language, in terms of “Netherlanders” having to fulfill certain requirements (such as paying a certain amount of taxes). In 1883, Aletta Jacobs, the

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<sup>8</sup> Whether Kant expressed this sentence exactly in these words when he gave his lecture does not matter for the purpose of my argument. My point here is general and applies both to the person who transcribed the lecture and to Kant.

first Dutch woman to satisfy the requirements, was nevertheless denied the right to vote, even by the Dutch High Council (the supreme court of the Netherlands). The court's reasoning was that the terms "Netherlander" and "subject" here had to be understood as referring to men only, "because were this not the case ... it would undoubtedly have been stated clearly and unequivocally."<sup>9</sup> In other words, the gender-neutral terms *should not be assumed* to apply to women, for if they did apply to women, this would have been explicitly mentioned. In a similar case, the Canadian Supreme Court came to the same conclusion.<sup>10</sup>

These supreme courts used as their principle the exact *opposite* of the idea that gender-neutral terms such as "Mensch" and "Netherlander" *should be assumed to include* both men and women. This is important to keep in mind when we twenty-first century readers approach historical texts. In many contexts, the general term *should be assumed to exclude* women unless indicated otherwise. This does not mean, of course, that women are always excluded—Aletta Jacobs did have to pay her taxes. But *whether* women are included or excluded can be determined only by reference to the background assumptions and wider context in which the general terms are used.

Nevertheless, the gender-neutral and race-neutral terminology creates a *gap* or *tension* between the "neutral" wording of principles and their application as restricted by unstated assumptions. Precisely this tension made it possible for Olympe de Gouges and Aletta Jacobs to appeal to the general terminology in claiming women's rights. Kant produces a similar tension between the general wording of his highest principles and the tacitly assumed restrictions that become visible only in their application. At the same time, given the general terminology in which he articulates these principles, their scope as stated extends well beyond his own restrictive construal of their application.

Because of this built-in tension in Kant's principles (and in the theory he develops on their basis), we can use these principles to criticize Kant himself and say that Kant "violates his own principles." We could not do this were we to follow Mills's suggestion and "translate" Kant's formulations into the language of white male superiority. Nor, I should add, could Mills develop his own version of black radical

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<sup>9</sup> *Weekblad van het regt* 4917, 7 August, 1883, p.1.

<sup>10</sup> As mentioned by Richard Rorty, 1990, 5, n.6

Kantianism on the basis of the resulting white male supremacist theory. Mills, too, makes use of the critical potential implicit in Kant’s general formulations (Mills 2018).

The built-in tension in Kant’s race and gender-neutral-worded theory also makes it possible to argue that Kant is *inconsistent* at least in important respects. If we take the principles as stated, abstracting from the unstated assumptions that restrict their application, then we can show, for example, that Kant’s Formula of Humanity contradicts his condoning non-white slavery. The argument can go as follows. Per definition, all human races share the essential characteristics common to all humans as such, and Kant explicitly says as much in the context of his 1785 essay on race:

Properties that belong to the species itself in its essence, and which are hence common to all human beings as such, are inevitably hereditary; but because human beings do not differ with regard to these properties, these will be kept out of the discussion of the subdivision of the races. (DCHR 8:99)

Furthermore, Kant argues that the essential characteristics common to all humans as such include their rational nature. He also justifies the prohibition against using others merely as means in terms of humans’ rational nature, or even simply in terms of their being human (G 4: 429–430). People who use other human beings as slaves use them as mere means. Hence Kant’s condoning of non-white slavery *contradicts* his own prohibition against using other humans merely as means.

The fact that such contradictions can be pointed out, however, by no means implies that we can “remove and set aside” Kant’s racism and sexism. The contradiction is generated by *abstracting* from the racist and sexist assumptions guiding their application. Kant does not apply the principles in an egalitarian way, and we should not lose sight of that fact when we focus on his race-neutral and gender-neutral formulations. It would be very odd to assume, say, that Kant would seriously defend *genuine racism* during his 1787 Physical Geography and Anthropology classes but would seriously defend *genuine egalitarianism* before and after class while working on his *Critique of Practical Reason*. We would have to imagine him switching back and forth between opposing positions on the same day, each day. Furthermore, simply setting aside his sexism and racism ignores how they influence his ethics and political theory more broadly, as I will argue in the next section.

What we need, therefore, is a middle position: we should acknowledge the tension between the general phrasing of Kant's principles and the unstated restrictions in their application. If we translate the Categorical Imperative into a principle for white males, we lose one side of this tension; if we remove and set aside Kant's racism and sexism, we lose the other.

#### **§4. How to Avoid Distortions and Replications of Kant's Sexism and Racism**

McCabe and many others assume that *if* Kant can be shown to be *inconsistent* in the sense that his racist and sexist biases *contradict* his philosophical principles, we can turn our philosophical focus solely to his egalitarian theory as the only thing that is philosophically significant and fruitful. I would now like to show, on the basis of the results of the previous sections, that this assumption can become highly counterproductive.

##### **§4.1. The Dangers of Inclusive Language and Female Pronouns**

If we focus on Kant's egalitarian-worded principles while disregarding his sexual and racial hierarchies, there will be a strong temptation to use inclusive language in our discussions. After all, if Kant's *principles* are egalitarian (and contradicted by things he says about gender and race), then why not use inclusive language in our discussion of them?

The use of explicitly gender-inclusive language, and even the exclusive use of female pronouns in discussions of Kant's ethics and political philosophy, has indeed become customary in recent years. The intentions behind this change are laudable, but the practice is nevertheless problematic.

The first problem is that of *misrepresentation*. If we focus on Kant's principles while abstracting from his objectionable views on racial and sexual hierarchy, we risk depicting Kant as defending claims that he did not defend, or even as defending claims he actively argued against. Let me develop one example.

Consider the "innate right of freedom," as formulated in the *Metaphysics of Morals*, in some more detail:

*"Freedom* (independence from being constrained by another's choice), insofar as it can coexist with the freedom of every other in accordance with a universal

law, is the only original right belonging to every human being [*jedem Menschen*] by virtue of his humanity [*Menschheit*].” (MM 6:237)

This innate right underlies much of Kant’s political philosophy. In order to realize and secure this right to freedom, he argues, citizens ought to unite and collectively give themselves the laws they ought to obey (MM 6: 313–314; 340–341), for if the laws are *their own* laws, then they are independent from being constrained by the choice of *another*. The contrast case is despotism.

As formulated, this innate right is not restricted to males; indeed, Kant states explicitly that “every human being” has this right by virtue of his humanity. Yet Kant relegates women to civil dependence on their husbands or male guardians and to perpetual passive citizenship, meaning that *they* cannot take any part in legislating the laws they ought to obey. Assume, first, that our philosophical interest is in *Kant’s principles*: our interest is in the innate right to freedom, and we wish to abstract from Kant’s obsolete claims about the subordinate status of women, claims that are arguably in tension with his assertion of this “human” right. Then what? Then, when discussing the innate right, we should most certainly *not* write sentences such as the following: “Kant regards every citizen as entitled to cast *his or her* vote,” or “Kant argues that every servant has the right to cancel *his or her* contract.” He did not regard all women as entitled to the right to vote and to cancel contracts on their own. For the same reason, we should *not* say of Kant’s citizen that *she* has a right to independence, or of the status of a servant that *she* has the right to cancel her contract. Using inclusive language and female pronouns makes these sentences downright false.

Now assume, alternatively, that our interest is in *Kant’s sexism*: our interest is in the way Kant justifies the subjection of women and their perpetual dependence, and we are aware of the gender-neutral language Kant uses when formulating the innate right to freedom. Then what? Then, discussing the “innate right to freedom,” we should *not* write that this is a right Kant argued to be *innate to* (economically independent) *males alone*. The reason is that describing the right in this way prevents readers from seeing the tension between Kant’s sexism on the one hand and the egalitarian wording of the innate right to freedom on the other. For the same reason, we should not follow Mills’s recommendation that we “translate” the Categorical Imperative. We should *not* write, for example: “According to the Categorical Imperative, white males ought to act only on maxims they can simultaneously will as

universal laws for white males.” There are tensions between Kant’s egalitarian principles and his claims about gender and race, and we should portray Kant as neither more nor less of an (in)egalitarian than he was.

#### **§4.2. Ignorance and the Danger of Inadvertent Replication**

A second danger, closely connected with the first, is that of self-incurred *philosophical naiveté* and the unintentional replication of elements of Kant’s theories that were developed under the influence of his racism and sexism. The use of inclusive language or exclusively female pronouns not only risks misrepresenting Kant’s position but also mutes signals that might otherwise encourage further critical philosophical scrutiny. By making Kant sound like a decent egalitarian, it makes it less likely that readers will recognize that his racist and sexist prejudices had a profound impact on the shape of his moral and political theory as a whole.

Consider the issue of domestic labor. Kant assumed that within marriage, wives or servants would take care of such tasks. He did not problematize the gendered division of labor as a live philosophical issue that deserves discussion. If we now wish to use Kant’s political theory for our own philosophical purposes, we should do more than merely remove Kant’s essentialist descriptions of women’s character. We also need to dig up and problematize associated assumptions and consider the traces they have left. We need to *rethink*, for instance, Kant’s way of distinguishing between the private and the public spheres, his gendered conceptualization of what counts as labor and how various tasks should be divided among members of society, the status of servants as dependents in the household, Kant’s identification of human virtues and “masculine virtues” (and the omission of “feminine virtues”), and so on. If we do not do this, we risk reproducing elements that Kant originally introduced on the basis of sexist and racist assumptions, many of which remain implicit much of the time.

Theorists who want to *use* Kant’s theory for present purposes must engage with Kant’s own racism and sexism, if only to avoid replicating their effects in their own work. These elements of Kant’s thought should not be regarded as mere items in the history of philosophy museum of bigotry. Dale Spencer and Susan Moller Okin have warned against the tendency in recent political theory to just “add women and stir.” It is equally important to guard against the related tendency to just “remove sexism and racism and set aside.”

For an example of the type of theoretical remodeling that may be required, we can point to Kant’s own writings. Kant reworked his international political theory when he dropped the idea of white superiority. In *Toward Perpetual Peace* and the *Metaphysics of Morals*, he introduced a novel principle of public right, namely the “cosmopolitan right” mentioned above. This right specifically rules out colonial conquest and explicitly attributes full juridical status to humans on all continents (although, again, he still simultaneously defended the subordination of women). In other words, Kant not only removed any talk of a racial hierarchy but also added something new to his theory of public right as a necessary adjustment.

This is not to say that Kant went far enough in making adjustments to overcome his earlier racism. As Peter Niesen (2014) has argued, Kant fails to consider the issue of restorative justice. Charles Mills (2018) has developed Kantianism further by incorporating key elements Afro-modern thought and experience. Elvira Basevich (MS) has expanded Kant’s model of public reason to develop a model of interracial civic fellowship. These are a few examples of transformations of Kant’s approach that go further than Kant did himself.<sup>11</sup>

Furthermore, we should make visible, in Kant’s work as well as our own use of it, the compounded effects of multiple forms of subordination. Kant discusses the “character” of the races and the sexes separately, but on closer inspection it turns out that his discussion of the races is in fact a discussion of the allegedly different characteristics of their *male* members alone. In order to recognize this pattern, we need to go beyond Kant’s discussions of race and examine his discussion of the sexes in *relation* to his discussion of race. Conversely, his characterization of women in the early anthropology lectures does not mention the deficits of “yellow, black, red” or “mixed”-race women, but this does not mean that it is race-neutral.

Thus, we should not take the structure of Kant’s theory as a given when using it for our current philosophical purposes, believing that we can simply set aside Kant’s objectionable views. We need to ask ourselves what further adjustments must be made. To be able to answer that question, we need to know exactly how and where his racism and sexism influenced his moral and political theory.

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<sup>11</sup> Of course, one can also use Kant to move beyond Kant without focusing on the structure of his own theory, but rather by using it to tell us something about the nature of racism (Allais, 2016), or by using Kant’s notion of self-respect for purposes of feminist theory (Hay, 2013).

In sum, if we want to use Kant's work for current philosophical purposes without unwittingly reproducing some of his biases, we need to *research* his views on sexual and racial difference, *reveal* the unstated assumptions that guide his application of egalitarian principles, *reconstruct* the influence of these assumptions on the shape of his philosophical theories, and *remodel* these theories where necessary.

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#### ***Abbreviations:***

A = Anthropology from a Pragmatic Point of View

CPrR = Critique of Practical Reason

DCHR = Determination of the Concept of a Human Race

FLNL = Feyerabend Lectures on Natural Law

G = Groundwork for the Metaphysics of Morals

LA = Lectures on Anthropology

LPG = Lectures on Physical Geography

MM = Metaphysics of Morals

OFBS = Observations on the Feeling of the Beautiful and the Sublime

R = Reflection

TPP = Toward Perpetual Peace

UTP = On the Use of Teleological Principles in Philosophy

VRM = Of the Different Races of Human Beings



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# Black Radical Kantianism

Charles W. Mills, City University of New York, The Graduate Center

## §1. Introduction

Subordinated social groups trying to develop an emancipatory politics routinely face the problem of how to relate to the frameworks, principles, and ideals officially promulgated by those who dominate the social order.<sup>1</sup> Should they seek to adapt these frameworks, principles, and ideals to their own ends, or should they attempt to devise alternatives? The former strategy has the (seemingly) obvious virtue of self-positioning within the mainstream, taking up a conceptual and normative apparatus already familiar and socially hegemonic, albeit for unfamiliar and anti-hegemonic purposes. The possible downside is that this apparatus—shaped, after all, by long-established exclusionary practices—will turn out to be more refractory than hoped to any such appropriation. The latter strategy has the (seemingly) obvious virtue of jettisoning altogether the oppressor's creation, the master's tools, for one's own original liberatory vision. The possible downside is that this putatively emancipatory ideology may have less appeal than hoped for even among one's fellow-oppressed, let alone that section of the privileged whom one is trying to win over (assuming this goal to be on the agenda), and that it may turn out to be marred by unattractive exclusions of its own. Hence, the historic debates in the realms of class, gender, and racial theory between those trying to retrieve liberalism (in one form or another) for social democracy, or feminist liberalism, or black liberalism and those convinced that liberalism (or any other dominant-group candidate) is necessarily and irretrievably “bourgeois,” or “androcentric,” or “white,” and that what is called for instead is a revolutionary communitarianism, or a radical, sororally derived feminism, or a distinctively black/Afrocentric revival of pre-colonial axiologies and political philosophies.

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<sup>1</sup> This article was first published in *Res Philosophica* 95, 2018, 1–33. The publisher has granted publishing rights to the *Society for German Idealism and Romanticism* for this issue of the *SGIR Review*.

In this essay, I want to look specifically at Kantianism, and the resources it might provide for an anti-racist retrieval by what has recently come to be denominated the “Afro-modern political tradition” (Gooding-Williams, 2009). Afro-modern (previously “black” or “Negro”) political thought develops, as its name declares, in modernity, necessitated by resistance to the oppressive institutions of Atlantic slavery and European colonialism. Pre-modern African political thought would not have been black, Negro (these are Euro-imposed categories), or continentally uniform. But the advent of these new systems of domination eventually turns people from different African nations and civilizations, with different cultures and languages and traditions, into generic “blacks”/“Negroes,” stigmatized as natural slaves—Ham’s grandchildren (Haynes, 2002; Goldenberg, 2003). Whether in abolitionism, anti-colonialism, anti-imperialism, anti-Jim Crow and anti-apartheid activism historically, or in more recent resistance to polities now nominally racially egalitarian but in reality still anti-black, Afro-modern political theory seeks to overcome the “regimes of white supremacy” (Gooding-Williams, 2009, 3) in their protean and ever-evolving guises.

Far from being monolithic, however, it should be regarded as a general category extending over many different variants. Depending on the respective diagnoses offered of the dynamic of these regimes, and the corresponding prescriptions for their overturning or reform, one can derive varieties of black liberalism, black Marxism, black nationalism, black feminism, and even black conservatism (Dawson, 2001). My own project in recent years has become the articulation of a “black radical liberalism” that draws on what are standardly judged to be the “radical” strains of Afro-modern thought—black Marxism, black nationalism, and black feminism—while incorporating their key insights into a modified and radicalized liberal framework (Mills, 2017a, epilogue). And a “black radical Kantianism” is supposed to be a key element of this proposed synthesis, though not in the sense of documenting the *actual* uptake of Kant by black radical theorists (unlike their actual reading of Marx), but in the sense of demonstrating how classic themes in this literature can illuminatingly be translated into a Kantian discourse reshaped by the realities of racial subordination. So the agenda is both descriptive and prescriptive, looking at the fortunes of “personhood” as a general liberal category under illiberal circumstances, and suggesting a “Kantian” reconstruction as a de-ghettoizing approach for bringing together these segregated conversations.

Why Kant, though? To begin with, there is the strategic argument from Kant's rise to centrality in contemporary Western normative theory over the last half-century. With the demise or at least considerable diminution in significance of the utilitarian liberalism (Jeremy Bentham, James and John Stuart Mill, Henry Sidgwick) that was hegemonic from the early 1800s to the mid-twentieth century, it is deontological/contractarian liberalism that is now most influential, whether in analytic Anglo-American political theory or Continental critical theory. Immanuel Kant is now regarded not merely as the most important ethicist of modernity, but as one of its most significant normative political theorists also.<sup>2</sup> So a racially informed engagement with this body of discourse would have the virtues of being in dialogue with what is now the central strand in Western ethico-political theory: Afro-modern political thought in conversation with Euro-modern political thought. But second, in addition to these strategic considerations (and perhaps more importantly), the key principles and ideals of Kant's ethico-political thought are, once deracialized, very attractive: the respect for the rights of individual persons, the ideal of the *Rechtsstaat* (admittedly somewhat modified from Kant's own version), and the vision of a global cosmopolitan order of equals. The problem, in my opinion, has been less Kant's own racism (since it is simply bracketed by most contemporary Kantians)<sup>3</sup> than the failure to rethink these principles and ideals *in the light of* a modernity structured by racial domination. And that brings me to the third point. In contrast with, say, a dialogue between European and Asian political traditions, which at least for long periods of time developed largely separately from one another, the Euro-modern and the Afro-modern traditions are intimately and dialectically linked. As emphasized at the start, the latter develops *in specific contestation of the former*, involving both resistance to and rejection of its crucial tenets insofar as they rationalize and justify Euro-domination, while nonetheless sometimes seeking to appropriate and modify others for emancipatory ends (Bogues 2003). So developing a "black radical Kantianism" as a self-conscious enterprise

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<sup>2</sup> As Hans Reiss writes in his postscript to the 1991 second edition of his edited collection of Kant's political writings for the Cambridge University Press "History of Political Thought" series: "Kant's standing as a political thinker has been substantially enhanced in the English-speaking world since this volume went to the printers just over two decades ago. More and more scholars are willing to rank him among the leading figures in the history of political thought" (Reiss in [Kant 1991b](#), 250).

<sup>3</sup> For an overview of some of the debate, and a detailed bibliography, see [Mills, 2005](#) and [Mills, 2014](#).

should be not merely instrumentally and intrinsically valuable, but illuminative of a counter-hegemonic normative system *already present* in Afro-modern thought, if not self-denominately “Kantian,” formed in opposition to a white domination predicated on the denial of equal personhood to blacks.

## §2. Revisionist Class and Gender “Kantianisms”

Let me begin with a brief comparative overview of class and gender approaches to Kant to see what lessons can be learned for racial theory.

Marxism is famously weak on normative theory, on the one hand seeming to use moral language to condemn capitalism, on the other hand seeming to reject morality as such (not just “bourgeois” morality) as “ideological.” In the brief heyday of “analytical Marxism” (1970s–1980s), accordingly, a large body of literature was generated on the question of whether Marxism’s meta-ethic was noncognitivist, error theorist, relativist, or objectivist, whether in normative ethics Marx was best thought of as a utilitarian, an Aristotelian, a communitarian (future- rather than backward- oriented, of course), or even, implausible as it may seem, a natural rights theorist, and whether justice for him could be a transhistorical norm or was necessarily mode-of-production relative (Cohen et al. 1980; Nielsen and Patten, eds. 1981; Lukes, 1985). Kant was almost never invoked in these debates. Apart from his problematic (from a Marxist materialist point of view) metaphysics and libertarian assumption that humans could somehow rise above empirical causality, his rejection of the right of revolution (Kant, 1991b, 79–87, 143–147, 263–267) would obviously have been anathema to Marxism, not to mention his property restrictions on full (“active”) citizenship. We associate Locke rather than Kant with making private property foundational, but it needs to be recalled that Kant also emphasizes the importance of private property, if within a different normative framework (Ripstein, 2009, ch. 4), and infamously excludes the non-self-supporting (along with women as a group) from the category of citizens entitled to full rights (Kant, 1991b, 61–92, 139–140). So the Kantian *Rechtsstaat* is, no less than the Lockean commonwealth, a state of property owners, a bourgeois state, and one that, even if it is oppressive, cannot licitly be overthrown, only protested via “the freedom of the pen” (Kant, 1991a, 85).

Nonetheless, various commentators have argued from the start that such proscriptions are incompatible with Kant’s own proclamation of the three “rightful

attributes which are inseparable from the nature of a citizen”—that is “lawful freedom,” “civil equality,” and “civil independence” (Kant, 1991b, 139–140). Contemporary Kantians, whether left, centrist, or right, do not, of course, believe that they have to endorse his metaphysical libertarianism, and, in these more enlightened times, they would unequivocally reject his proprietarian and gendered restrictions on citizenship (Kersting 1992). For them, the crucial theses are the moral commitments to respect for personhood and rational agency, and the implications of the categorical imperative for moral and political practice (all conceived of in an inclusive fashion).

Left Kantians in particular see the prohibition against using others as mere means as a potential moral indictment of capitalism and the kingdom of ends as translatable into a vision of the socialist future. In the late nineteenth and early twentieth centuries, for example, the “Marburg School” associated with Hermann Cohen tried to develop a “Kantian socialism” to guide the German social-democratic movement of the time, remedying what were from their perspective the patent normative deficiencies of Marx’s self-conceived “scientific socialism” (van der Linden 1988). More recently, of course, John Rawls’s (1999) left-liberalism famously draws on (elements of) Kant to map out a “perfectly just,” “well-ordered” society in which there is no pre-existing right to private property in the means of production, the capitalist market is constrained by fair equality of opportunity and the difference principle, and the equal basic liberties formally guaranteed for everyone are supposed to have equal worth independent of one’s class membership. (Because the actual Kant was much closer to libertarianism than social democracy, this appropriation involves a significant rewriting of his theory.) “Exploitation,” a concept traditionally associated with the Marxist left, has also recently been revived by some liberal scholars. In its classic Marxist formulation, it was tied to the labor theory of value, now widely seen as discredited. But alternative liberal conceptualizations founded on Kantian and related liberal norms of not “using” people or otherwise taking advantage of their unfortunate circumstances have become increasingly respectable (Deveaux and Panitch, eds. 2017).

So a left-liberal/“democratic socialist” Kantianism is, far from being a contradiction in terms, the modal political position for many on the left today. Insofar as Marxism offered a normative alternative to such a vision, it was usually taken to be the gesture toward a kind of Rousseauian communitarianism in “On the Jewish Question”

(Marx 2000), a text that condemns the language of rights as itself necessarily part of the alienated bourgeois order. But the “negative rights” (life, liberty, property) hegemonic in the liberal discourse of the time have long since been supplemented—albeit controversially for classical liberals—with the “positive rights” proposed by social democrats, which it would be hard to frame as intrinsically bourgeois. And on an ecologically imperiled planet, any radically redistributivist global justice project will necessarily require—even under “socialist” auspices—a detailed set of moral and juridical norms for adjudicating pressing rival claims in conditions of crisis and scarcity quite dramatically different from the global cornucopia of goods Marx and Engels envisaged as marking the post-bourgeois order (the “forces of production” now supposedly having been completely “unfettered”). It is difficult today to imagine a credible alternative to rights discourse, and a Kantian foundation seems more secure than a utilitarian one, although of course a separate battle will be required against the critique of positive rights from Lockean liberals.

Class-sensitive appropriations of Kantianism are therefore long established. However, because of the under-representation of women in the profession (and, perhaps, its higher degree of sexism), a corresponding feminist engagement is not as well developed. Kant’s sexism is, of course, far more extreme than his classism (Schott, ed. 1997), focused on putative innate gender differences that, being essential and permanent, cannot be overcome (unlike a bourgeois or petty bourgeois escape from “passive citizen” status through property acquisition or appropriate career change) (Kant 1991b, 75, 77–79, 139–140, 257). Moreover, given the centrality of marriage and the family to the social order, his sexist characterizations of women are far more pervasive throughout his texts and arguably more integrally related to his social and political philosophy. As feminist commentators such as Pauline Kleingeld (1993) and Hannelore Schröder (1997) have argued, to read Kant’s claims about the rights of “men” or “persons” in a gender-inclusive way is to ignore the foundational patriarchal commitments in his thought, which deny women the capacity for autonomy and prescribe permanent male guardianship for them. Moreover, apart from these gender restrictions, the tenor of his philosophy has also been found distinctively “masculinist” by some feminists—rigid, formalistic, hyper-rationalist, insensitive to context. An ethic of “care” supposedly more typical of women’s moral



orientation and development was sometimes proposed as a superior alternative, as in the famous Gilligan–Kohlberg debate (Gilligan 2016 [1982]).

But various prominent feminist liberals such as Jean Hampton, Susan Moller Okin, and Martha Nussbaum can be found who are either themselves open to contractarianism (Hampton, 2007; Okin, 1989), or, even when sympathetic to other normative strategies (Nussbaum’s [2000] “capabilities” theory), are still dubious about such an ethic, or believe that, to the extent that it is valuable, it should be viewed less as competing with than complementary to more formalized approaches. For them, Kant’s sexism was not to be ignored, but to be regarded as readily purgeable from his theory. More recent work, however, such as that by Carol Hay (2013), has begun to take a somewhat different approach. The methodology is not simply to ignore Kant’s own sexism, but to ask how that sexism has shaped his theory to make it male-biased, even when the sexist pronouncements are excised, and how, correspondingly, a revisionist “Kantianism” self-consciously reoriented by a commitment to gender equity would have to be restructured to deal with a patriarchal world. Hay, for example, argues that the duty to respect oneself as a person would require resistance to everyday sexist practices. So it is not a matter of treating women as normatively fungible with men, but of rethinking conventional Kantian norms and precepts to register the radical difference in women’s experience.

My belief is that a black radical Kantianism can fruitfully draw on the example of both of these bodies of literature, insofar as the situation of blacks in modernity has been marked not merely by economic exploitation (as with the subjects of [white, largely male] Marxist class theory) but essentialist derogation (as with the subjects of white female gender theory). Including blacks and other people of color in Kant’s apparatus in a nominally race-neutral way is obviously easily enough done—hence, the puzzlement on the part of critics as to the philosophical point of bothering to highlight Kant’s racism in the first place. One just takes “person” as racially inclusive and continues as before. But the more interesting and challenging operation, as in the analogous work of Hay, is the project of the *race-sensitive* re-articulation of the apparatus to take account of, and redress, a racial subordination not merely national but (historically) global, and one that has left a legacy of structural injustice not only in economic disparity and stigmatized

identity but, reflexively, in the “color-blind” conceptual deficiencies of “deontological liberalism” itself.

So in actuality, there have always been two sets of issues here: Kant’s own classism/sexism/racism and how it does or does not affect his theory, and whether an apparatus that is recognizably Kantian (or at least “Kantian”) can be developed to illuminate, critique, and adequately address class/gender/racial domination, and if so, how.

### §3. Kant and Race

Let me turn now to race, my focus in this essay. Since the background here may be less familiar to some readers, I will go into greater detail.

Beginning in the 1990s, a body of philosophical work began to emerge calling attention to the startling fact that Kant, the most celebrated ethicist of the modern period, was not merely a racist but a pioneering theorist of modern “scientific”/biological racism.<sup>4</sup> As an orthodox Christian, Kant was of course committed to a monogenetic rather than polygenetic account of the origins of humanity. But the *Keime* (germs, seeds) he postulated as being present in the originary human race would—on being stimulated by the different physical environments across the planet to which human beings had migrated—so develop as to shape in a permanent way what became the different branches of humanity. White Europeans, yellow Asians, black Africans, and red Amerindians were created in what Kant claimed was a color-coded hierarchy of intellectual and characterological traits (see sources in Mikkelsen 2013). So, particularly for blacks and Native Americans—natural slaves, in Kant’s judgment—the question was naturally raised of whether (in a theory for which autonomy is foundational) they could really count as “persons” for him in any robust sense.

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<sup>4</sup> Specialists in the history of racism disagree on the periodization of Western racism, whether a “short” periodization that locates its origins in early modernity (Fredrickson, 2015 [2002]) or a “long” periodization that tracks it back to the ancient world (Isaac, 2004). But the standard judgment is that if pre-modern racism did exist, it would have been theological and cultural in form, or perhaps (following Isaac), a kind of ur-Lamarckianism.

In the two decades-plus since then, various approaches to this sensitive subject have emerged. Some philosophers have simply proceeded as before, contending that such writings, while undeniably deplorable, should be attributed to the prejudices of the time, and—as largely located in the anthropology and physical geography texts—can just be segregated from the moral/political/teleological texts. Others have seen such an interpretative policy as question-begging, ignoring (as with gender) what are taken to be the real contradictions and inconsistencies in Kant’s thought. As a further complication, the possibility of an evolving Kant (on race, but not on gender) has been put forward. Sankar Muthu (2003) and Pauline Kleingeld (2007; 2014) have independently proposed that we need a periodization of Kant’s thought separate and distinct from the pre-critical/critical division: a racist Kant who undergoes a conversion experience to an anti-racist Kant, whether in the 1780s (Muthu) or the 1790s (Kleingeld)—hence, the passages seemingly unequivocally condemnatory of European colonialism and African slavery in *Toward Perpetual Peace* (Kant, 1991b, 106–107) and *The Metaphysics of Morals* (Kant, 1991b, 172–173), texts from 1795 and 1797.

My own position, as developed in two essays on the subject (Mills 2005; 2014), is that the quarantining of these racist writings is not philosophically justifiable, and that we *do* need to ask what their implications are for the conventional consensus on what Kant’s “theories” (moral/political/teleological) are actually saying. I agree with Robert Bernasconi (2001) that they are in contradiction with what Kant’s theories are *taken* to be. But what I have suggested, contra Bernasconi, is that the seeming contradictions can be reconciled once we postulate that Kant was working with a philosophical anthropology of persons and sub-persons. So in keeping with Christian monogenism, blacks are indeed human, but they are not, I am contending, persons for Kant, since (on this planet) whiteness is a prerequisite for personhood status. Hence, there is no actual contradiction once we recognize that the egalitarian assumptions and pronouncements in the moral/political/teleological writings are really referring to the (male subset of the) superior race (i.e., whites). (I am agnostic on the issue of whether or not Kant changed his mind, but would point out that even if he did, it would still imply that he endorsed an integrated racist theory—for me, the racist texts are *part* of his theory, not contradictions to it—for most of his professional career.) This has gone unnoticed in the profession, I suggest, because of the paucity of racial references in the most familiar and widely read

texts, and the aprioristically sanitized view of Kant—at least in the postwar period—as a philosopher for whom such sentiments were impossible. But in fact, Kant’s record as a racist theorist was apparently well known in Germany up to World War II, and only seems to have been suppressed after the war. An interesting investigative essay, or maybe even an entire book, is waiting to be written on this subject, and what it says about the broader issue of the West’s cover-up of its racist philosophical history in the aftermath of the Holocaust.

For our purposes, though, the important point is that race in a racist sense is central to his thought, which means—given what a systematic thinker he was—that it ramifies throughout his practical philosophy in the ethical, political, and cosmopolitan spheres. Here, I am following Mark Larrimore (2008, 361–362), who writes:

Not knowing what to look for, scholars have not seen the structural and structuring part race plays in [Kant’s] work. ... Kant’s concept of race was never just a classificatory term in a physiological anthropology. We will not understand its continuing appeal if we accept the anachronistic idea that race was a “theoretical” or “scientific” issue rather than a “practical” or “pragmatic” one; it was and is both. We will better understand the abiding appeal of race if we see it in the context of the interconnection of geography, anthropology, philosophy of history and practical philosophy. ... Kant did not think you could responsibly do practical philosophy without physical geography and pragmatic anthropology, and wasn’t trying to. We misread his ethics if we do not also read his accounts of human diversity and their implications for respecting the humanity in everyone, treating none as a means only.

As I interpret Larrimore, race (in the racist sense) is part of Kant’s practical philosophy because it determines the way in which the aprioristic principles are applied to different races. In his important *Kant’s Impure Ethics*, Robert Louden (2000) had argued that Kant’s ethics is far more “naturalistic” than standardly recognized. Far from being utterly remote, abstract, and formalistic (“empty” in the characterization of its critics), the principles are to be operationalized in different ways in different contexts. The problem has been the secondary literature’s failure to understand that Kant’s

practical philosophy includes *both* aprioristic (“pure”) and empirical (“impure”) elements. In Louden’s revisionist judgment:

[C]ontrary to popular belief, Kant’s approach to ethics is ... not an example of a “purist view of morality” which rejects any “biological ... [or] historical and psychological understanding” of human morality ... Rather, his project is simply one that explicitly seeks both to construct the foundational principles of theory from non-empirical sources and then to bring in empirical content for purposes of application to human life. ... [P]ure ethics, although it must come first, does not take us as far as we need to go. It can show us what the foundational principles of moral thought and action are for rational beings in general, but it can never show us (or any other specific kind of finite rational being) what to do in a concrete situation. Principles of pure ethics, precisely because they are pure, have no special connection to human life. Such a connection can only be established by bringing empirical knowledge of human nature into the picture. (11)

Accordingly, Louden (2000) goes on to differentiate “pure ethics,” “morality for finite rational beings,” the “determination of moral duties for ‘human beings as such’” (as against non-human rational beings such as intelligent aliens), and to point out the complications generated for identifying the “aids and obstacles to morality” by the existence of “subgroups within a species,” and the consequent challenge of judging “what to do in a specific situation” (11–16). Women (white) and people of color are, of course, as Louden reminds us, among the most salient of these subgroups, indeed together constituting the majority of the human race. But at this point Louden’s revisionism ends, and he endorses the conventional conclusion (as with Kleingeld) that there is “an unresolved tension ... between the core message of universality in [Kant’s] ethics and frequent assertions that many different groups of people ... are in a pre-moral state of development” (15). By contrast, as indicated above, I think we should take the more radically revisionist position that Kant is *not* committed to universality (in the sense of imputing equal moral standing to all humans), but rather to a bifurcated ethics in which the innate and unchanging inferior nature of white women and people of color limits them permanently to sub-person status. Louden’s characterization—“pre-moral state of

development”—implies that Kant was envisaging a stadal progression toward the eventual attainment of moral agency. But Kant says *explicitly* that this state is permanent. So the facts have to be faced, however upsetting they may be to Establishment scholarly orthodoxy. In my opinion, there is no “tension” here, and putatively universalist Kantian egalitarian proclamations really need to be translated as restricted in their scope to the white male minority (at least for this time period, if we concede the possible correctness of Kleingeld’s racist/anti-racist periodization).

How then do I propose to develop a black radical Kantianism?<sup>5</sup> As earlier emphasized, my strategy will not be simply to bracket off the racism and then *assimilate*

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<sup>5</sup> Note that this question is logically separate from the issue of whether or not Kant’s racism did in fact shape his view of human personhood, since even if it did not, we would still need, I claim, to work out how the “pure” principles are to be applied in a racialized world, a task not usually tackled in mainstream Kantian scholarship. This seems like a good place to acknowledge and thank the journal referee for his thorough, detailed, and helpful comments and criticisms, some of which I have acted upon in revising the penultimate draft of this essay. Let me briefly discuss where we differ. Basically, the referee agrees that the project of trying to develop a “black radical Kantianism” is a worthwhile one, while contending that many of my claims about Kant’s racism and its implications (as alleged above) are unjustified and unfair. As emphasized (and as he would concur), the two issues are distinct, and my focus here is on the former rather than the latter. Nonetheless, I would claim in addition that his criticisms on the latter score have already been largely addressed in [Mills, 2014](#), a follow-up reply and elaboration of my argument in response to other Kant scholars critical of what I said in [Mills, 2005](#).

The main point of contention is this. The referee rejects my person/sub-person dichotomy as a “terrible oversimplification,” and “ultimately not defensible” as “a characterization of Kant’s views.” The reason is that “it is not just ‘Blacks’ and other ‘non-white’ races that, viewed collectively, are typically presented as seriously deficient in realizing their capacity for acting in accordance with the principles of morality—for the problem is a ‘human’ problem, not simply one of ‘race.’” So Kant thought of nonwhites “as less developed as human beings” but not as “sub-persons.” But my reply would be that racism, especially in its “scientific” biological form, is a theory about essential comparative limitations, a ceiling on the cognitive and characterological capacities of the “inferior” races that is far below the white ceiling. According to my analysis, then, Kant is not saying that it is *harder* for blacks and Native Americans (“natural slaves”) to achieve autonomy than white men; he is saying that it is *impossible*. These are naturally heteronomous beings. And as [Bernasconi \(2001\)](#) has pointed out, his anti-miscegenation proscriptions mean that we cannot even hope that an infusion of white blood will eventually uplift these unfortunates. So what are the implications for Kant’s “critical” theory? The referee judges Pauline Kleingeld’s ([2007](#); [2014](#)) periodization

blacks and other people of color to the white population, which would only obfuscate the real difference that race makes, but to transform the *significance* of “race.” We would still be working with a “Kantianism” in which race is central, but now rethought from a critical philosophy of race perspective. So “race” would no longer signify location in a biological hierarchy of superiors and inferiors within the human species, as in Kant, but the location of equals in a social hierarchy of the privileged and the oppressed in a system of racial domination. The “structuring” role of race (Larrimore) would continue, but now in a corrective, *anti-racist* way.

Of the range of competing metaphysical positions within critical philosophy of race, it is obviously the social constructionist view (race as [1] existent but [2] non-biological and [3] a social construct) that lends itself most straightforwardly to this project (Haslanger, 2012). But I believe that all the other (non-racist) alternatives could be adapted also, albeit through more convoluted formulations. For example, the eliminativist position on race (Appiah, 1992) is that races do not exist at all, whether as biological or social entities. Nonetheless, insofar as eliminativists do not deny that *racism* exists, and is targeted at groups mistakenly thought to be races, we could operate with a cumbersome locution like “groups in society wrongly believed to be races, whether

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of a putatively racist/anti-racist Kant, whose conversion does not take place until the 1790s, to be more plausible than Sankar Muthu’s (2003) periodization, which dates it to the 1780s. But then, as Kleingeld points out, the implication is that Kant’s commitment to a racial hierarchy extended over most of his professional life, covering the publication of the *Groundwork* and the three critiques. Are we seriously to believe—especially for a philosopher so famous for the rigor and systematicity of his thought—that this invidious ranking of humanity was siloed, with no ramifications for his “critical” theoretical claims over this period? Finally, the referee cites Christian Meiners and Houston Chamberlain as racist theorists whose writings were far more influential than Kant’s, and asks why we shouldn’t be focusing on them instead: “Why give such priority to ‘minor’ writings of Kant?” But if we are trying to determine the origins of modern “scientific” racism, then the issue is not whose version ultimately became most influential, but whose version was developed first, and the credit for this dubious achievement does seem to belong to Kant—a judgment made by many other commentators (see Mills, 2014). Moreover, Meiners and Chamberlain are notorious figures rightly anathematized, but categorized as fringe thinkers in the Western tradition. Kant, by contrast, is celebrated and honored as the most important ethicist of modernity. So if you are trying, as I am, to establish that racism has been central rather than marginal to modern Western theory, then obviously Kant is the thinker whose racism needs to be exposed and publicized.

superior or inferior, and privileged or disadvantaged accordingly in this group membership through the structures and policies justified by racist beliefs about them.”

So “race” in this revisionist Kantianism would now be tracking something different, and the “empirical content” (Louden, 2000) that must guide our application of the abstract Kantian principles is to be derived from investigation of the historic and current reality of an unjust and racially structured world. If, simplifying things, and abstracting away from “intersectionalist” complications of gender, class, and so forth, we use *R1s* to stand for the putatively superior race (located in the socially privileged slot) and *R2s* to stand for the putatively inferior race (located in the socially subordinated slot), then the question is what Kant’s principles demand of us *as R1s* and *R2s*, and in application *to* the divergent situations of *R1s* and *R2s*.

Moreover, a critical philosophy of race approach to these matters will perforce be intent on exploring how issues of moral psychology, the necessary education of the virtues, and individual and social cognition are likewise affected by race. Contemporary Kantians skeptical of Kant’s own metaphysical libertarianism (the ability of rational moral agency to rise above empirical causality) will, of course, dispense with his weird metaphysics and locate *within* empirical causality itself (socio-environmental factors; our own beliefs, desires, and willings) the distinction between mere inclination and the will to obey the moral law. The challenge is separating out, within this messy and deceptive *mélange* of motivations, the genuinely ethical and universalizable from the self-seeking or otherwise particularistic. Kant’s own account of ethical hazards was predominantly individualistic, shaped by his Christian pessimism about our unchanging “radical evil” as fallen humans, and the “unsociable sociability” that both promoted conflict and drove human history forward. For our purposes, it will be crucial to understand not merely a generic “human” nature and an accompanying generic moral psychology, but particular group moral psychologies, “racialized” *R1* and *R2* moral psychologies, produced by socialization at different poles of the system, and catalyzing and combining general human weaknesses and innate tendencies in distinctive and specific, socially shaped ways. The striving for virtue will thus likewise require moral attention to the peculiar vices to which one’s group is most likely to be prone, both motivational and cognitive.

So—in what is a classically rationalistic theory—the supra-individual cognitive aspects of these processes will then likewise need to be brought to the fore far more



saliently. Recent developments in social epistemology stimulated by Miranda Fricker's (2007) work have highlighted the epistemic injustices, both testimonial and hermeneutical, that develop in societies characterized by structural oppression (Kidd et al. 2017). But the implications of this emergent body of literature for *moral* cognition clearly need to be investigated also. Kant's famous "What Is Enlightenment?" essay (Kant 1991b, 54–60) can then, in this unfamiliar context, be reconstructed as a demand to develop the moral "maturity" necessary to overcome the racialized cognitive obstacles generated by society and our socialized "second nature," and to learn to reject the racialized "dogmas and formulas"—the "mechanical instruments for rational use (or rather misuse) of [one's] natural endowments" (54–55)—that are typical of such oppressive social orders.

#### **§4. Black Radical Kantianism**

Against this background, let me now sketch out, in what I hope is a fruitfully suggestive way, how such a revisionist black Kantianism could be developed in the two areas of ethics and political philosophy. (A distinctive black perspective on cosmopolitanism/global ethics could also be developed, but this task will have to be postponed till another day because of space considerations.)

##### **§4.1. The Ethical**

We start, appropriately enough, with personhood. Deontological liberalism is, of course, classically distinguished from consequentialist liberalism in making persons and their natural rights foundational rather than social welfare. In Rawls's (1999, 24) famous Kant-inspired indictment: "Utilitarianism does not take seriously the distinction between persons." Kant tells us in the *Groundwork* (Kant, 1964, 96) that "Rational beings ... are called *persons* because their nature already marks them out as ends in themselves," so that one formulation of the categorical imperative is "Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end" [italics removed]. Persons are themselves the makers of the universal law that morally binds them, so that, as self-legislators, "*Autonomy* is therefore the ground of the dignity of human nature and of every rational nature" (103).

But Kant also tells us (though not in the *Groundwork*) that blacks “can be educated but only as servants (slaves),” that “The Negro can be disciplined and cultivated, but is never genuinely civilized. He falls of his own accord into savagery,” and that (along with Native Americans) “Blacks cannot govern themselves. They thus serve only for slaves” (see Mills 2005 for details). I submit, as I have argued elsewhere (Mills, 2005; 2014), that such claims cannot plausibly be regarded as mere “inconsistencies,” but point to a radical Kantian differentiation in the ranks of humanity between those who, being capable of autonomy, reach the person threshold, and those (“natural slaves”) who, incapable of autonomy and self-legislation, do not. So as stated at the beginning, my contention is that Kant is working with a philosophical anthropology of persons and sub-persons, determined by respective degrees of rationality and proneness to character defect, which is why, in its application to this particular subsection of humanity, the categorical imperative permits (seemingly) inequitable treatment, such as enslavement. Within critical philosophy of race, as with the metaphysics of race, competing analyses have been given of racism. But one candidate that would obviously fit perfectly here is Joshua Glasgow’s (2009) suggestion that we conceptualize racism as *race-based disrespect*. Blacks, then—not being capable of self-government—are appropriately deserving of disrespect rather than respect, and are creatures without essential dignity.

So how does a critically rewritten discourse of “race” reconceptualize this situation—that is, a modern world shaped by Atlantic *racial* slavery (unlike the non-racial slavery of antiquity and the medieval epoch), and other varieties of racial domination in the form of colonialism, imperialism, expropriative white settlement, Jim Crow, and apartheid? My suggestion is that the great theoretical insight and contribution of the Afro-modern political tradition is the recognition that such a world is metaphysically dramatically divergent from its Euro-modern political representations, whether mainstream or radical.

To the extent that the dominant varieties of colonial/imperial liberalism were originally racist (Mehta, 1999; Pitts, 2005; Hobson 2012), presupposing a hierarchy of European superiors and non-European inferiors (biologically and/or culturally), they got the social ontology wrong in an obvious way. But to the extent that postwar postcolonial (at least nominally) liberalism retroactively sanitized its racial past and transformed this hierarchical essentialist metaphysics into an ontology of morally equal and symmetrically

positioned atomic individuals, it still continues, I would contend, to get the social ontology wrong. The Afro-modern claim is that neither is correct, because (contra the first) blacks and other people of color *are* equal and because (contra the second) the socially constructed inequalities and their historic legacy cannot be metaphysically ignored considering how *fundamentally and asymmetrically* they have shaped the modern world order and the raced individuals within that order.

In other words, the Afro-modern tradition is insistent that modernity is established on and structured by a social ontology of race. It is not, of course—assuming meta-ethical objectivism—that these racist social conventions and structures actually *make* blacks and other people of color less than full persons. But the denial to them of social recognition as full persons, depriving them of equal rights, freedoms, and protections, and unjustly privileging whites at their expense, foundationally affects both these racial groups and the moral and political dynamics of the societies so created. Objectively, their personhood is unaffected, along with the rights, freedoms, and protections they *should* have, as persons. But intersubjectively, insofar as white social recognition is dominant and determinant, their socially effective personhood—the rights, freedoms, and protections they *actually* have—is denied.<sup>6</sup> Thus, we have an ontology—races as central existents profoundly shaping one’s being as an individual—but an ontology socially rather than biologically created—the product of “sociogenesis,” in Frantz Fanon’s (1991 [1967]) famous coinage.

As George Fredrickson (2015 [2002], 11–12) has pointed out, pre-modern social ontologies are characterized by social hierarchies of multiple kinds. So even if race existed then (which Fredrickson denies, as an exponent of the short periodization), it would not have been sharply differentiated from the others. It is the advent of modernity, which is supposed to flatten these systems of ascriptive hierarchy into simple personhood (as in the conventional portrayal of Kant), that sets racial inferiority so sharply into relief, since

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<sup>6</sup> This clarification is necessary to demarcate my line of analysis from that of Derrick Darby (2009), who argues that because of this lack of social recognition, racially subordinated groups like black Americans *did not have* moral rights, since the existence of moral rights no less than legal rights—contra the natural rights tradition—is dependent upon social recognition. I see this as a meta-ethically relativist position (though Darby disagrees).

the *R2s* are then being stigmatized as less than human while the *R1s* become (making allowance for gender differentiation) coextensive with the human. The Afro-modern diagnosis of a metaphysics of personhood that is actually racialized is thus different from standard Euro-modern discussions of personhood and its implications for ethico-political theory. It is making a different claim than the anti-utilitarian critique *within* liberalism that it permits the disrespecting of persons. The putative problem with utilitarianism is not that it regards a set of persons as sub-persons, but that the fungibility of (equal) persons opens the door to the rights-violations of some (equal) persons if social welfare for (equal) persons as a whole can thereby be maximized. The Afro-modern analysis is saying that, independent of this issue, some persons are not recognized as equal persons in the first place. So it is also different from the Marxist critique from *outside* liberalism. The putative problem here, as originally stated in “On the Jewish Question” (Marx, 2000) and later in *Capital* (Marx, 1990 [1976], 279–280), is that in assuming individuals of equal moral and juridical status, equal recognized personhood, liberalism’s social ontology is ignoring the effects of the material differences in wealth and property ownership in the liberal state that in reality make the (white) working class effectively unequal. But the Afro-modern claim is that for blacks and other people of color, not even ethico-juridical equality, limited as it may be, is attained, so that their positioning in the liberal state is different from the beginning.

Consider some classic statements of this realization from figures across the black diaspora. In his second autobiography, *My Bondage and My Freedom*, Frederick Douglass (1996, 213) describes how, after he had escaped from slavery to the North, and was giving abolitionist speeches, “I was generally introduced as a ‘*chattel*’—a ‘*thing*’—a piece of southern ‘*property*’—the chairman assuring the audience that *it* could speak.” But this was not surprising to him, because the experience of enslavement had taught him that “A man, without force, is without the essential dignity of humanity. Human nature is so constituted, that it cannot *honor* a helpless man, although it can *pity* him” (199). W. E. B. Du Bois’s *Darkwater* (2007 [1920], 35) concludes that “By reason of a crime [Atlantic slavery] (perhaps the greatest crime in human history) the modern world has been systematically taught to despise colored peoples ... all this has unconsciously trained millions of honest, modern men into the belief that black folk are sub-human.” The Jamaican anti-colonial activist Marcus Garvey (1992 [1923–1925]) judges of blacks that

“A race without authority and power is a race without respect.” French colonial subject Aimé Césaire (2016 [1972], 202) draws up the equation “colonization equals ‘thingification,’” an assessment echoed and elaborated upon in his Martiniquan compatriot Frantz Fanon’s (1991 [1967], 8), description of “the zone of nonbeing,” in which “the black is not a man.” Black American writer Ralph Ellison (1995 [1952]) uses *Invisible Man* as the title of his celebrated first novel, signifying not, as in its predecessor, H. G. Wells’s (2017) early 1897 science-fiction classic *The Invisible Man*, a physico-chemical invention to make the body imperceptible to our fellow humans, so that the inventor cannot be seen, but rather the lack of equal social recognition given to blacks by their white fellow humans, who simply refuse to see them. Malcolm X (Breitman, ed. 1965, 51) recounts how “I grew up with white people ... and I have never met white people yet—if you are around them long enough—who won’t refer to you as a ‘boy’ or a ‘gal,’ no matter how old you are ... All of our people have the same goals, the same objective. That objective is freedom, justice, equality. All of us want recognition and respect as human beings. We don’t want to be integrationists. Nor do we want to be separationists. We want to be human beings.” Across the Atlantic, South African militant Steve Biko (2002 [1978]) declares that:

In terms of the Black Consciousness approach we recognize the existence of one major force in [apartheid] South Africa. This is White Racism. It is the one force against which all of us are pitted. ... What Black Consciousness seeks to do is to produce ... real black people who do not regard themselves as appendages to white society. ... We do not need to apologise for this because ... the white systems have produced through the world a number of people who are not aware that they too are people. (50–51)

So the common theme is the demand for equal recognition, equal dignity, equal respect, equal *personhood*, in a white-supremacist world where disrespect rather than respect is the norm, the default mode, for blacks. A race-sensitive Kantianism not merely purged of Kant’s own racism but attuned (in a way nominally color-blind Kantianism is not) to these racially demarcated particularities for the different subsections of the human population— a black radical Kantianism—will thus understand the need to “universalize”

the categorical imperative in a very different way to register the crucial differences between those socially recognized as persons and those socially recognized as sub-persons.

I suggest that we divide the different moral relations involved into two categories based on whether one is a member of the privileged race, the *R1s*, or the subordinated race, the *R2s*. That gives us the following six-way breakdown: (1) one's duty as an *R1* to give respect to oneself, (2) one's duty as an *R1* to give respect to one's fellow-*R1s*, (3) one's duty as an *R1* to give respect to *R2s*, (4) one's duty as an *R2* to give respect to oneself, (5) one's duty as an *R2* to give respect to one's fellow-*R2s*, and (6) one's duty as an *R2* to give respect to *R1s*. Historically, each of these will have been affected by race (as racism), leaving an ideological and psychological legacy, habits of disrespect, that will shape the "inclinations" most likely to be determinative and most imperatively to be resisted. Instead of (what could be graphically thought of as) "horizontal" relations of reciprocal and symmetrical race-indifferent respect among equal raceless persons, the *R1s* will have historically respected themselves and each other *as R1s*, while "vertically" looking down on, disrespecting, *R2s* as inferiors. In turn, the *R2s* will have been required to show racial deference to the *R1s*, looking up to them *as R2s*, and—having most probably internalized their lower ontological status—will have been prone to regard both themselves and their fellows with racial contempt.

Thus, a morally reclamatory project now self-consciously cognizant of race as social positioning rather than biology will need both to identify and expunge these corrupt inherited reflexes, and to rethink what genuine race-sensitive universalization now requires of us. Universalization for the goal of respecting objective personhood in a Kantian "impure ethics" of this kind will require advertence to these differentiated histories, this differentiated positioning, and the need for addressing and redressing them. To treat everyone in a "color-blind" way would in this context be equivalent to *ignoring* the history, and thus particularizing rather than universalizing respect by taking as one's reference point those persons (the *R1s*) whose personhood has not historically been in question. Abstracting away from the history and (possibly ongoing) reality of social disrespect for the *R2s* and social deference for the *R1s*, tempting as it may be, actually undermines universality, because it does not genuinely include the *R2s* on the terms necessary to correct their situation. Rather, by *assimilating* the *R2s* to the *R1s*, it

renders *their R1* particularity the universal, which is a bogus universal considering how radically different their normative positioning in the social order and the social ontology has been.

This revisionist framework, I would claim, enables us to better understand and appreciate the dynamics both of the long black tradition of moral uplift through what has been called “racial vindicationism” and the more recent activism (albeit with older precedents) of white anti-racists urging a critical rethinking of “whiteness.” These can both legitimately be framed as “Kantian” exercises once we acknowledge how divergent from the ideal Kantian community actual racialized societies have been. I am not, of course, suggesting that anyone in either camp had to have read Kant to be motivated to take on this moral–political task. Rather, the idea is to bring out, especially for a largely white philosophical readership, how recognizable these projects *should* be, how illuminating their translation into, and analysis from the perspective of, Kantian discourse *could* be, once one recognizes the radical difference a racially partitioned personhood would make to the assumptions of that world of discourse. We could think of it as the systematic working out of personhood theory under non-ideal conditions. Whereas mainstream ideal-theory Kantianism tends to presuppose an *already-achieved* social ontology of socially recognized equals, here a social-ontological transformation is being sought *to bring that equality about*. Such a transformation will require the repudiation of internalized inferiority on the part of blacks and of internalized superiority on the part of whites, with their associated asymmetries and non-reciprocities. Far from being themselves racist, then (as, through an apprehensive mainstream white lens, both, but particularly the black project, are often represented as being), they should ideally culminate in a convergence, an equalization of respective socially recognized metaphysical statuses. But to repeat: precisely because these respective standings have been tied *to race*, a “color-blind” ignoring of race cannot accomplish this end. Rather, the history and its legacy need to be admitted and confronted for the Kantian ideal of a community of reciprocally respecting persons to be realized.

Moreover, as briefly mentioned in the previous section, the obstacles to such universalization will be far more extensive, and they require far more theorization than in mainstream Kantianism, including as they will cognitive and motivational hurdles manifest not just in individualist but group-linked and social-structural forms. One of the

virtues of the left tradition, going back to Marx, is the realization that in class society, ruling- class-linked “ideology” is a central barrier to the objective apprehension of the social world. Correspondingly, *Ideologiekritik* is a crucial part of the struggle for the new socialist order. However, Marxism’s general weakness on normative matters means that the specifically moral dimension of this critique was historically undeveloped, so that those sympathetic to the project of moralizing historical materialism had to seek theoretical resources elsewhere, as discussed in section 2.

What I am now suggesting is that a black radical Kantianism needs a comparable theorization of white racial ideology, both for the achievement of individual and civic virtue. Liberalism in general, especially considering the (descriptive) individualism of its dominant versions, and its ideal-theoretic orientation in Rawls in particular, has not historically paid much attention to such issues. But contractarian liberalism in particular is nominally committed to the ideal of what Rawls (1999, 15, 48–49, 152–156) calls the “publicity” (what we would now term “transparency”) of the society’s political principles, institutions, and basic structure, taken (in ideal theory) to be the result of general agreement, and consistent with people’s moral psychology and desire to secure their self-respect. Given the deviation from ideality of real-life racialized societies calling themselves liberal, however, these actual principles, institutions, and basic structure will reflect a *white* rather than race-inclusive agreement, with deleterious effects for both white and black moral psychologies. So the achievement of “Enlightenment” and the overcoming of “immaturity”—here on both an individual and a group level—will require a recognition of the distinctive opacities, the peculiar systemic violations of transparency, necessary to maintain the racialized social order, and their effect at different racial poles on people’s self-respect.

To the extent that the *R2* sub-persons have internalized the ideology of the dominant *R1s*, they will look up to them as superior beings, who are owed not just respect but deference, while looking down on themselves. The Kantian duty to respect oneself will potentially then have very powerful corrective implications here (cf. Hay 2013), since it will require one to repudiate the status of sub-personhood. And this repudiation will be linked with epistemic duties also, the obligation to develop an enlightenment that sees through white-supremacist ideology, and to not inflict “epistemic injustice” on oneself by refusing to give one’s own counter-hegemonic perceptions and alternative



conceptualizations a fair hearing. Thinking of oneself as a sub-person is not adventitious but is based on a certain inculcated historical and social picture of the world. Achieving moral virtue will of necessity be intimately tied up with achieving epistemic virtue. As an *R2*, one will need to seek out the actual history that has put *R1s* in a position of domination over *R2s*, and to recognize and repudiate the ideology that has justified it—hence the long-standing emphasis in the black radical tradition of educating oneself about black history, against the myth of the history-less “negro,” and of understanding the actual social forces that have brought about the present social order.

Assertions of “black pride,” then, need not be racist (though admittedly they may degenerate into racism). Translated as I have suggested, they can be sympathetically read as asserting equal personhood and the entitlement to equal respect for a population traditionally subjugated and denied both. A 1933 essay by Du Bois (2016 [1933]) makes the connection explicit in his title: “On Being Ashamed of Oneself: An Essay on Race Pride.” “Pride” in this context is not racial self/group glorification, the assertion of superiority, but the corrective to “shame,” aimed at equalization. From the classic civil rights placards that simply (but revolutionarily) declared “I AM A MAN” to the recent “Black Lives Matter!” movement (Lebron, 2017), we find a thematic continuity of protest against the reality of continuing racial subordination. It is the repudiation of psychologically internalized inferiority (“You are not a man/person”) and the demand for an end to socially prescribed inferiority (“Black lives do not matter”), the aspiration to equalization rather than to superiority. And “race” as blackness needs to be part of this moral declaration rather than being jettisoned as irrelevant because of its historic signification *as* sub-personhood. In Malcolm X’s (Breitman, ed. 1965, 169) typically blunt assessment:

You know yourself that we have been a people who hated our African characteristics. ... [W]e hated the color of our skin, hated the blood of Africa that was in our veins. And in hating our features and our skin and our blood, why, we had to end up hating ourselves. ... Our color became to us a chain—we felt that it was holding us back. ... It made us feel inferior; it made us feel inadequate; made us feel helpless. And when we fell victims to this feeling of inadequacy or inferiority or helplessness, we turned to [the white man] to show us the way.

Overcoming self-hatred and the lack of self-respect will thus require not merely the nominal repudiation of racial deference to the racially superior *R1s*, but the genuine affirmation of a personhood not defined on *R1* terms, not tacitly tied to “whiteness,” and its derogation of oneself and one’s fellow *R2s*.

Moreover, the complexities created by growing intra-*R2* class differentiation, and the mutability of racism (including “culturalist” as well as old-fashioned “biological” forms), mean that disrespect can assume ever more subtle guises, not necessarily easily recognizable as such. Historically, in the postbellum period, the solution within the African American community to dealing with the mass of newly freed ex-slaves often took the form of elite programs of racial “uplift” and racial “respectability” (Gaines, 1996). Predicated on a social distancing from what were taken to be inferiors within the population (generally the darker and more class-disadvantaged), this moral–political agenda in effect recapitulated an adherence to racialized norms of full personhood. Today, a century and a half later, the seeming intractability of the “dark ghetto” has similarly moved some well-meaning liberal elites, both white and black, to advocate programs of “moral reform” to remedy what are seen as self-destructive cultural practices. But in Tommie Shelby’s (2016, 100, 107) judgment, “moral reform attacks the ghetto poor’s social bases of self-esteem and fails to honor their need to preserve their self-respect. ... Such paternalistic attitudes are fundamentally incompatible with the liberal value of respect for persons.” A black radical Kantianism will thus need to be sensitized to the nuances of evolving patterns of disrespect in public policies that may facially seem quite defensible, even laudable.

Finally, a de-romanticized view of the psychodynamics of social oppression in general, including racial oppression, should alert us to the likelihood that at least some of those who have been systemically subordinated will be seeking to turn the tables rather than to establish an equitable social order. Not all “resistance” is morally licit, and in the case of race, this prohibition rules out any general license, a *carte noire* so to speak, to ignore all moral rules in the quest for black emancipation. “By any means necessary”—uncompromisingly militant and inspirational as it may sound when shouted in the mass meeting or demonstration—is not actually a defensible ethico-political position, and the refusal to let oneself be “dissed,” whether by the *R1s* or one’s fellow-*R2s*, does not

legitimate in its turn a denial of the personhood of those “dissin” one, and the respect they, too, are due. A black radical Kantianism cannot be so different that it denies the validity of basic moral proscriptions. As Shelby insists, against an irresponsible amorality of the privileged posturing as “revolutionary” solidarity with the subordinated, we need a “political ethics” for the oppressed, which will have to undertake the difficult but necessary task of separating out actions and behaviors and moral postures conventionally condemnable, but permissible under the peculiar circumstances of racial subordination and structural disrespect, and actions and behaviors and moral postures impermissible despite these circumstances, requiring our condemnation and censure.

Let me turn now to the privileged *R1s*, and the distinctive obstacles and temptations they will face.<sup>7</sup> In the classic period of overt *R1/R2* racial domination (“white supremacy”), one’s respect for oneself and one’s fellow *R1s* will have been integrally tied up with *R1* membership. One is respecting oneself, one is respecting one’s fellow whites, not as human(s) qua human(s) but as human(s) qua *white*, as members of the superior race. As Linda Martín Alcoff (2015, 24) puts it, “White identity ... has been inculcated with a vanguardist illusion for over a century that has configured European whites as the scientific, technological, moral, artistic, and political leader of the human race.” Indeed, so deeply has this configuration shaped white identity that, as earlier suggested, they have sometimes simply become fused, coextensive. The white race becomes the paradigmatic human, with all other races as deviations from this norm.

Sociologist Joe Feagin (2013) describes what he calls the “white racial frame,” a cognitive orientation toward reality so deeply imprinted by white interests and the European/Euro-American experience, and (because of global white domination) so structurally embedded and socially hegemonic, that it loses its identification *as* white and simply becomes *the* way of looking at the world. This framing will, I suggest, be the paradigm example of the “dogmas and formulas, mechanical instruments for rational use” cited by Kant that—in this revisionist black Kantianism—obstruct objective factual and moral cognition of the social order. In its factual misrepresentations and evasions, in its conceptual misdirections, it incorporates a powerfully sedimented set of testimonial and hermeneutical injustices to blacks and the black perception of social reality that will

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<sup>7</sup> For a more detailed treatment, see my “White Right: The Idea of a *Herrenvolk* Ethics”: Mills (1998, ch. 7).

somehow have to be overcome for achieving the veridical perception of, and motivational readiness to act on, universal moral law.

A growing number of books by white anti-racist activists, while obviously a positive development, testify in their titles to the magnitude of the challenge to be faced: *White Like Me: Reflections on Race from a Privileged Son* (Wise, 2011); *Waking Up White and Finding Myself in the Story of Race* (Irving, 2014); and *Deep Denial: The Persistence of White Supremacy in United States History and Life* (Billings, 2016). The common theme is the difficulty of “waking” whites up to their whiteness. Debby Irving (Irving 2014) writes:

I didn't think I had a race. ... The way I understood it, race was for other people, brown- and black-skinned people. Don't get me wrong—if you put a census form in my hand, I would know to check “white” or “Caucasian.” It's more that I thought all those other categories, like Asian, African American, American Indian, and Latino, were the real races. I thought white was the raceless race—just plain, normal, the one against which all others were measured. (xi)

Similarly, work in what is called “critical white studies” (Dyer, 1997) has pointed out how whiteness functions as the “default mode,” the raceless racial reference point. Think of “flesh-colored” crayons and band-aids, or fiction (short stories, novels) in which the entry of a person of color is formally announced as such—“A Negro approached our table”—the presumptive whiteness of the other characters needing no announcement, being taken for granted (Taylor 2013, 150–152). If the danger zones flagged in an individualist Kantianism center on our individual selfishness and proneness to put ourselves first in decision-making where others' interests are involved, here, in this race-sensitive Kantianism, we have to identify a different and additional set of hazards: a pseudo-universalization that might seem to be conscientiously living up to Kantian prescriptions, but which is actually universalizing only over the white population. The “inclination” to white particularism presents itself here in the guise of universalism insofar as whiteness has functioned as the tacit or overt universal. A genuine, race-inclusive universalism will thus require us to retrain our moral reflexes, products of an “immaturity” not just individual but social, and self-consciously try to take into account

the perspective of the sub-person population, those persons who could hitherto legitimately be disrespected not merely as inferior moral beings but inferior cognizers. In a society characterized by racial domination and hegemonic racialized patterns of thought, veridical moral cognition by the *R1s* will thus involve a far greater degree of labor, self-interrogation, and openness to the challenges, both doxastic and hermeneutical, of the *R2s*, those who, precisely because of their subordination, are more likely to have come closer to an authentically inclusive universalization.

Moreover, the “second nature” briefly mentioned by Kant and central to radical theory—our socialization by class (patriarchal/white supremacist) society *into* humans with particular differentiated psychological traits—takes on a far greater significance in the light of recent work on “implicit bias” (Brownstein and Saul, 2016a; 2016b). Whatever our efforts at self-conscious ratiocinations to discern the genuine demands of the moral law, we are, it turns out, far more powerfully affected by unconscious processes and predilections than we would previously have thought. Alcoff (2015, 85, 86) suggests that “whiteness” as a real, though non-biological identity becomes “constituted” in the self as a “core set of routine perceptual and epistemic practices [affecting] everyday habits of social interaction, interpretation, and judgment,” often “relatively unconscious.” Similarly, Shannon Sullivan (2006, 23, 25), drawing on John Dewey’s work on “habit,” argues for the existence of “raced [white] predispositions [that] often actively subvert efforts to understand or change them, making themselves inaccessible to conscious inquiry [so that] race often functions unconsciously as well.” Kant’s “phenomenal” with a vengeance!—but here not our “animal” but our “social” nature. In the words of Tim Wise (2011): “My [white] racial identity had shaped me from the womb forward. I had not been in control of my own narrative. It wasn’t just race that was a social construct. *So was I*” (viii).

The rethinking of self- and other-respect will thus require a dismantling and reconstruction of a white self related to other white selves through preformed networks of racialized dis/regard. But the problem is that the shift from *de jure* to *de facto* white domination has led to one more ironic turn in the history of white particularity representing itself as universality. In an era when “color-blindness” and “post-raciality” have become the new norms, whites are depicting themselves as basically no different in their social positioning than people of color, the long history of systemic differential white

advantage being denied, and the racial playing field asserted to be now level. Refusing to acknowledge “race” and their own enduring whiteness, they now declare the raising of the subject by nonwhites to be itself the new variety of racism. As Wise concludes: “Only by coming to realize how thoroughly racialized our white lives are can we begin to see the problem [of racism] as ours, and begin to take action to help solve it. By remaining oblivious to our racialization we remain oblivious to the injustice that stems from it, and we remain paralyzed when it comes to responding to it in a constructive manner” (viii–ix). Hence David Billings’s (2016) book title about typical white responses to the imperative of acknowledging and dismantling white supremacy: *Deep Denial*. From the perspective of revisionist Kantianism, then, we need to recognize how the *general* human tendency (“inclination”) to privilege oneself and evade uncomfortable facts in our moral decision-making is massively reinforced here through the construction by social (“phenomenal”) forces of oneself *as white*, motivated in unadmitted ways by one’s group membership, collective group interests, and unrepresentative (“particularistic”) group experience in a segregated and oblivious white world.

#### §4.2. The Political

Let us now turn to the political, the world of *Recht* rather than individual virtue. As mentioned at the start, Kant is now seen in the Western tradition as a normative political theorist who belongs in the first rank, a central reference point for both Anglo-American analytic political philosophy and Continental critical theory. But as Arthur Ripstein (2009, xi) has pointed out, his influence is more “indirect” than direct, because his political theory is not at all as straightforwardly derivable from his ethical commitments as one might anticipate, or desire. Howard Williams (1994, 141) offers a seemingly obvious judgment: Kantian normative political theory should be thought of as “the realization of the categorical imperative in society at large.” Similarly, Rawls (1999, 155), in justifying his theory of justice for ideal societies, characterizes it as “freely interpret[ing]” Kant’s view “in the light of the contract doctrine”: “[A] desirable feature of a conception of justice is that it should publicly express men’s respect for one another. ... [T]he principles of justice manifest in the basic structure of society men’s desire to treat one another not as means only but as ends in themselves.” Hence the two famous principles of a social-democratic vision of an ideal “well-ordered society.” But this

interpretation is “free” indeed since, as Ripstein (2009, 2–3) reminds us, “Kant ... denies that political philosophy is an application of the Categorical Imperative to a specific situation. ... Most striking of all from the perspective of contemporary readers, he denies that justice is concerned with the fair distribution of benefits and burdens. None of the principles he articulates are formulated in terms of them.” Similarly, Allen Rosen (1993, 5) says, “Kant believes that justice has nothing to do with human needs or desires. Justice, as he understands it, does not require the state to provide for the material needs of its subjects.”

Accordingly, Ripstein (2009, 3) goes on to distinguish between Rawls’s “broadly Kantian political philosophy,” “employ[ing] Kantian concepts to address a question about social cooperation” and Kant’s own political philosophy. Given what turns out to be the unhelpfulness of many of Kant’s own theoretical commitments in the political realm, I am therefore going to follow Rawls’s example. The black radical political Kantianism I am trying to develop here should thus be thought of as a black radical *Rawlsian* Kantianism, or perhaps even just a black radical Rawlsianism. As Rawls took liberties with Kant, I am taking liberties with both Kant and Rawls to ask the question: What would a commitment to bringing about the ideal cooperative *Rechtsstaat* require in a non-ideal world where the actual polity has been an exploitative and unjust *Rassenstaat*? If “social coercion” rather than “social cooperation” has been the norm, if disrespect for and the instrumentalization of some racialized persons as mere means to the ends of others has been foundational to the construction of the actual “basic structure,” then what would a race-sensitive categorical imperative now require of us for corrective social justice?

For as I have recently argued in two critical essays (Mills, 2015a; 2017b), a remarkable feature of contemporary political philosophy is that neither in Rawlsianism nor in Continental critical theory is the subject of racial justice addressed, despite both being inspired by the Kantian ideal of a polity dedicated to achieving the kingdom of ends for its members. Originally, of course, Marx was the political theorist more important than Kant for Frankfurt School critical theory, but Marxism’s normative weaknesses historically rendered it vulnerable to parasitism on liberal democratic norms for its axiology. In addition, with the collapse of Marxist movements and self-described Marxist states in the 1980s and 1990s, liberal social democracy increasingly began to seem the only morally defensible and economically viable form of socialism remaining. So we have

witnessed a convergence of “deontological” left-liberalism and critical theory, with the spirit of Immanuel Kant presiding over both, even if the idiom and the vocabulary are very different. Given Rawls’s reorientation of Anglo-American normative political theory toward social justice, and critical theory’s historic commitment to overcoming social oppression, then what better philosophical environment could one have imagined for getting the subject of racial injustice and its correction onto the agenda?

Yet despite the shaping of the modern world by European colonialism and imperialism, by African slavery and expropriative white settlement, which has made race an integral constituent of the modern polity’s “basic structure” (Mills, 1997), it is not thematized by this literature. If racial justice has been central to the normative theorizing of people of color, and certainly of blacks, it has been almost completely absent from mainstream “white” justice theory, whether analytic or Continental. What accounts for this glaring lacuna? In my diagnosis, the problem has been a combination of multiple factors: the grossly unrepresentative demography of the profession, the non-traditional nature of the subject matter (race), the uncritically exclusionary drawing on the Euro- and Euro-American experience and philosophical canon for guidance (all white), a sanitization and whitewashing of the past, and the *general* historical under-theorization in the literature of corrective justice in the first place (Roberts, ed. 2005). (Indeed, Samuel Fleischacker [2004] has documented that—contrary to standard assumptions in the profession, including Rawls’s—even *distributive* justice in our contemporary sense, de-linked from social status and extending to property rights, is actually a very recent concept, first put forward by the French revolutionary Babeuf in the 1790s. So if even white men as a group only gained their equal recognized normative status and distributive justice entitlements a bit more than 200 years ago, what would one expect for people of color, denied personhood, and unrecognized as moral equals?) Though Rawls (1999, 8) himself emphasized that ideal theory was supposed to be merely the prologue to properly doing non-ideal theory, including tackling the “pressing and urgent” matter of “compensatory [presumably corrective] justice,” he never in his own work moved on to this issue, nor would his disciples and commentators do so either. Jon Mandle and David Reidy’s (2014) recent *Companion to Rawls*, for example, dedicates a grand total of one and a half of its nearly 600 pages to race, and a single endnote sentence to affirmative



action. Ideal theory in the Rawls industry has turned out to be not a prolegomenon but the main text—not a transitional stage, but the final destination.

A black radical “Rawlsian” Kantianism, by contrast, serving a different constituency, and driven by a genuine urgency about the need to achieve racial justice, must of necessity upend these priorities, making non-ideal theory and corrective justice its starting point. Rawls’s elaborate detailing of the contours of his “well-ordered society” is unmatched by anything but a cursory sketch of the societies we are actually living in. Indeed his general stipulation that we should think of society as “a cooperative venture for mutual advantage” (Rawls, 1999, 4) is itself ambiguously positioned between the normative and the descriptive, sometimes seeming to be an earlier categorical idealization (of which well-ordered societies are then a subset), sometimes seeming to be meant as a general characterization of *actual* societies. A black radical Rawlsianism, on the other hand, will be unequivocal in identifying the social order as an oppressive white-supremacist one—not a cooperative venture for mutual advantage, but a coercive venture for white advantage. So just as in the realm of ethics, a black radical Kantianism challenges the liberal ontology of equally socially recognized persons, so here, in the realm of political philosophy, it challenges the liberal contractarian picture of a sociopolitical founding upon the basis of equitable social cooperation. (The perspective from the slaves’ quarters is necessarily somewhat different than the perspective from the Big House.) If the ideal is the *Rechtsstaat*, the reality is the *Rassenstaat*, and the role of justice theory—here non-ideal corrective justice theory, the theory appropriate for “ill-ordered societies”—must be to show us how to get to one from the other. But here again we are handicapped by Feagin’s “white racial frame,” a cognitive apparatus refractory to such theorization. Not only is transitional racial justice hardly recognized as an important subject in mainstream “white” justice theory, but the necessary philosophical recognition of the state *as* racial is also absent.

White “radical” theory—white Marxism and white feminism—has challenged mainstream liberal-democratic theory with the concepts of the “bourgeois” state and the “patriarchal” state. But even in radical theory, let alone mainstream theory, very little critical white theorization could originally be found of the “racial” state, except for (what was represented as) the distinctive case of Nazi Germany (Burleigh and Wippermann 1991).

The black radical tradition, by contrast, going back at least to the nineteenth century, in the writings of David Walker, and coming forward through Martin Delany, Frederick Douglass, W. E. B. Du Bois and many others, has not hesitated to depict white supremacy as the political system dominating black Americans and other people of color. So they have generally rejected what has come to be called the “anomaly” view of American racism, which—for example, in the analyses of U.S. political culture offered by such famous figures as Alexis de Tocqueville, Gunnar Myrdal, and Louis Hartz—depicts it as basically egalitarian and inclusive, with racism being a deviation from the norm (Smith, 1997). Rather, they have endorsed the “symbiosis” view, which sees racism as central to the workings of the white polity.

During World War II, for example, the “double-V” campaign in the African American community asserted a heretical equivalence between Nazi Aryanism and American white supremacy, and called for victories against racism both abroad and at home. Outrageous—even traitorous—from the perspective of the mainstream political orthodoxies of the time, this judgment has, three-quarters of a century later, been most spectacularly vindicated with the recent publication of James Whitman’s *Hitler’s American Model* (2017). Expressing surprise that, despite the ready availability of the pertinent documents, “virtually no one has suggested” such a connection, Whitman (2017, 3, 5, 7, 37–43, 160) points out that the Nazis drew on U.S. legislation for the anti-Semitic 1934 Nuremberg Laws, seeing the United States “as the innovative world leader in the creation of racist law,”<sup>8</sup> with “a shared commitment to white supremacy,” and constituting an inspirational and pioneering model, in its treatment of “Negroes,” for the juridical creation of the categories of first- and second-class citizenship: “It was ... the natural first place to turn for anybody in the business of planning a ‘race state.’”

Whitman’s book is probably the most striking recent example of such a belated confirmation. But comparable work in history (Fredrickson, 1981), political theory (Smith, 1997; Marx, 1998; King, 2007; Lowndes et al. 2008), sociology (Oliver and Shapiro, 2006; Jung et al. 2011), and critical legal race theory (Crenshaw et al., 1995; López, 2006; Rothstein, 2017) has for some decades now been making a case for the

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<sup>8</sup> Though on occasion they judged the U.S. to be *too* racist to be consistently emulated: Whitman (2017, 5, 122–123, 127–131).

racialization of the American juridico-political order. So what was once a heretical black fringe viewpoint has become far more respectable, even within mainstream white scholarship. It is mainstream *political philosophy* that has yet to acknowledge and catch up with this new body of revisionist work. If Kant himself warned about the dangers of ecclesiastical domination and obfuscation, here it is white domination and obfuscation in a supposedly liberal state that has had the most damaging consequences for political transparency and veridical factual and moral cognition.

How then would a reconstructed black radical “Rawlsian” Kantianism in political philosophy tackle racial justice? As indicated above, I suggest that the most obvious and uncontroversial route (if more Rawlsian than Kantian) is through extending the Kantian proscription on “using” others, treating them as mere means, to a norm for the polity as a whole. Writ large, applied to the basic structure as such, the claim would then be that the racial state, the white-supremacist state, is founded on racial exploitation, and thus needs to be fundamentally restructured to end this violation of *R2* personhood.

I have developed these arguments in far greater detail elsewhere (Pateman and Mills, 2007, ch. 3 and ch. 4; Mills, 2015b; Mills, 2017a, ch. 7, epilogue), so this is just a brief summary. Rawls (1999, 272) offers no theorization of exploitation himself because of his self-restriction to the realm of ideal theory: “[T]he notion of exploitation is out of place here. It implies a deep injustice in the background system.” For Marxism, by contrast, all post-hunter-gatherer societies are class societies, and as such are based on the exploitation of the subordinate classes. In the case of ancient Western slave societies or medieval feudalism, involving the coercion of slaves and serfs denied equal rights, this case is easy enough to make. But for capitalism, at least in its ideal liberal-democratic form, the case becomes much more demanding, and hangs crucially on the labor theory of value, now generally seen as discredited even by most Marxists, and by all mainstream economists. Hence Rawls’s belief that a “property-owning democracy,” a “well-ordered society,” regulated by his two principles will be non-exploitative.

But consider now how much more easily than in the Marxist critique of liberalism, how much less controversially, the case for systemic exploitation in a *racist* society can be made, one that has historically denied equal status to the *R2s*, and as such has indeed been characterized by “a deep injustice in the background system.” Here one does not need to come up with plausible arguments for how the “free” choice to sell one’s labor-

power is actually constrained and unfair because of economic coercion. The historic refusal to the *R2s* of “person” status means that their “free choices,” their “ends,” have generally been completely disregarded, whether in the form of slavery, or the postbellum “debt servitude” of sharecropping, or the inferior options of the national racial division of labor, with its discriminatory occupational and wage structures. Moreover, the legacy of this history of denied equal personhood means that even in the present post-Jim Crow, post-civil rights epoch, after the *formal* repudiation of *R1/R2* racial status differentials, that they will as a group continue to occupy a position in society that will effectively severely curtail their choices by contrast with the *R1s*. So formally “equal” treatment here will still be unequal, still constitute “using,” not because (as in the controversial Marxist diagnosis) the compulsions of the relations of production undermine the superficial equality of the relations of market exchange, and/or because surplus value is extracted from them, but because their lack of liberal (Kantian) freedom, equality, and independence, currently or historically (through intergenerational status transfer), has coerced them via current, or past, denied personhood. So in interacting with them, even when seemingly treating them “fairly,” the *R1s* will be able to benefit from this past history of denied equality.

A revisionist black radical “Rawlsian” Kantianism would thus have to take account of this history, and to recognize that insofar as—being an *R1*—one is a beneficiary of it, one is still going to be “using” people. Exploitation will not be limited to person-to-person transactions but will be embedded, via this history, in the overall social structure, manifest in huge differentials in wealth between median white and median black households (Oliver and Shapiro, 2006). The original denial of equal “ontological” status, equal personhood, to blacks will be materially perpetuated in radically different life-chances. But if the subordination of the group in the first place reveals the lack of respect for them, how can the continuing failure to correct their situation not *itself* be a continuation of this lack of respect? Since Kant presumably means to condemn not just present instances of directly “using” *R2s* but a past history that has left the *R2* population vulnerable to their continued indirect “using,” it implies that—to the extent that *R2* subordination has been central to the economy (as it unquestionably has been in the United States)—the society as a whole stands condemned, and *R1s* are the beneficiary on a national scale of racial exploitation, of the anti-Kantian “using” of the *R2s*. Whether in

affirmative action—briefly implemented, but now largely dead—or the more radical case for reparations—never seriously considered in the first place—claims for material/economic corrective justice for African Americans can then, I am suggesting, be defended in what is now supposed to be the uncontroversial and broadly accepted normative framework of “Kantian” “deontological liberalism.”

Corrective racial justice will, of course, require public policy measures in many other areas also, such as to redress second-class citizenship in the electoral arena and broader civic sphere (e.g., reform of the criminal justice system and the prison-industrial complex), not to mention what could be termed, following Rawls, “the social bases of disrespect” manifest in the symbolic realm. It should be obvious how the social justice movements of recent decades involving the protests against police killings of unarmed black men and women, voter disenfranchisement, and the contestation over the symbolic significance of the Confederate flag, Civil War monuments, and the naming of buildings and institutions after prominent racist white American figures can all be easily fitted into these categories. But I wanted to focus on the economic aspect in particular as the one most likely to be controversial, and perhaps hardest—at least on first examination—to link to Kantianism. If the analysis above has been persuasive, it means that the Kant of modern ethics, and—albeit by more attenuated links—the Kant of modern political philosophy also,<sup>9</sup> provides far more resources than might at first be presumed for a black radical appropriation. Suitably accessorized with an Afro or dreads, the racist white guy who famously declares “*Fiat justitia, pereat mundus*” (Kant, 1991b, 123) would suddenly have taken on a whole new complexion.

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<sup>9</sup> However, Kant’s (1991a, 71–74, 77–79) insistence that existing property rights are only “provisional” until suitably ratified by a “civil constitution,” a “rightful condition,” and that “*prolonged possession ... regarded as acquisition of a thing by long use of it, is a self-contradictory concept,*” since “it is absurd to suppose that a wrong becomes a right because it has continued for a long time” (170), might make him more amenable even in his unreconstructed (though at least non-racist) non-Rawlsian incarnation to a redistributivist corrective justice program. After all, white supremacy (as the privileging of a “hereditary” “ruling [race]”) can hardly be termed “rightful” or the expression of “the united will of a whole nation” (Kant 1991b, 79). Thanks to Lucy Allais for pointing this out to me.

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# Kant's *A Priori* Philosophy and His Racism

Lucy Allais, University of California, San Diego and The University of Witwatersrand

## §1. Introduction

Kant's philosophy centrally focuses on trying to give an *a priori* account of conditions of the possibility of various human phenomena, including metaphysics, empirical knowledge, there being moral reasons, and the nature of just political power. His *a priori* conditions are presented as if they are meant to be humanly universal—to apply equally to all humans. He thinks, for example, that, for humans, perceiving distinct particulars requires *a priori* representations of space and time; that, for humans, the possibility of empirical knowledge depends on the application of *a priori* concepts of substance and cause; that our reason unavoidably seeks for further explanations of any contingent phenomena we encounter; that for all humans, what counts as a valid reason for acting is constrained by the condition of respecting the humanity of each other human; and that we are morally required to create a state that has powers to coercively enforce the conditions that enable the equal political freedom of each.

Despite these supposedly universal features of his *a priori* moral theory, Kant has racist and sexist views that seem incompatible with regarding all human beings as moral equals. Further, while his attitudes seem to have improved over time in his published works, and while his racist and sexist views mostly do not feature centrally in his most *a priori* works, they do continue to appear throughout his life, and certainly contemporaneously with his supposedly universal *a priori* theories.

This leaves us with questions about how to make sense of his views and about how Kant himself understood his theories—did he intend the categorical imperative, for example, to apply only to white men? Perhaps independent of how Kant himself understood his claims, there is the question of whether the theories themselves can be extricated from his racism and sexism, and whether there could be any resources in Kant's account for work on topics such as racial justice, or whether, in contrast, critique of Kant's views as well as work on racism, sexism, and theory of race must come from outside his system, and perhaps from outside of an *a priori* framework. Even if we conclude that

Kant’s system is irredeemably compromised, paying attention to and understanding the details of Kant’s racism is still important in a number of respects—amongst other things for understanding the history of the modern concept of race and for understanding racism. It also raises broader questions about methodology in philosophy and the history of philosophy: how should we read the work of racist and sexist figures in the tradition? More generally, is there something fundamentally flawed about *a priori* methodology as a way of approaching topics like racial justice, which require attention to context and situation? Inspired by his talk of human equality and autonomy, some commentators simply assume that the core theories are separable from his racism, frequently writing as if this is the case without even pausing to notice the racism,<sup>1</sup> but on the other hand, others write Kant off as irredeemably compromised and having nothing useful to tell us about practical reason and moral life because of his racism and sexism.<sup>2</sup> My view is that with respect to the latter issue we should treat this as an open question, and take it case by case. We should never assume that any part of his work—even the most seemingly abstract and theoretical—is innocent of infection by his racist and Eurocentric assumptions. But at the same time we should also not assume that because of his racism there could not be resources in his work that could be useful or true, including for understanding and addressing racism and sexism. In previous work I have discussed the implications of Kant’s racism for the question of whether he intended his theories to apply to all humans, or just to white men.<sup>3</sup> Here, after some brief comments on this issue, I take up the question of whether there could be resources in his system that can be productively used for work on race, racism, and historical injustice, starting with a challenge raised by Charles Mills concerning rethinking this work in the light of the racist exclusions of the tradition.

Before getting into my questions, a brief comment on a response people sometimes bring up in relation to this topic: “Oh but didn’t everyone have that view then? Is it really

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<sup>1</sup> This seems to have been the majority view of scholars working on Kant’s moral theory, since most work on Kant’s practical philosophy does not address the question of whether his work is undermined by his racism, and assumes that the ideas are meant to apply to all humans rather than to white men.

<sup>2</sup> This is a view I encounter in discussion with people working on issues to do with race and people working on feminism.

<sup>3</sup> Allais, 2016.

fair to criticize him for views which were just so standard at the time? Wouldn't this be using anachronistic standards?" In my view, thinking about Kant's racism would be important even if these concerns were accurate (including the question of why someone supposedly brilliant couldn't have thought something different to "what everyone thought"), but in fact they are highly questionable. Not only was it *not* everyone's view at the time, Kant went out of his way to debate with someone, Georg Forster, who had far more experience of black people than he did, who questioned his theory of race and argued for abolitionism and defended the equality of the races.<sup>4</sup> His racist views were *not* simply what everyone thought. And *he* didn't think of his views on race as such—he thought of his theory of race as new and important (just as he thought of many of the central ideas of his critical corpus as self-consciously revolutionary). Rather than simply being "what everyone thought then," it is argued that European anti-black racism as well as the modern conception of what race is really develop in this period—and that Kant is an important player in this development.<sup>5</sup> So we cannot bracket Kant's racism by saying it is simply what everyone thought then. And we need to understand how it relates to the accounts of autonomy, dignity, and human equality that are supposedly at the heart of his moral and political philosophy.

A central question of interpretation raised by Kant's racism is whether, as he understood his theory, the categorical imperative is meant to apply to all humans or only white men. Kant presents his theory as giving an *a priori*, universal account of how we ought to treat persons, and most interpreters discuss his arguments assuming that the theory is meant to apply to all humans. However, Mills (2005; 2014) has argued that the only way to make Kant's moral theory compatible with his racism is to attribute to him the concept of an *Untermensch*—a human who is not a moral person.<sup>6</sup> This makes Kant's racism compatible with his *a priori* moral theory because it posits that the moral theory applies to all those taken to be *persons*, rather than to all *humans*, which means there is no inconsistency in leaving out humans who supposedly do not meet the threshold for

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<sup>4</sup> See Kleingeld, 2007, 2012, for detailed discussion of this.

<sup>5</sup> See Bernasconi, 2011; Frederickson, 2002; Mills, 2014; Smith, 2015.

<sup>6</sup> See also Bernasconi, 2011; Eze, 1994. See Boxill, 2001 and Kleingeld, 2001, 2012, 2014, for contrary arguments.

personhood, such as (Kant may be taken to think) black people and women. In other work I have argued that while Mills’ *Untermensch* proposal does succeed in introducing consistency to some of the things Kant says, it does not ultimately resolve the problem by making Kant consistent, because it introduces inconsistency in other places.<sup>7</sup> Kant may have had an *Untermensch* view of black people and women, but his moral and political theories are not compatible with such a view. In particular, Kant does not have a threshold notion of personhood; he does not take supposed lesser intelligence or lesser moral character to undermine personhood or the requirements for respect. Further, in cases where there is reason to think that humans’ rational capacities are so compromised (temporarily or permanently) as to render them unable to actually act autonomously, he takes us to be morally and politically required to respect and protect them, rather than entitled to abuse and exploit them. There being humans who are *Untermenschen* liable to exploitation is not compatible with his position. I have concluded therefore that Kant cannot be made consistent on this issue.

Much of the debate about the question of whether Kant thought of black people and women as moral persons treats the content of the central ideas in Kant’s moral and political philosophy (such as the categorical imperative and justice) as roughly agreed on, and makes the question whether or not we are right to assume that the author of the concept intended them to apply to all humans. It seems to follow that once we have noticed the racism, we could then bracket it off and take the theory unchanged, to apply to all humans. However, a further level of questioning involves investigating whether we should rethink what we have understood to be the content of Kant’s practical theories in the light of both his racism and that of more than two centuries of interpretation. Mills argues that we should not simply bracket the racism and proceed with the system as it was, but rather should rethink our understanding of the system and its application, in the light not just of overt racism like Kant’s, but also the exclusions in the so-called liberal enlightenment tradition, where these could include misunderstanding and obfuscation of what should follow from the tradition’s own premises. He has argued that racism among Kant’s (largely white) interpreters has led to us failing to pay attention to Kant’s racism

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<sup>7</sup> Allais, 2016.



and interpreting him too charitably.<sup>8</sup> In my view (and also that of Mills<sup>9</sup>) it could *also* be true that racism in the tradition following Kant has led us to not interpret the resources in some of his views radically enough. Where the hypocrisy of enlightenment liberalism<sup>10</sup> may have resulted in the assumption by its proponents of their being in something like conditions of liberal justice, the tradition may have failed to interrogate what is really required by equal freedom. I will briefly outline the first part of Mills' critique, and then present some suggestions for developing the second part, in different ways than he has done.

## §2. Mills on the Exclusion of Race

In a number of works, Mills has argued that mainstream European and Anglo-American political philosophy has failed to theorize racial domination and racial justice to an extent that centrally undermines this tradition as an attempt to theorize justice. He argues that the tradition that is supposedly concerned with justice has really been anything but, and is rather a whitewashed view of equality and cooperation among dominators defending their property interests (amongst other things, he takes this to be reflected in the tradition's focus on theorizing *property*). He says that "Western philosophy's historic inadequacies on the theorization of social justice are ... most enlighteningly to be understood in relation to Western philosophy's demographic domination by political elites of one kind or another."<sup>11</sup> In addition to his critique of European and Anglo-American political philosophy's failure to theorize racial domination and racial justice, a central part of Mills' argument is a critique of so-called ideal theory. Ideal theory is political theory that starts with the aim of describing an ideally just society; a central example (and target of Mills) is Rawls and Rawlsian political theory. Critics of

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<sup>8</sup> Mills, 2005; 2014.

<sup>9</sup> Mills, 2019.

<sup>10</sup> This hypocrisy is documented by Domenico Losurdo, 2014, who looks at central liberal theorists' endorsement of or failure to condemn slavery and racial oppression, as well as oppression of poor people, and their defenses of enclosure and the use of the criminal justice system to exclude poor people. While a number of his choices of supposedly liberal theorists are problematic (Burke, for example), the points are well made with respect to liberals such as John Locke and Alexis de Tocqueville.

<sup>11</sup> Unpublished manuscript, presented at the Central APA, Denver, 2019.

ideal theory argue that it fails to give us an account of how we get to a just state from where we actually are, and that we should rather start with attention to actual injustice. Mills argues further that focus on ideal theory functions to perpetuate racial domination, because idealizing at the level of theory leads its proponents to idealizing their actual societies and overestimating how just they are. Assuming that the societies they live in are roughly just leads to treating racial injustice as an aberration from the main narrative, rather than the center of it.

Building on his work in *The Racial Contract* (1999<sup>12</sup>) and “White Ignorance” (2007<sup>13</sup>), in “Through a Glass Whitely: Ideal Theory as Epistemic Injustice” (2018), Mills argues that the failure to theorize racial domination in 200 years of European and Anglo-American political philosophy exhibits the cognitive deficiencies of the dominating group by whom much of this philosophy has been written, and obscures the realities of racial domination in the societies this theory is produced by, and that because ideal theory has the effect of idealizing present society, this theory in fact provides an opaque narrative that serves to rationalize what is oppressive in the present social order. He says: “[w]hen a liberal society pretending to be a *Rechtstaat* [state of justice] is actually a *Rassenstaat* [race state], maintaining this political fiction will obviously require a ‘principled’ commitment to a ‘transparency’ that is really an ‘opacity’. ... Racial liberalism in the first stage of whiteopia will justify white racial domination and then later, in the second stage, deny and obfuscate it” (Mills, 2018: 58). He argues that given the role it has played, ideal theory can be seen as a form of epistemic injustice.

Part of Mills’ critique is of idealizing assumptions and abstractions that lead to inappropriate universalizing, which, he argues, characterizes the opacity of epistemologies that come out of a position of dominance. One thing that could be taken to follow from this critique is to reject *any* use for ideal theory, reject abstractions and

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<sup>12</sup> Mills takes the idea of the social contract (which plays a central role in European enlightenment political theory, supposedly helping to explain the origins of government and our obligations to it, as well as moral codes for cooperation in society) and argues that if we theorize actual societies using this notion we obfuscate actual group power and domination, and that the *racial* contract (white supremacy theorized as a contract between whites) more accurately describes actual societies.

<sup>13</sup> Mills discusses forms of ignorance and cognitive deficiencies that result from being in a position of domination.

universalizing, and reject political philosophy based on the enlightenment liberal tradition. This position is defended by another important writer on Kant's racism, Robert Bernasconi, who says that "[a]cademic philosophy, especially in the United States, has equipped itself with modes of reasoning that are ill-equipped to examine its own historical complicity with slavery and racism more generally," and that a "one-sided focus on the abstract individual removed from the concrete conditions in which he or she finds him- or herself ... deprives us of the resources needed to identify and stay focused on the problems created by systemic racism. ... In this way, analytic reason and the dogmas associated with it served to mask the real struggle."<sup>14</sup> Bernasconi argues that both the abstractions of analytic philosophy as a method and the central focus of the liberal tradition on individual autonomy and the defense of private property mean there are unlikely to be any progressive resources in this tradition. Mills, however, responds differently. While he also rejects individualist abstractions from social and political reality and the pretensions to impartiality that may follow from these, his target is less the very idea of universalizing or abstracting than abstracting, idealizing, and universalizing badly—in misleading or obfuscating ways. In particular, he rejects idealizing that abstracts away from conceptually registering the reality of structures of social oppression and from theorizing its implications in terms of cognitive effects of social oppression, particularly on the dominating group. He does not conclude that there could not be possible appropriate ways of universalizing or useful idealizing or abstracting. Further, he argues that once we have paid attention to the racism of the proponents of the enlightenment liberal tradition, as well as its failures to address racial domination, further interpretative tasks remain, in particular, that of rethinking the tradition in the light of the racial dominance within modernity, in order to see whether both its defenders and its critics have failed to appreciate resources it may have for theorizing racial justice. He argues that if we want to explore the resources of this tradition for theorizing racial justice, we should not simply notice the racism and then bracket it off, taking the supposedly universal theory and its account of society as it was before, but rethink how to interpret the theory and what it says about actual societies. This leads to the project he calls black racial liberalism and black radical Kantianism (Mills, 2019).

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<sup>14</sup> Unpublished manuscript, presented at the Central APA, Denver, 2019.

In “Black Radical Kantianism” (2019), Mills argues for a black radical re-appropriation of ideas in Kant’s philosophy, rethinking and drawing on Kantian resources to reframe states such as the United States as a *Rassenstaat* (a racial state) and ask what measures of corrective justice would be needed to bring about a *Rechtsstaat* (state of justice). My aim in the rest of this discussion is to build on this suggestion, although where Mills draws on Kant’s moral philosophy, my focus is primarily on his political philosophy, the resources of which, in my view, Mills underestimates.<sup>15</sup> Despite this disagreement, I share with him the view that we should re-interrogate this work in the light not just of the racism of the author but also the racist exclusions of two centuries of interpretation. As we have seen, Mills argues that proponents of enlightenment liberal theories tend to wrongly assume that their own societies are dramatically more just than they in fact are. If this is true, it could mean that their theories of justice are irredeemably compromised, but it could also mean that the implications of their theories of justice for changing their own societies are far more radical than they have typically realized. This is the idea I want to explore: if Mills’ diagnosis of white ignorance and of the possible distortions in the way that ideal theory leads us to under-attend to dominance and oppressions in our own societies is correct, one result of this could be that these liberal theories themselves might have more radical implications for changing our societies than both their proponents and their (left) critics have taken them to have. Given the assumptions of the interpretive tradition, we should not be too sure that we already know what the system implies. One could reject liberalism as a compromised and conservative bourgeois ideology, but one could also argue that elite interests have distorted beyond recognition what liberalism should be, given its own starting points.

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<sup>15</sup> With respect to Kant’s moral philosophy, I have suggested elsewhere (Allais, 2016) that the central Kantian notions of respect (and disrespect) may be useful for thinking about racism. Crucially, disrespect involves *both* recognizing someone as a person *and* not recognizing the valid moral claims grounded in their personhood. This is never simply a failure to recognize of something that it is a person, but a failure to treat a person (something that is in some sense seen as a person) as a person. This is famously noted by Frederick Douglass, when he says: “Must I undertake to argue that the slave is a man?” “The slave holders themselves acknowledge it in the enactment of laws for their government. They acknowledge it when they punish disobedience on the part of the slave ... what is this but the acknowledgement that the slave is a moral, intellectual and responsible being” (Douglass, 1852).

### **§3. Rethinking Kant in the Light of Racism and the Exclusion of Race**

Mills' challenge is to rethink the scholarly and interpretative tradition of political liberalism in the light of, on the one hand, the actuality of modernity structured by racial domination and on the other, the exclusion of racial domination from political theorizing in the tradition. In this section, I sketch some ideas from Kant's practical philosophy with respect to which I suggest we should take up this challenge. Given the constraints of space, the aim here is primarily to outline areas for further research, rather to actually investigate the ideas in any depth.

As mentioned above, Bernasconi argues that the liberal tradition is hopeless for thinking about racial justice because of its focus on individual autonomy and the defense of private property. Both these ideas are central to Kant's practical philosophy. However, I suggest that if we take Mills' challenge seriously, we should not be too sure we already know how to understand these ideas and what follows from them, and we should not take the main uses of concepts like autonomy in liberal political rhetoric as authoritative for understanding Kant's notion. For example, whatever the case may be for mainstream liberal political philosophy, Kant's notion of autonomy is not individualist, but rather thoroughly relational. Autonomy, for Kant, is the central characteristic of reason, and the principle of autonomy involves recognizing constraints on reasoning that come from the possibility of reasoning with others. Autonomy is not individualist choosing; it is a matter of recognizing universal reasons for action, which are grounded in the existence of each individual human being. It's about a mutual recognition of a certain kind of value between agents: seeing yourself as being constrained by the value of another who is simultaneously constrained by your value. It does not seem obvious that this notion is as unfruitful for thinking about racial justice as Bernasconi takes the excessively individualist account of autonomy to be.<sup>16</sup> And a further question is whether and how one can theorize justice without any role for individual autonomy. Kant argues that the autonomy of each individual is what grounds their rights and dignity, and as Mills argues, we should not be too quick to do away with the idea of human rights.

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<sup>16</sup> Losurdo, 2014, points out that it is quite problematic to see supporters of oppression such as slavery and racial domination as in any serious way committed to individualism.

While autonomy is the central idea of Kant’s moral philosophy, his political philosophy is based on the idea of freedom, and the right to freedom we each have, as autonomous beings. He sees the justification of the state as grounded on securing the conditions of equal freedom for each. A crucial part of his account is the distinction between justice, on the one hand, and ethics or personal morality, on the other: his account of justice is not about individual virtue but rather structural relations between humans. While the libertarian and to some extent the liberal tradition may have developed the idea of a political philosophy based on freedom in terms of the idea of securing negative freedom (freedom from interference), it is not at all obvious that this is Kant’s conception, or the best way to develop what follows from his starting point. Kant takes securing the conditions of equal freedom to have substantial material and institutional implications. If I have read Black Radical Kantianism correctly, Mills seems to think that because Kant’s account of justice is not about distributive justice it will not be useful for thinking about addressing inequality or the rectification of historical injustice. While I think it is right that Kant’s account is not primarily about distributive justice, this leaves open the question of what follows materially from Kant’s starting point of freedom with respect to inequality and historical injustice. While Kant’s account will not take distributive material *equality* to be the business of the state, it may well give grounds for thinking that there are forms of inequality that undermine equal freedom, as well as showing that the state is entitled and obliged to act against these. What follows materially from the requirement for equal freedom seems to me an important point for further work.

Mills argues that idealizing theory is prone to make us mistakenly think our societies are more just than they are, and that we are in, roughly, the conditions of liberal justice. Not only does Kant not think that we are roughly in conditions of justice, he thinks we will never be in conditions of justice (though we can make our circumstances more just). It may be that much of the interpretive tradition has mistaken or not fully thought through what follows from Kant’s account incorrectly by assuming that he would take us to be roughly in conditions of justice.<sup>17</sup> This seems to me particularly pertinent with respect to property. Kant’s central text on political philosophy, *The Metaphysics of*

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<sup>17</sup> And it may be that Kant himself makes this mistake.

*Morals*, starts with private property. But what follows from this? Bernasconi takes the starting point of property to be unavoidably a defense of status quo property rights, but it seems to me highly questionable whether this is correct in terms of what actually follows from the theory. Kant's justification of property is partly its being necessary for agency and his concern about property is how individuals could be entitled unilaterally to place others under obligations and exclude others from the use of objects. Even if in fact, in the tradition, this has been used to defend status quo property rights and rationalize excluding the poor, the position might, in contrast, actually give grounds for thinking that everyone needs access to property, and that this should be provided through redistributive taxation.<sup>18</sup> This is because the exclusion that is required to create the institution of property is inconsistent with the equal freedom of all, which is the ground of the whole account. The fact that Kant takes having property to be a part of citizenship is a thought that can be developed in a variety of directions. On the one hand it could be taken as intended to exclude many people (those who are not property holders at the time), but on the other it could be taken as giving a basis for showing that everyone should have some property, and that this is a requirement of freedom.

Two further points should be noted about Kant's account of property. One, the problems Kant is concerned with arise also for communal property. It is not only when individuals claim property but also when a community or a people does, that the question arises of whether and why they are entitled to exclude others. Thinking this through may be part of explaining the wrong of colonialism. Two, unlike Locke, Kant does not think we can have an entirely pre-political account of property: conclusive property rights exist only in a just state. Prior to this, all that is had is provisional right. It is far from obvious that we are in a civil condition or just state, as Kant understands it, as opposed to a minimally legitimate state in which we have political obligations to obey the law but which is not just, so it is not obvious that there are currently any conclusive property rights. In Kant's account, provisional right has normative implications: for one thing, it rules out colonial conquest (he says that this holds even where taking people's land is argued to have good consequences). Since provisional right has normative implications, the wrongful ignoring and overriding of provisional rights must have normative

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<sup>18</sup> Allais, 2014; Varden, 2008; Ripstein, 2009.

consequences; this is something Kant may not have thought through (after all, his political philosophy is a very late work, in which he sketches the *a priori* framework for thinking about these questions) but it must be thought through to work out his system. It seems to me that the normative implications of presumptive right for understanding how to respond to wrongful dispossession requires much more work, and what resources the account may have for responding to historical injustice seems to me an open question. Ripstein (2009) emphasizes Kant's arguing that with respect to property acquisition there cannot be an obligation on someone purchasing property to investigate the history of the property all the way down to original acquisition, because this would be unreasonably burdensome in a way that would undermine the possibility of property transfers. This might seem to limit the resources of the theory with respect to dealing with historical dispossession of land. But of course, there is clearly a large difference between thinking that it would be unreasonably burdensome to expect someone to trace the history of acquisition of some object they want to purchase to its unknown origins of acquisition, and thinking that there are no implications for purchasing property where there is *known* to be a history of unjust dispossession.

Mills makes a powerful case for the damage that can be done to our understanding of politics by focusing only on ideal concerns. But, whether or not this is true of Rawls, Kant's account is not just an ideal theory; it has significant ideal and non-ideal components. Kant's account is not based on assuming compliance and does not assume a hypothetical contract as grounding the legitimacy of the state—it could be that all actual states are started with violence. Kant's account is very strongly concerned with how we get to justice from the unjust conditions we are in—his worries about the rule of law are based on this. His account of the connection between the rule of law and justice also shows the distance between his account and one that starts from the idea of society as a cooperative venture for mutual advantage. It is because the rule of law is an indispensable part of justice that it plays such an important part in non-ideal conditions. In seriously non-ideal conditions such as social chaos, civil war, or states of barbarism (such as Nazi Germany or apartheid South Africa), he thinks that we should aim to establish the rule of law, possibly using violence, if necessary. Once we have established the rule of law, we need to work within the state to make it more just. The *a priori* part of the theory plays



an important role, because the formal, abstract account of equal freedom and the relation between this and the rule of law, as well as the formal account of a state with certain structures and of certain public institutions, is action guiding in giving us an account of what to aim at in making societies more just. At the same time, it provides constraints on what we can do and how we can go about making the state more just: we cannot do this, for example, through violence or through laws that don't respect the basic rights of some individuals or some groups.

We have seen that both Mills and Bernasconi object to distortions that can follow from abstracting from particular conditions. But the fact that Kant's account of equal freedom is not based on thinking about the particular situated capacities of humans in particular societies does not mean it has no implications for particular conditions; for example, it seems plausible that securing equal freedom will require enabling mobility and access for differently abled citizens, and interventions to address social conditions that undermine agency. Further, while central parts of Kant's account do not depend on the particular contingent features of social relations, there is an important respect in which his account does address a crucial feature of human existence that some ideal accounts ignore, that of existing in dependency relations. Kant's notion of status right is meant to protect the dependent parties in dependency relations (those, such as children, who do not have full autonomous agency), by making the way they can be treated constrained by the rule of law (family law), rather than simply subject to their parents' choices.<sup>19</sup> On Kant's account, even if parents were perfectly virtuous, the equal freedom and rights of children would not be protected if children were systematically dependent on and in the power of this virtue, as opposed to having some protection from public law against what seems right to the parent. Appealing only to private virtue leaves the weaker partner in an unequal power relation in the stronger's power: a dependent person is not less in the power of the more powerful partner when the partner is virtuous and caring, just as a slave is not less subject to the slave-owner's power when the slave-owner is benevolent, and cares about the slave's welfare. Kant's solution is that we need public law to govern private dependency relations, to protect the dependent person from being entirely subject to the virtue of the powerful person. In other words, on Kant's account,

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<sup>19</sup> See Varden, 2012.

defending the equal value of each human being (and defending their autonomy) requires a framework of law that the powerful in asymmetrical dependency relations, such as parents, are subject to, so that children, for example, are not simply in their parents' power. Among Mills' objections to ideal theory is that representing the family as ideal can perpetuate gender oppression; here we see that Kant's account does not depend on representing the family as ideal, and further, argues that even if family members were ideally virtuous, family law would still be needed to protect those on the vulnerable side of dependency relations.

I have suggested that Kant's account of family law both pays attention to dependency relations and also may have progressive resources for theorizing these, but of course two of the categories of dependents he discusses are far more problematic than the case of children: women and servants. However, it seems to me that in these cases too, in addition to noticing his sexism, we should examine carefully what the account applies for the relationship between dependency and citizenship, whether political citizenship requires some level of independence, and what the obligations of the state to support and enable this are.

I have noted that both Mills and Bernasconi diagnose inappropriate universalizing and abstracting as part of what has gone wrong in the dominant Anglophone philosophical tradition (with Mills possibly being more optimistic about the possibility of appropriate universalizing and abstracting). This point, in my view, also applies to how we read the history of philosophy, and very much to reading Kant. Getting it wrong as to where the universalizing, or the abstracting, or the *a priori* moves are happening leads to worse readings of Kant. Readings of Kant have become immeasurably richer as more people have paid attention to the fact that his *a priori* account of the conditions of the possibility of various phenomena are not meant to be complete accounts of the phenomena in question, and that he has concerns with empirical, situated subjects. Far from seeing humans as rational atoms, Kant sees us as radically evil, disordered, self-deceived, often opaque to ourselves, and, in my view, he sees this as being a function precisely of features of our situatedness. Against Mills I don't think Kant's account of radical evil is only individualist; on the contrary, the corruption evil involves seems to centrally involve features of our social and political situatedness. It may be that our view of Kant as presenting isolated individualist atomic liberal agents transparent to

themselves is a function of the very epistemic deficiencies of the interpretive tradition that Mills has talked about. Further, I have argued that Kant's account of human radical evil has materials to explain the kinds of cognitive deficiencies Mills is concerned with: delusional ideology.<sup>20</sup>

In other work, I have argued that a partial explanation of Kant's account of our radical evil can be given on the basis of putting together his account of the nature of practical reason with his account of the requirements of justice, and that this is a place where both his *a priori* framework and the relation between this and our particular situatedness are important.<sup>21</sup> It is important that on Kant's account we do not (and he in fact thinks never will) live in conditions of justice. Kant holds that unless we have just political communities that respect the equal freedom of each we can find ourselves situated in relations of systematic domination that we cannot overcome through individual virtue.<sup>22</sup> In my view, Kant takes this to have implications for our agency, including the kinds of cognitive deficiencies that concern Mills. I argue that the *a priori* parts of Kant's thought about rational agency have a way of explaining why self-deception and delusional ideology is particularly likely in conditions of injustice. As I understand his account, making sense of yourself as an agent (someone who acts for reasons) involves (implicitly) seeing your actions as governed by the constraint of respecting the humanity of others: seeing yourself as having something like an ordered self whose fundamental principles make the pursuit of self-interest conditional on morality. We are rationally committed to seeing the humanity of others as a constraint on what counts as a reason for

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<sup>20</sup> Allais, 2018.

<sup>21</sup> Allais, 2018.

<sup>22</sup> Further, Kant thinks that there is a sense in which the state acts in all of our names, so we cannot escape some complicity with the wrongful actions of states to which we belong. Part of the point of the account of justice is to take us out of the territory of individual virtue and might (in which each is entitled to do what seems right to it), and replace this with all of us being equally subject to an omnilateral will, which represents all of us. It seems to follow from this that I am implicated in the structure of the omnilateral will of my state. If my country goes to war unjustly, there is a sense in which this is done in my name, even if I disagree with the government's actions. If the state is failing people with respect to access to housing or means, or is disproportionately arresting people of a particular racialized group, there is a sense in which this is done in my name. This would give another way of making the point that under injustice I am systematically implicated in wrong in ways that I cannot escape through individual virtue.

action, so seeing yourself as having this commitment is part of what it is to make sense of yourself as a rational agent. If you live in a world in which you are seriously implicated in current and historical injustice, it will be hard to take this on while continuing to see yourself as basically good (whole and ordered) in the way that (as I understand Kant’s position) is part of seeing yourself as an agent. Kant in fact thinks that it is so hard that it is liable to make us despair and give up the attempt to be moral. An obviously tempting way of avoiding despair and holding onto a view of ourselves as (apparently) basically good and ordered is to fail to pay attention to ways in which we are implicated in the suffering of others. Since this will involve actions that are not compatible with the way the categorical imperative and the principle of right requires us to respect others, we will have a psychological need to form attitudes that dehumanize those who our ways of life fail to respect. Thus, putting Kant’s *a priori* analysis of practical reason together with his account of the conditions required for external freedom and rightful relations explains a psychological pressure toward forming attitudes, patterns of interpretation, and moral salience that dehumanize those who our ways of life fail to respect, so that we can reconcile our lives and our actions with seeing ourselves as committed to the moral law, which we need to do, to make sense of ourselves. This suggests that on a Kantian account of the *a priori* commitments of practical reason, living in conditions of injustice is liable to lead to moralized self-deception and delusional ideology, and in fact it predicts that our efforts at improvement are likely to be endlessly compromised and caught up in legitimizing narratives.

This final point may make it seem unlikely that we could extricate the enlightenment liberal tradition from the preconceptions of its proponents, and from those of the demographic groups who dominate Anglo-American philosophy programs. But in my view, this simply makes the task more urgent, if more difficult, of rethinking whether we know what really follows from the central starting points of the tradition, and in particular, from Kant’s *a priori* method, and his starting points of human autonomy and the requirements of equal freedom.

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# **Rethinking Race and Gender in Kant: Toward a Non-Ideal, Intersectional Kant**

Jordan Pascoe, Manhattan College

Kant is an odd figure in contemporary philosophical discussions of raced and gendered equity. On the one hand, his theory is at once tremendously useful for those of us who are concerned with racism and sexism, while on the other, Kant himself expressed troublingly racist and sexist views, while at the same time assuring us that they need not undermine the fundamental respect for persons at the heart of his system. Many scholars who have grappled with this tension have pointed to Kant's own insistence that his *a priori* system, or his defense of pure and practical reason, should be carefully distinguished from his anthropological, historical, and geographical works, where he examined the world around him, often coming to troublingly racist, sexist, and colonialist conclusions (Hill and Boxill, 2001; Loudon, 2002). Others have focused on the question of how we should read these projects in relation to one another; what role his anthropology plays in his *a priori* arguments; how they can be reconciled or separated; and how his arguments changed over time (Mills, 2005, Kleingeld, 1993 and 2007; Shell, 2006).

I do not want to rehash this well-trod territory; nor do I want to directly engage in an examination of Kant's *a priori* system. I want to consider, instead, what happens when we read Kant against himself, by looking at the ways in which Kant's own real-world political and historical concerns and commitments inform some of the questions his *a priori* philosophy is designed to solve. This is a big question and, for this article, too big to take up in Kant's philosophy as a whole. Instead, I focus on his political philosophy of the late 1790s, where, I argue, Kant increasingly wrote in response to contemporary political and legal developments and debates.

I am, admittedly, thinking against Kant here. In the Preface to the *Metaphysics of Morals*, Kant carefully maps the distinction in the text, arguing: "that right which belongs to the system outlined *a priori* will go into the text, while rights taken from particular cases of experience will be put into remarks, which will sometimes be extensive; for

otherwise it would be hard to distinguish what is metaphysics here from what is empirical application of rights” (6:205–206). The distinction between the text and the *remarks* hews to his insistence that “a metaphysics of morals cannot be based on anthropology but can still be applied to it” (6:217), with the *remarks* providing applications of these principles to contemporary political problems and debates, as well as reflections on the subjective conditions that afflict both persons and states in fulfilling the requirements of these principles. As Kant himself lays out the project, the principles are determined *a priori* and cleanly applied—without alteration—to these problems, with reflections on moral anthropology deployed to explain why *a priori* principles sometimes fail to do their work in the real world.

But the *Metaphysics of Morals* is a rather more interesting text when we read it *in the other direction*, paying attention to the kinds of issues that motivate Kant in the *remarks*, and centering how conditions of injustice deepen and complicate his theory of justice. I want, in other words, to read Kant through the lens of non-ideal theory—in part because, in doing my own work on feminism and race in Kant’s political philosophy, I find this non-ideal Kant to be more useful to contemporary theorizing. What is generative, for feminist and critical race theorizing, is often less the coherence of his system, but the moments of uncertainty and controversy embedded in the text, and the tensions they lay bare (Kleingeld 1993). Reading Kant in this direction, I will argue, is also in line with decolonial philosophical projects, which ask us to trace Kant’s localism, to consider his philosophy as culturally and historically specific. Locating the historical and cultural tensions that inform Kant’s *a priori* arguments opens his system to critique and interrogation from feminist, queer, critical race, and decolonial perspectives, and these critiques in turn offer the promise of a Kantian system responsive to Kant’s own blindnesses. Finally, I will argue that taking up these questions in this direction—“from the underside,” as decolonial philosopher Walter D. Mignolo has put it (2009)—allows us to complicate how we think about race *and* gender in Kant’s philosophy, not as two separate but analogous problems, as they have often been treated, but as intersecting axes of exclusion that produce particular patterns of silence and exclusion. This article, in other words, examines our methodologies of engaging Kant, pushing back both on the practice of foregrounding the *a priori* and on the ways we have tended to approach questions of race and gender in relation to Kant.



### §1. A Non-Ideal Kant

For the purposes of this article, I will largely confine my thoughts to the *Doctrine of Right*, where many of the most intriguing insights emerge in the *remarks*, when Kant is considering either how lived experiences of injustice require interventions of a rightful state, or how imperfectly just states must grapple with their inability to coherently and completely enforce principles of right.

Now, centering these moments often produces transformative interpretations of Kant's most basic principles of Right. Thus, while a standard interpretation of Kant's theories of justice held that the state has no concern for the material needs of citizens (Rosen 1993)<sup>1</sup>, those who foreground Kant's discussion of poverty and begging in the *Remarks* (6:326–327) argue that Kant's theory of justice in fact takes material needs quite seriously, and involves a range of institutional interventions for poverty relief and distributive justice (Allais, 2014; Ripstein, 2010; Varden, 2014). By reading Kant in this direction, these arguments transform our understanding of what the Principle of Right in fact entails, making clear that our most basic rights exist only given the material and embodied capacity to pursue them, so that justice must be ordered to ensure that poverty does not lead some to be wholly subject to the will of another.

Kant's discussion of poverty also reveals the historical controversies that informed his political thinking in the 1790s. In the same set of remarks, he argues that the state has a duty to provide foundling homes for illegitimate and abandoned babies (6:327), and that it is the duty of unmarried persons of means—primarily, bachelors—to fund them. This odd singling out of bachelors reflects contemporaneous debate about the Prussian Legal Code of 1794, into which Kant had been drawn. One of the most controversial features of the 1791 draft of the Code was an article that required the estates of deceased bachelors to be used by the state for charitable purposes. The bachelor provision was one of only three articles—out of a staggering 17,000—so controversial that it led to the delay of the implementation of the Code, and to the widespread public debate about the role of marriage in the state that followed (Epstein, 1996: 383–385). Kant's own (re)thinking about marriage in the 1790s was heavily influenced by the debates surrounding the Code

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<sup>1</sup> “Kant believes that justice has nothing to do with human needs or desires. Justice, as he understands it, does not require the state to provide for the material needs of its subjects.”

(Pascoe 2018), and his reference to the financial obligations of unmarried persons highlights both the degree to which Kant was, in the 1790s, theorizing justice through engagement in these debates, and the central role that contested, historically specific institutions such as marriage played in the basic structure of the Kantian state.

My first point, then, is that when we foreground the *remarks* in our reading of the *Doctrine of Right*, what emerges is simply a more nuanced, complex, and useful Kant; the principles themselves look different in this light. As numerous theorists in the last decade have demonstrated, a Kant concerned with distributive justice in light of the struggles of poverty is a more useful resource for contemporary theorizing than a Kant who denies the material dimension of justice. And where it is precisely Kant's ideal theory that contemporary scholars appeal to—as in the proliferation of scholarship on Kant's theory of marriage that emerged around the same sex marriage debate—it is critical to remember that Kant's own historical preoccupations shaped his conceptions of justice, offering us, for example, a vision of universal marriage as an essential feature of the just state while at the same time inscribing a range of historically and culturally specific gendered assumptions onto that institution and its attendant labor practices (Pascoe, 2016). And it is useful, moreover, to note that the public debates about marriage as a universal estate that sparked Kant's reconsideration of marriage as a basic feature of right, rather than a mere solution to the problem of sex, were in fact strikingly similar to the early twenty-first century movement for a different conception of universal marriage. In other words, it may not be the *purity* of Kant's account of marriage as a just institution that moved so many of us to reconsider his arguments (e.g., Altman, 2010, Denis, 2004; Herman, 1992; Papadaki, 2010; Varden, 2007); it may be that the non-ideal considerations driving his arguments are analogous to our own, and that his arguments were a good fit for this moment because of their historical specificity, rather than their *a priority*.

Kant's own discomfort in these non-ideal moments are themselves instructive and suggestive. Another contemporary debate engaged in the *Remarks* leads Kant to consider the limitations of the unjust state. In his famous discussion of retributive punishment,<sup>2</sup>

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<sup>2</sup> Having laid out his *a priori* account of rights as reciprocal and necessarily enforced by the public authority, Kant takes up the practical question of punishment. First, he applies his general theory of the structure of

Kant considers the case of the dueling soldiers and the infanticidal mother. Both would have been familiar figures to his contemporary audience: the culture of dueling in the late eighteenth century was pervasive and the universal sexual violence, restrictive marriage and illegitimacy laws had made infanticide the most common cause of executions in Prussia in Kant's day. Kant's consideration of this case took up a multi-decade debate about how law should be reformed in order to limit the number of public executions of young, unmarried women (Pascoe, 2011). In these cases, Kant argues, the penal code finds itself in quite a quandary: "either it must declare by law that the concept of honor counts for nothing and so punish it with death, or else it must remove from the crime the capital punishment appropriate to it, and so be either cruel or indulgent" (6:337).

If we take Kant to be concerned here with "rightful honor," these cases can be understood as grappling with *a priori* features of his practical philosophy: rightful honor, he says, is the "obligation from the *right* of humanity in our own person" (6:236). But let's foreground Kant's non-deal remarks: the predicament of the dueling military officer and the infanticidal mother arise from a historically contingent, socially constructed sense of honor: he is motivated by "military honor," she, by the "honor of one's sex" (6:336). Unjust as it may be, they both face a kind of social death if they fail to defend their honor; he will lose face and the respect of his peers; she finds herself in an impossible quandary, a pregnancy likely against her will, an illegitimate child "smuggled into the state like contraband" who cannot be accepted by the social order (in fact, the very social order that organizes Kant's theory of justice). Therefore, Kant argues, a state of nature "opens up"

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rights to cases of violation, arguing not only that capital punishment is warranted for certain crimes, but that it is, in cases of murder, "a categorical imperative" (6:333). If a right to life, like a right to property, exists only insofar as it is reciprocally respected by others and enforced by a public authority, then the state *must* execute murderers, because as long as those murderers are amongst us not respecting our right to life, we *don't have a right to life*. Execution is a categorical imperative because it is the means through which the right of life exists. This is Kant's *a priori* principle of justice applied. He then engages in some moral anthropology in support of his argument, considering the punishment of the Scottish rebels; those who rebelled as a question of honor, he argues, would prefer death to convict labor, and those who were in it for selfish reasons and thus might prefer convict labor clearly deserve death (6:334). This is often the work of the *remarks*: taking up contemporary debates and questions, demonstrating the strength of his philosophical apparatus through its capacity to make sense of critical questions of the day.

around the duelists and the infanticidal mother; the impossibility of justice in their predicament forces them outside the logics of the state, into a place where killing is an act of self-defense. If this defense of one's life chances is not *warranted*, it is at least *understandable*. Rightful honor might be explicable in *a priori* terms, but the honor under consideration here is decidedly tied to an unjust and historically contingent social code; "the legislation itself (and consequently also the civil constitution), as long as it remains barbarous and undeveloped, is responsible for the discrepancy between the incentives of honor in the peoples (subjectively) and the measures that are (objectively) suitable for its purpose" (6:337).

The problem, then, is that principles of justice simply cannot be fairly applied in conditions of historical and structural injustice. As Kant puts it, "the public justice arising from the state becomes an injustice from the perspective of the justice arising from the people" (6:337). He remains committed to those principles of justice, arguing that the state must nevertheless execute in cases like these, but he recognizes the injustice embedded in such a position. This moment opens up a new space of inquiry and resistance in Kant's theory of justice, providing us with a framework for distinguishing multiple perspectives of justice within the Kantian state, recognizing that the state's own conception of justice will often be "cruel and barbarous" when applied to those most historically and structurally marginalized by the social order.

Kant's solution to this problem—the ultimate victory of formal ideals over a real grappling with contextual injustice—is woefully inadequate. It is driven by his own insistence that *a priori* principles can merely be applied, not transformed, by nonideal insights. But his clear discomfort with this opens new spaces for inquiry, allowing us to consider multiple perspectives of injustice within the state. Thus, to expand this argument to other relevant examples, we may find that the question of rightful revolution shifts, depending on whether we examine it from the perspective of slave owners or slaves; the question of property rights may change if we examine it through the lens of historical enslavement and state-sanctioned racism or patriarchy; criminal justice and punishment itself are clearly subject to different analysis depending on the social conditions that make certain crimes visible, legible, and unavoidable. This lets us realize that contemporary scholars, such as Mills (2018) or Allais (2016), who use Kant's theory of justice for non-ideal ends—to tackle racial injustice, say, or patriarchy—make moves already mapped in

Kant's own non-ideal reflections. These reflections offer us a model of shifting our perspective on justice in order to grapple with cases in which formal principles of justice will fail those most vulnerable in conditions of structural and historical injustice.

## §2. An Intersectional Kant

This shift of perspectives is a critical element of decolonial approaches to Kant, which tend to approach his *a priori* thought “from the underside,” as Walter D. Mignolo has put it (2009).

Thus, just as Kant considers criminal justice from the perspective of those for whom it can only be an injustice, Mignolo urges us to examine Kant's cosmopolitanism and conception of justice from the perspective of those for whom his arguments have no claim to universality. Kant's cosmopolitanism imagines a world in which his *a priori* principles could be universally applied, creating shared conditions for trade, communication, and justice. Mignolo's challenge calls us to consider what the instantiation of these principles might look like in those parts of the world where the assumptions of Kant's theory of justice would be most transformative. Against a reading of Kant's theory of justice as purely *a priori* and therefore universal, Mignolo urges us to consider this non-ideal Kant, to identify Kant's own historical and cultural specificity, his own Enlightenment European localism.

My analysis shows that we can do this, in part, by examining Kant's own historical preoccupations, paying attention to the role of contemporary controversies in his own theorizing about justice. We can note, as Pauline Kleingeld does, when his perspective on slavery shifts over the course of the slave rebellions in Saint Domingue (2014).<sup>3</sup> We can

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<sup>3</sup> Pauline Kleingeld has demonstrated that Kant's awareness of the ongoing revolutions in Saint Domingue, as well as the debates within France that led to the 1794 abolition of slavery, likely transformed his understanding of slavery. This produced not merely the shift from his 1788 defense of slavery to his description, in the 1795 *Towards Perpetual Peace*, of slavery in the Sugar Islands as “cruel and most premeditated,” but his analysis, in the *Doctrine of Right*, of slavery as “impossible” given the structure of innate right. This insistence that no person could subject himself to the will of another in this way, and that persons cannot, therefore, understand themselves as property in this way, echoes throughout Kant's arguments about the distinctions between innate right and possessive right, producing nuanced accounts

trace the ways in which contemporary debates led Kant to rethink and reposition certain institutional arrangements in his conception of the just state, such as his theorization of marriage as an essential political institution in the wake of the debates surrounding the Code. But recognizing the localism of Enlightenment arguments in the wake of colonialism is difficult precisely because so much European localism has been imposed elsewhere that it can be difficult to dispute its universality; as Katrin Flikshuh and Martin Ajei (2014) have argued, our own inheritance of a colonizer's mentality makes it difficult to discern colonial difference, and to recognize our own assumptions—and, by extension, Kant's—as local. It is thus essential that we find new interlocutors for Kant, new perspectives from which to challenge his claims to universality and to think across colonial difference.

But this requires, too, that we reframe our questions about race and gender in Kant. If centering Kant's *remarks* in a reading of his theory of justice opens, as I have argued, space to shift perspectives within our analysis, then it is worth considering which perspectives we, as contemporary scholars engaging Kant, have tended to highlight and which we have tended to overlook. The question posed in this article is an example: we are considering how both raced and gendered exclusions and injustices should be understood in Kant's *a priori* philosophical system. A great deal of scholarship has explored Kant's theory and treatment of race; a great deal has explored Kant's sexism, patriarchy, and exclusion of women. Some scholars have taken up both questions, separately (see Kleingeld, 1993 and 2007) and some have explored them together, as analogous modes of exclusion and inequity (see Mendieta, 2009, Mills and Pateman 2007). In doing so, we fall into well-established patterns of treating raced and gendered exclusion as analogous and competitive, exploring how gendered exclusion might shed light on raced exclusion (e.g., Charles Mills, *The Racial Contract*) and vice versa (e.g., Simone de Beauvoir, *The Second Sex*). But by taking up raced and gendered exclusion as

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of sexual objectification and marriage, contract and labor relations, and the limits of consent. Though the distinction between innate and possessive right is undoubtedly analytic, an account of innate right that admits the possibility of rightful slavery—which Kant's arguments in the 1780s implicitly did—is necessarily transformed by careful consideration of the injustice of slavery. The distinction between innate right and possessive right mapped in the *Metaphysics of Morals*, therefore, is one deeply informed and tested through non-ideal considerations of injustice.

*separate* questions, we tend to assume that all the women are white and all the non-whites are men, and to systematically overlook interventions that take seriously race and gender as intersecting modes of oppression, such that all women are raced and all non-whites are gendered, which in turn blocks us from recognizing that white men, too, are both raced and gendered. Taking up race and gender as separate but analogous questions allows us, then, to let white male power structures and canonical (and contemporary) white male philosophers off the hook, as if gender and race were *external* to their projects, rather than always present, always implicitly structuring the argument.

With this in mind, let us take our perspective-shifting seriously, and engage Kant with intersectional, black feminist critiques, while also seeking out opportunities to think with Kant across colonial difference. To do this, I place Kant's theory of justice in dialogue with Nigerian philosopher Nkiru Nzegwu (2005). Nzegwu argues that if we want to understand the ways in which political subjects are shaped and mapped in a political vision, and if we want to understand why hierarchies and exclusions are built into that system, we might begin by asking how the family is constructed and positioned in a given theory of justice; this requires us to read the family as central to Kant's political philosophy. And the family, in the form of the "right to a person akin to the right to a thing," is one of the three foundational institutions of Private Right, delineating the distinction between the domestic and the public, shaping gender norms within the Kant's theory of justice (Pascoe, 2015).

As the arguments in this article have suggested, though the *right to a person akin to a right to a thing* is a feature of Kant's conception of right, it is organized around a set of non-ideal concerns about sex, parenthood, and gendered (and classed) divisions of the labor of care. Placing Kant's conception of the family in dialogue with Nzegwu's African feminist philosophy of the family gives us an intersectional and decolonial perspective from which to understand the historical specificity of Kant's supposedly universal vision of justice. Nzegwu draws on pre-colonial Igbo family structures in order to tell a different story about the gender, marriage, political, and economic practices<sup>4</sup> that organize equal

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<sup>4</sup> A similar argument is advanced by fellow Nigerian philosopher Onyerionke Oyewumi, who explores pre-colonial Yoruba society, presenting a vision of a politically androgynous society in which political agency and labor are organized according to seniority, and no political category of "woman" is necessary.

and universal access to rights and political agency without resorting to patriarchal gender constructions; she describes a dual-sex society, which assumes gender difference but *not* a distinction between public and domestic spaces, labors, and reasons: women’s activities, like men’s, are political, public, and important. Nzegwu’s analysis of the transformations wrought in Africa through the introduction of precisely this kind of family structure through colonial rule demonstrates that this is not the only way to organize the family, or to distinguish the public and private parts of one’s life, or to construct gender.

This perspective shift shows in sharp relief that Kant’s account of the rightful state hinges upon a rigid and gendered distinction between the public and the domestic, and expressly constructs political agents as heads of households, who are, even in contemporary iterations of the Kantian state, coded male. Though elsewhere Kant hints at a dual-sex structure, likening women to the beautiful and men to the sublime, this complementarity must be contained within an enclosed domestic space: it has no place in the public or political realm.<sup>5</sup> This may shed light on Kant’s puzzling claim in the *Rechtslehre* that, though women are passive citizens, “each must have the ability to work his way up” to an active state (6:314). In Nzegwu’s terms, Kant’s public sphere is mono-sexed, and all claims to equality are measured against a male standard: women, as passive citizens, may make a claim to equality only when they can prove themselves on par with (male) active citizens. When women enter the public sphere, they do so in the political garb of men: there is no political “female principle” and thus no place for women *as women* in the public arena. While individual women may venture out of their domestic role as wives and participate in political pursuits and the discourse of public reason, they do so as *individuals*. The construction of this public sphere precludes the possibility of a

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<sup>5</sup> *Observations of the Beautiful and Sublime*. In the late Anthropology, Kant describes the household as a complementary dance in which women “dominate” and men “govern,” these gendered principles are mapped onto the mono-sexed political order: only masculine “governance” is consistent with the juridical rights and duties of the rightful state; feminine “dominance” is useful within the household, but incommensurate with respect for external freedom in the public sphere.



society that could value *women as a class* directly able to shape and participate in politics (Pascoe 2015).<sup>6</sup>

By asking us to consider our own assumptions about gender in the light of pre-colonial practices, Nzegwu provides a framework for recognizing that these assumptions emerge out of a mono-sexed, historically patriarchal construction of society and of the self. In doing so, she provides a perspective that helps us resist importing Kant's own blindnesses into our own Kantian conceptions of justice.

Now, much contemporary feminist interpretation of Kant has drawn our attention away from the patriarchalism built into his vision of justice. It has argued that his vision of citizenship and equality need not be gendered, or has pointed to the ways in which his account of sex and marriage mirrors and echoes contemporary feminist concerns about objectification, or the ways in which his account of duties to the self may ground feminist projects of resistance against sexism and misogyny, or the ways in which his vision of marriage as an essential feature of the rightful state may ground contemporary defenses of same sex marriage (Hay, 2013; Herman, 1992; Langton, 2009; Varden, 2007 and 2017). These feminist projects offer us a more inclusive, just Kant, one who has become central to numerous twenty-first century liberal feminist projects. But there is always the danger that Kant's patriarchalism has infected the system, as it were. And we may overlook this danger when we distinguish too casually between his *a priori* principles and his historical, anthropological commitments.

Reading Kant from the underside, by contrast, suggests that Kant is most useful to contemporary feminist projects when he is engaged in non-ideal inquiry, doing the slippery work of squaring principles of justice with messy human problems such as sex, objectification, and child-rearing. This challenge leads him to embed historically contingent, local institutional structures such as heteronormative, bourgeois marriage into his *a priori* principles of right. His goal to square inherently patriarchal norms with

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<sup>6</sup> In this scheme, domestic labor, rights, and relations are understood to be non-political, and the external freedom of those who labor and care in the domestic realm is only minimally protected by the coercive structures that organize political rights. As a class, women are constitutive of the domestic realm, and of the transformation of external freedom made possible by the rigid distinction between those labors, activities, and reasons that are public, and those that are inconsistent with the independence and autonomy of political subjects.

a supposedly ideal theory of justice provides contemporary feminist philosophy with intriguing and relevant apparatus for our own theorizing of how to transform structurally and historically unjust institutions. In my own work, Kant's sometimes messy solutions to these dilemmas of justice, such as his critique of consent and his contemplation of compassion for the infanticidal mother, have offered critical insights for rethinking what justice requires. In these moments, I find myself in conversation with Kant precisely *because* of his non-ideal localism: Kant's own non-ideal critiques of the very patriarchal institutions that he embeds in his theory of justice offer a compelling case for something like using the master's tools to dismantle the master's house (Lorde, 2007).

But to extend the analogy a moment: when we use the master's tools to dismantle the master's house, we use those tools against the grain, against their intended purpose. The tools must be made to be useful for our purposes; the fact that they are the master's tools lends them, not greater functionality, but only a kind of subversive weight. I agree with Charles Mills' (2019) assessment that rethinking Kant in these ways is attractive precisely because he is so central to contemporary normative ethico-political thought, and because his account of justice has so thoroughly infused contemporary conceptions of cosmopolitan rights for the last century. Thinking from the underside of Kant thus offers us a vantage point for deconstructing more general Western enlightenment assumptions about justice and universality. I agree, too, that there is something fundamentally right about Kant's purest *a priori* vision of persons as ends in themselves, deserving of respect and justice.

But I would add to this that what brings us back to Kant, what has led to the explosion of scholarship on Kant and questions of race, gender, and cosmopolitanism over the past three decades, is precisely the tensions in his own system: his own difficulties navigating the terrain of the *a priori* and the non-ideal. Let us take, as an example, the explosion of feminist scholarship on Kant and sex, from Barbara Herman's insight that Kant's account of objectification mirrored those of radical second wave feminists (1992), to Rae Langton's (2009) and Barbara Nussbaum's (1995) Kantian critique of pornography, to Onora O'Neill (1989) and Lois Pineau's (1989) appropriation of Kantian sexuality to rethink sexual consent, to Helga Varden's account of queer and trans Kantian sexualities (2018). These are feminist moves to develop normative moral accounts of sexuality consistent with *a priori* Kantian commitments to persons as ends,

but what drives the argument in each case is the tension between these commitments and the thorny, non-ideal problems posed by sex as an intimate, embodied, natural drive that seemingly inherently undermines respect for persons, civic equality, and political independence. What these feminist innovations have demonstrated is that Kant's tools may be the right tools for these questions, but not necessarily in the ways Kant himself predicted. New perspectives, new approaches, and new ways of engaging these tensions have yielded new and better ways of answering questions that Kant himself struggled to see.

As useful as this feminist scholarship is, it may be limited—useful for transformations within liberal feminism but challenged by more radical, decolonial projects. The vibrant political possibilities present in Nzegwu's vision of a dual-sexed society are wholly invisible from the standpoint of "ideal" Kantian liberalism. If Western family and gender norms, built on centuries of patriarchal dominance, do not serve feminist values, Nzegwu suggests, then why not look elsewhere, for other local institutional constellations that may offer a more fruitful starting point for building a political state committed to gender justice? Built into this question is a powerful critique of the idea that Western family and gender norms are universal: by comparing the European model of the family to the Igbo model, Nzegwu reveals the radical locality of both modes of social organization. This suggests an alternate modality for theorizing equality, not as an *a priori* principle, but one that emerges out of thinking across colonial difference, offering both evaluative and normative criteria for shifting Western assumptions.

My suggestion, in closing, is that a Kant subject to this kind of intersectional and decolonial analysis is not merely a generative place for feminist, queer, critical race, and decolonial theorizing. The project of "cutting Kant down to size," as Mignolo puts it, by examining his arguments from the direction of non-ideal theory, may in fact yield a more Kantian Kantianism. That is, a Kantianism capable of responding to contemporary debate; one that better understands what is essential to a Kantian conception of justice and what is culturally or historically contingent.

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# ***A Priori* Equality: From Kant to a Hegelian Modified Conception of the *A Priori* in Race and Gender**

**Gerad Gentry**,<sup>1</sup> Lewis University and The University of Chicago

According to John Rawls, a moral conception of equality grounded in a “comprehensive doctrine” will always be inadequate to a pluralistic, democratic republic. Rawls famously defends a *political* conception of justice as fairness,<sup>2</sup> where fairness is a reasonable equity between free and equal citizens.<sup>3</sup> This conception of justice has influenced not only the public, but also matters of jurisprudence in the USA as high as the supreme court. Rawls’ reason for insisting on equality as a political and *not* metaphysical (or meta-ethical) concept is compelling: no reasonable pluralism can agree on a single comprehensive doctrine whereby we could lay claim to a metaphysical or meta-ethical standard of equality. So, the thought goes, the best a pluralistic society can do—indeed the best humanity can do—is submit diverse theories of equality to a political one. This is not the best we can do.

By contrast, my aim in what follows is to offer a basic overview of an auspicious answer to the following question: is *a priori* equality possible? I will argue that the genuine problems that arise for Kant’s moral philosophy through reflections on race and gender should neither be ignored nor taken as ground for a rejection of comprehensive doctrine from an *a priori* concept of equality. Instead, these biases should point us toward the need for a more adequate conception of *a priori* equality. Drawing on Hegel, I argue that a modified form of Kant’s *a priori* equality is a necessary forerunner to *any* political conception. Its significance is evidenced here in race and gender.

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<sup>1</sup> This article is dedicated to Eliana, August, and Lillian, with hope for their respective journeys in global human growth.

<sup>2</sup> See Rawls’ revised account of *A Theory of Justice* as a non-metaphysical conception of justice in *Justice as Fairness*, 1–4, 26–38.

<sup>3</sup> Rawls, *Justice as Fairness*, 18–23. For a contrast and critique of Rawls’ conception of Justice *via* Kant’s, see Helga Varden, “Nozick vs. Rawls vs. Kant,” 106-119.

Claims to universal rights may be made without a conception of *a priori* equality, but the *universality* of such rights is thereby dubious and subject to change with each plurality. Examples of these claims include such significant legal and sociopolitical documents as the US Declaration of Independence, US Constitution, the Amendments, the Bill of Rights, and the United Nations Declaration of Universal Human Rights (1948).

An appeal to an *a priori* proof is an appeal to the basis on which such universality can be established in the laws of reason. A major problem with *a priori* rights is the ease with which hidden biases and prejudices mix with such accounts. This is part of the problem when reflecting on Kant's sexism and racism. Likewise, we are right to ask, is *a priori* equality necessarily too formal a concept to handle the real issues of equality?

An appeal to a *modified a priori* proof –of the kind I suggest here– is an appeal both to the laws of reason and to the actualized rational forms of equality and inequality (racism, sexism). Racism and sexism should not be swept aside as failures in the application of pure reason, rather, such failures must be internalized as part of a growth toward a more adequate use of reason for the sake of a universal and responsive equality.

In agreement with Charles Mills, Lucy Allais, and Pauline Kleingeld, I argue that the path forward cannot be a dismissal of Kant's racist and sexist arguments. Unlike Mills and Jordan Pascoe, I do not think we should abandon an "ideal" reading.<sup>4</sup> In fact, Mills' "Black Radical Kantianism" is deeply compatible with this modified conception of the *a priori*.<sup>5</sup> These problems should drive us to ask whether we (with Kant) have misconceived of the necessary conditions on *a priori* concepts. Drawing on Hegel, I argue that genuine *a priori* equality is knowable and practical only in and through a continual dialectic with actual human actions, institutions, and norms. The key will be showing that this need for

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<sup>4</sup> Varden offers a helpful account of the important Kantian relationship between ideal and non-ideal in "Self-Governance and Reform in Kant's Liberal Republicanism – Ideal and Non-Ideal Theory in Kant's Doctrine of Right," 47.

<sup>5</sup> The modified/revised "a priori" is a referent to the identity Hegel's absolute necessity establishes between the *a priori* and *a posteriori*. So, Hegel will discontinue use of the *a priori*, but the essential necessity of Kant's *a priori* carries through (in his idealism) to his conception of the absolute in which a specific kind of *a posteriority* is internal to that which is *a priori*. I will retain the term "a priori" for clarity in this article and differentiate between Kantian "a priori" and a modified conception of the *a priori*.



the particularities of experience as the source for understanding equality does not thereby invalidate its *a priori* status.

In §1, I outline the key features of a Kantian *a priori* grounding of equality and its immediate entailment. In §2, I describe some commonly perceived problems with a Kantian *a priori* conception of equality. In §3, and benefitting from the insights already covered by Mills, Allais, and Kleingeld, I argue that we can conceive of an important path forward with a modified *a priori* conception of equality. Drawing on Hegel will yield a path by which equality is not understood as disembodied, but rather deeply and infinitely particular, while still retaining its *a priori* validity.<sup>6</sup>

In short, I argue that we should neither abandon the *a priori* nor view it as static or impervious to experience. Kant's *a priori* conception of equality can be appropriately complexified and thereby defended through Hegelian insights about the way in which historical shapes –including racism and sexism–*must* constitute (even if negatively) such *a priori* standards. This is possible without invalidated the very purity (*a priori* validity) of the concept.

### **§1. Kant's One A Priori, Innate Right: Equality**

By the term *a priori*, I mean that judgment (or concept) whose validity is established through an appeal to the lawful form of reason, i.e., what Kant calls pure

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<sup>6</sup> I use “a priori” when speaking of Hegel for the sake of consistency and simplicity in this article. I will not discuss the distinction between the form of universality that Hegel takes to be sublated [*aufheben*] in absolute necessity. He leaves the term *a priori* behind, but he adopts its essential form in his account of the “scientific method” or logic of reason.

reason.<sup>7</sup> Put negatively, an *a priori* judgment cannot depend on an appeal to the empirical or experience for its validity.<sup>8</sup>

Now, in the *Metaphysics of Morals*, Kant writes, “there is only one innate right”: *Freedom*.<sup>9</sup> His assessment of this innate right is as follows:

Freedom (independence from being constrained by another’s choice), insofar as it can coexist with the freedom of every other in accordance with a universal law, is the only original right belonging to every man by virtue of his humanity. – This principle [*Grundsatz*] of innate freedom already involves the following authorizations, which are not really distinct from it (as if they were members of the division of some higher concept of a right): innate *equality*, that is independence from being bound by others to more than one can in turn bind them. (*MM* 6:237–238)

All rights stem from and are reducible to this one right (the right of freedom/equality). Thus, “there is only *one* right.” (*MM* 6:238).

What makes this an *a priori*, synthetic judgment about equality *via* a judgment about freedom a justified judgment instead of merely an opinion? Further, what makes it a potentially true judgment instead of merely an assertion or dogmatic principle?

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<sup>7</sup> For what makes a concept *a priori* and normative, see Longuenesse, “Kant on *A Priori* Concepts,” 129–168. For a fuller account, see Pollok, *Kant’s Theory of Normativity*. I take an *a priori* concept to be that which is determined through *a priori* judgments and valid for cognition or morality as necessary normative condition. Kant’s description of the normative quality of logic in the Jäsche Logic identifies precisely this feature of *a priori* concepts like equality: “In logic ... the question is not about ... how we do think, but how we ought to think. ... In logic we do not want to know how the understanding is and does think and how it has previously proceeded in thought, but rather how it ought to proceed in thought” (9:14). Against such a normative reading, see Tolley, “Kant on the Nature of Logical Laws,” 371–407.

<sup>8</sup> For alternative and fuller phrasing of what makes a concept “*a priori*” see the introduction to this issue.

<sup>9</sup> For a good expanded discussion of Kant’s conception of freedom, see Allison, *Kant’s Theory of Freedom*.

These are large questions and will not be answered fully here. In subsection 1.1, I will offer a sketch the direction an answer might take.

### §1.1.

*This subsection (1.1) should be skipped by anyone who is either already familiar with Kant's moral philosophy or uninterested in the details of the Kantian account. Section 1.2 continues with the fundamental argument of this article.*

I understand the validity of Kant's *a priori* judgment about equality as a universal (only innate) right to be established as follows: first, because morality (any claim to that which is good) is inherently dependent on the possibility of action, and—more basic still—on the willing of some end, the freedom of the will becomes the fundamental principle for Kant's account of equality (and of morality in general).<sup>10</sup>

That which contradicts the good of the will cannot be called good, since the will is a necessary condition for any action. Kant begins the *Groundwork to the Metaphysics of Morals* with the important judgment: “There is no possibility of thinking of anything in the world or out of it as good in itself apart from the good will.” I take this judgment to be a judgment internal to the category of reason-directed action (i.e., to the domain of morality). Even the possibility of a completely good, supreme being depends on the good will, since the supreme being cannot be called completely good while simultaneously willing what is not good. The good will is thus the fundamental (ideal condition), which an action cannot oppose while still retaining the attribution “good.” Put positively, the good will is an ideal condition for anything that might be called genuinely (morally) good. By “good will” we should understand a minimal condition of *coherence in action* for the action to count as good. This condition is not a sufficient condition. More is needed.

This limiting condition is conversely identifiable as the “principle[*Grundsatz*] of the autonomy of the will” (4:440).<sup>11</sup> This principle (which grounds the validity of Kant's entire moral system), is the principle that the very freedom necessary for a rational being

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<sup>10</sup> For an exceptional account of Kant's argument from the autonomy of the will, see Ameriks, “Pure Reason of Itself Alone Suffices to Determine the Will,” 99–114. See also Wood, *Kant's Ethical Thought*; and Pippin, “Kant's Theory of Value: On Allen Wood's *Kant's Ethical Thought*,” 239–265.

<sup>11</sup> It is a principle, not a proposition [Satz], since it is that which serves as the highest point of appeal for claims to the moral worth or impermissibility of any action.

to be a self-causing force in nature is the source of its own limitation. The moral law (the highest law of morality) is nothing other than the necessary limit to the freedom of the will for the will to be universally free. For the will (of any rational being) to be called free necessitates that it be left free (formally) from arbitrary constraint by the will of any other.

This pure formal constraint stemming from the freedom of the will is precisely the moral law in general or the categorical imperative in particular. It is the highest formal constraint as applied to human beings. The four formulations of the categorical imperative are: (i) universalizability of the maxim of one's actions (4:402, 4:421)<sup>12</sup>, (ii) that we must treat everyone as an end not merely as a means (4:429),<sup>13</sup> (iii) that every "rational being" (4:401), (i.e., every will) is a legislator of the moral law (4:431-432),<sup>14</sup> and (iv) every rational being *qua* rational being is a member of the kingdom of ends (4:439).<sup>15</sup> Taken in reverse order, I understand kingdom of ends to be an ideal collective of all rational beings (i.e., those that are to be taken always as ends in themselves), where the kingdom is a "systematic" (4:433) collective held together under a supreme authority.<sup>16</sup> That supreme authority is none other than the laws of pure reason in general. The highest law of pure reason that governs action is the moral law.

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<sup>12</sup> "Act only in accordance with that maxim through which you can at the same time will that it become a universal law."

<sup>13</sup> "So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means."

<sup>14</sup> Act in recognition of "the will of every rational being as a will giving universal law" or as "legislator of the moral law."

<sup>15</sup> "Act in accordance with the maxims of a member giving universal laws for a merely possible kingdom of ends."

<sup>16</sup> In other words, the necessary recognition of "a whole of all ends in systematic connection, that is, a kingdom of ends" (4:433). For a contrasting account of the Kingdom of Ends, see Korsgaard, *Creating the Kingdom of Ends*, and *The Sources of Normativity*. Where Korsgaard's account of Kant's *a priori* morality is constituted through that which is willed, I take the *a priori* to be constituted through the laws of reason (pure reason) and thereby legislated by the mere existence of any rational being (however immoral or irrational their actual actions). My interpretation tracks broadly with Pollok's critique of Korsgaard and alternative interpretation in, *Kant's Theory of Normativity*, 200–204.

Whether our desires align with the moral law and its limiting conditions spelled out in the categorical imperative, is inconsequential. The moral law exerts its authority on us from within, *qua* rational being.<sup>17</sup> This is what it is to be a legislator of the moral law.<sup>18</sup> Reason binds us with its normativity whether we like it or not because we are inescapably and fundamentally (though not reducibly) rational beings.<sup>19</sup>

Here the moral law should be understood as a synthetic principle that reflects the analytic law of non-contradiction in thought. Namely, we can claim or conclude a contradiction, but a true contradiction can never actually be thought or rationally justified. Likewise, in action, we can act contrary to the moral law, but such action can never justifiably be called good. The moral law becomes a kind of “practical” law of non-contradiction (4:420-421), which limits which action might count as permissible.<sup>20</sup>

Such limitations extend to treating individuals purely as means. To treat someone merely as a means and not also as an end is to treat a rational will (which is the basis of all action) as less than precisely what it is: the basis of the possibility of action. Any such act cannot possibly be for the sake of the good of that will. To treat a person as an end is to act for the sake of the good of the will, instead of reducing them purely to a tool (means to some other end). The impermissible act is not done for the sake of the will of the other at all, since if it were it would count as treating the other also as an end.

Given that the condition of anything good in morality is that it not oppose the good will;<sup>21</sup> and given that the will in question is not mine or yours, but every rational being across space and time (and so forms the kingdom of ends); an action that sets one person merely as a means is already opposed to the very condition that makes the claim to moral

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<sup>17</sup> “A rational being must always regard himself as lawgiving in a kingdom of ends” (4:434).

<sup>18</sup> Cf., 8:297.

<sup>19</sup> Or in Kant’s words, “So when it is said that a certain human being *has* no conscience, what is meant is that he pays no heed to its verdict. For if he really had no conscience, he would neither impute anything to himself as conforming with duty nor reproach himself with anything as contrary to duty. ... *Unconscientiousness* is not lack of conscience but rather the propensity to pay no heed to its judgment.” 6:400–401. For more on this passage in Kant and every human being as a legislator of the moral law, see Pollok, 2017, 269–271.

<sup>20</sup> For an excellent account of this, see Pollok, 2017, 255–264.

<sup>21</sup> 4:393–395, cf., 4:440.

goodness possible (4:414). So, any action that cannot be universalized without treating someone merely as a means and not also an end necessarily opposes the good of the will and thereby cannot be called good.

Let's take an example. If I run a red light intentionally because I do not want to wait, I take the maxim of my action to be this: I can make myself an exception to the rule (to stop at a red light) whenever it suits me. This would be impermissible since the maxim of my action could not be universalized without resulting in a contradiction that makes the very possibility of the action void. That is, if everyone ran red lights when it suited them, red lights would be as significant as trees on the side of the road. No one would be "running them," instead, traffic would just flow. But then, if traffic were just flowing without regard to the lights, there would be no possibility of my making myself an exception to the rule by running it, since running it would just be to continue with the flow of traffic. The meaningful possibility for the action disappears with the universalization of the action. So, the action results in a practical contradiction (with its own possibility). Put simply, the act of running a red light is only possible if I do not universalize it, if I am an exception.

Now, to be clear, this does not result in some simpleminded requirement to sit at the light no matter what. Suppose I ran a red light because someone were following in a car behind, shooting at me, or because the person in the passenger seat were having a heart attack and needed to get to the hospital. In such cases, I take the maxim of my action to be this: running red lights with as much caution as possible when one's life or the life of another depends on it is permissible. Indeed, we find that we can universalize this without contradiction or negation of the possibility of the act itself. For anyone who finds themselves in such a life-and-death situation, running the red light with caution is permissible. And it is something like this that we in fact do with emergency vehicles in operation (as opposed to the off-duty driver of an emergency vehicle).

Let us now turn back to the concept of equality to consider its derivation from the moral law.

## **§1.2.**

Why does Kant think that equality is self-legislated whether we want to so legislate or not? How can such a pure moral requirement stem from even the most heinous individual? The answer seems to be that equality is a pure corollary to freedom as the “one” universal, innate right that stems from every will.

As I understand it, if freedom is “independence from being constrained by another’s choice,” which is also the source of normative constraints on myself toward others (i.e., the categorical imperative); then, insofar as I recognize myself as a reasoning self, I necessarily take any other rational self as a causality that could will my constraint and conversely one for whom my actions could count as a constraint. Each of us (everyone who falls into this category of the will/rational being) is thereby necessarily recognized as being the very thing (rational being/a will) by which I can identify as free and as possessing this right for myself.

Likewise, this recognition is immediately also thereby the recognition (whether we are cognizant of it or not) of equality at one and only one point: we are all equal in that we are rational beings, where this means we possess the innate right of freedom and are subject to the moral law and so can (do necessarily) make the exact same demand on each other by our mere existence. This equal demand just is what it is to be legislators of the moral law. It is irrelevant whether we are speaking of Hitler or a saint, the right and constraints for the sake of that right are equally required of us by our very existence.

While this is the only point at which we can claim complete equality (many other things may be unequal), it is the one point that serves as the basis for claiming anything else to be good or bad. So, any other points of inequality or equality are derivative forms of the one way in which we all are necessarily (irrevocably morally equal).

Put differently, we are equal in that one way that grounds the entire system of morality. It is at this supreme source that we find an impermissibility for any action that tries to set one person as ultimately less than or subject to another, since this is precisely to act in contradiction to the highest rational basis of any action being called good. It is to make oneself or another an exception to the rule whereby that action is possible and so bears within itself a necessary contradiction of the will.

In other words, any action or institutional norm that does not treat every rational being as an equal end in themselves cannot be universalized without contradiction and so

fails the highest standard of reason in action. Such an act opposes the very basis on which action is possible. Certainly, the thing in question is still an action, just like a claim to a true contradiction is still a use of thought, but it is such as an irresolvable contradiction: a real impossibility. So, unless the fundamental laws of reason (i.e., the coherence of reason itself) are ultimately denied (which is only actually possible with annihilation of the self) we cannot escape the fact that as a rational being the laws of reason always serve as the constraints that simultaneously make us free and restrict us for the sake of that rational freedom. So, it is our one universal and innate right that we are free and are all equal as free rational beings.

## **§2. Problems with an *A Priori* Account**

I take some important objections, including of the kind mentioned by Rawls above, to be these: Look, if we understand terms like rational being, and freedom, and equality properly, then Kant's formalism might be fine. But Kant, just like the "true" democracy of the Athenian Golden Age, or the founding fathers of the United States of America, was blinded by his culture, his experiences, and his era to the full reality of these terms. As Allais<sup>22</sup> and Mills<sup>23</sup> have argued, Kant's categorical imperative can allow for racism if the beings who count in the category rational being are dependent on one's race.<sup>24</sup> Yet, the answer that we should adopt a sex and "color-blind" approach may only exacerbate the problem, as Mills argues. Kant defends the inequality of specific races through appeal to a supposed lower capacity for rationality. Likewise, he has made similar claims about women to men.<sup>25</sup>

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<sup>22</sup> See Allais's contribution to this issue as well as "Kant's Racism," 1–36.

<sup>23</sup> See Mills' contribution to this issue.

<sup>24</sup> Mills, "Kant's *Untermenschen*," 170.

<sup>25</sup> For more on Kant's racist claims and arguments about racial hierarchy (including of intelligence), see Loudon, *Kant's Impure Ethics*; Eze, "The Color of Reason: The Idea of 'Race' in Kant's Anthropology," 200–241; Mills, "Kant's *Untermenschen*;" Lucy Allais, "Kant's Racism," 1–36; Hill Jr., and Boxill, "Kant and Race," 448–471; and Kleingeld, "Kant's Second Thoughts on Race," 573–592. Kleingeld offers a nuanced handling of the literature on this subject (582–586). Note also her account of Kant's reformed conceptions of race and the moral law in the 1790s (587–588, 592).



Some have argued that Kant's personal views changed over the course of his life to accord more with his moral philosophy. For example, Varden argues, "I believe that Kant wasn't quite as convinced by his argument concerning women's 'natures' as he appears to be here [8:296]; from the start, he was uncomfortable with his views and it seems fair to hold that he at least became increasingly aware of the fact that when it came to women's alleged inability to partake in public reason, it was his prejudices and not good judgement that influenced his thoughts about the issue" ("Self-Governance and Reform," 62). Others have argued that it is a matter of reading Kant charitably to ignore his racist and sexist arguments as incongruous with his moral theory (e.g., Louden).<sup>26</sup>

This latter response, while empathetic, misses precisely the way in which blindnesses, contradictions, and diverse experiences as actualized formalities offer a unique opportunity for asking whether or conception of the formal requirements on an *a priori* concept are right. Is it possible to retain *a priori* validity, while recognizing the need (internal to the formal concept) for growth, reflective dexterity, and adequacy?

Even in our contemporary context it is not clear that anyone has a sufficiently complete conception of what these terms (rational being, freedom, equality) rightly mean.<sup>27</sup> This blindness on Kant's part, far from being innocuous, resulted in blatant racism and sexism,<sup>28</sup> which were not shared by everyone in his age (as Allais observed earlier in this issue, 69, and Kleingeld elsewhere<sup>29</sup>). Such blindness also results in difficulties like those currently faced in the United States where institutional racism is structurally bound and culturally ingrained such that the proper path to exorcise it from our laws, institutions, and social norms cannot possibly be claimed to be understood by any one person (if it is knowable at all). Legislators, judges, officers, voters, citizens, and neighbors can act in a moment toward the "other" entirely as an end in themselves so far

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<sup>26</sup> Louden, *Kant's Impure Ethics*, 2000.

<sup>27</sup> For a defense of Kant's moral philosophy in light of these problems, see Ameriks, *Kant and the Fate of Autonomy*.

<sup>28</sup> As both Kleingeld and Lucy Allais show, Kant goes out of his way to argue against abolitionist Georg Forster in defense of his own conception of the hierarchy of races, thereby further contributing to the emerging justification of Eurocentrism of the time (Kleingeld, 2007, 2012; Allais, "Kant's A Priori Philosophy and his Racism," 76. See also Bernasconi, "Who Invented the Concept of Race?" 11–36.

<sup>29</sup> Kleingeld, 2007.

as they are cognizant of what that means, and yet in that very act be part of a fundamentally biased system such that their actions if worked all the way out contradict the moral law by failing to truly treat others as ends in themselves, i.e., as fully equal.

But, someone may ask, where then is the problem? This just displays a broken system not an immoral action! So, this response goes, the judge, the officer, the voter, the neighbor is still acting appropriately, even if the system needs reform.

This is not right.

What are human institutions, cultural mindsets, and legal precedents except that which has come to be as a complex articulation of human action?<sup>30</sup> These systems have no meaning, have no existence apart from human action. And this observation is not a reductive claim, but rather a claim about constitutive responsibility. So, to exculpate well-intending individuals (most of us) from the broken systems in which we necessarily take part and which only exist through us (*qua* collective) is to fail to understand the complete network of human ethical life.<sup>31</sup> And failure of understanding does not make the action justified.

Certainly, there is a substantial difference between (a) the person who willfully breaks the moral law by treating another as less than or merely as a means and (b) the person who tries to act according to the moral law, treating everyone as an end in her/himself, yet unwittingly (even unavoidably) takes part in harmful systems. There is to be sure a difference between (a) and (b), but it will not do to quickly resign ourselves to the complexities of (b) and say “well, it’s the best I/we can do in a broken world.” Maybe it is, but the resignation is a failure of reason, a failure of the will toward the very ground on which anything may be called good. The story of equality cannot stop there.

### **§3. Rethinking A Priori Equality through Hegel**

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<sup>30</sup> See Hegel, *Philosophy of Right*, §§ 250–256, and §§ 263–266. Cf. Arato, “A Reconstruction of Hegel’s Theory of Civil Society,” 301–320.

<sup>31</sup> For more on the culpability of the individual for the state or structural norms in society, see Allais, 2019, 70.

It is here that I think we can draw on Hegel's account recognize a modified conception of *a priori* equality. For Hegel, personal biases, institutional problems, and cultural failures are all vital means of the real life and growth of a society toward genuine freedom, toward a rational flourishing.<sup>32</sup> Problems of inequality are the opportunity for growth toward true equality.

I intentionally leave aside debates about the continuity between Kant and Hegel in matters of ethical life. My aim in this section is to gloss a path forward from the important *a priori* steps drawn from Kant and outlined above. A path that I take to offer a much-needed form of equality that ought to structure the ethical life of all societies (whether or not those societies form a reasonable pluralism). It is a universal need that precedes and ought to inform any political concept.

### §3.1.

*This sub-section (3.1) should be skipped by anyone already familiar with Hegel or uninterested in the details by which his Logic grounds his moral philosophy. 3.2 continues with the fundamental argument.*

Hegel's *a priori* account of equality is difficult to summarize in part because his *Philosophy of Right*, which developed his full account of moral necessity, gains its *a priori* status *via* the ground established in *The Science of Logic*.<sup>33</sup> As Hegel writes in *the Philosophy of Right*,

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<sup>32</sup> Varden rightly draws attention to the fact that Kant's conception of the moral human life is not reducible to the moral law and questions of universalizing maxims. Instead, it is deeply committed to "the importance of embodiment" in the real messiness of life ("Kant on Sex. Reconsidered," 5). However, such embodiment is a recognition of the more complex nature of Kant's moral philosophy. It is not a matter of modifying our conception of the *a priori* itself *via* such embodiment. Kant's *a priori* remains *formally* impervious to embodiment. For Kant the necessity is one directional (Varden, "Self-Governance and Reform," 41). For Hegel, it is not.

<sup>33</sup> For more on scientific method at work in the philosophy of right, see Henrich and Horstmann, *Hegel's Philosophie des Rechts: Die Theorie der Rechtsformen und ihre Logik*.

Since I have fully developed the nature of speculative knowledge in my *Science of Logic*, I have only occasionally added an explanatory comment on procedure and method in the present outline. ... I have presupposed a familiarity with scientific method [the modified *a priori* method established and proven in the *Logic*]. It is also chiefly from this point of view that I would wish this treatise to be understood and judged. (PR, Preface 10)<sup>34</sup>

The difficulty introducing Hegel's account of concepts in ethics is that it is only partially true to say that it is an *a priori* account. It is also more (WL 21.42), hence modified. Hegel recognizes that a proof that proceeds according to synthetic *a priori* proposition, but which relies on even one empirically dependent proposition, cannot be said to prove a necessary (*a priori*) conclusion. The conclusion will always be subject to revision. Further, even if the proof proceeds entirely according to synthetic *a priori* propositions, the truth of its conclusion will always be subject to the veracity or justifiability of the *a priori* framework that precedes it.

In light of this, the *Science of Logic* aimed to establish the necessary (*a priori*) method of reason. To do this while avoiding a vicious circle, an infinite regress, or a dogmatic starting point (proposition),<sup>35</sup> Hegel takes an approach that he thinks proves the internal necessity of the logical method from within the method itself (WL 21.27–34). This internally necessitated, self-determining method of the *Logic* is what Hegel calls the truly “scientific” method (WL 21.38).<sup>36</sup>

Hegel characterizes the *Philosophy of Right* as a “science of right,” which he distinguishes as that which depends on the scientific method of the *Logic*. The scientific method establishes (among other things) an identity between the *a priori* and *a posteriori*.<sup>37</sup> This identity is not an equivalence relation. Instead, it is the conclusion that the scientific method invalidates the retention of an absolute difference between the two.

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<sup>34</sup> Hegel, *Elements of the Philosophy of Right*, 1991.

<sup>35</sup> See Franks, *All or Nothing*, for more on what he identifies as the Agrippan Trilemma and the Idealist's effort at addressing these issues (i.e., infinite regress, etc.) in their own systems.

<sup>36</sup> For more on this method, see Pippin, *Hegel's Realm of Shadows*, 140–153.

<sup>37</sup> See footnote 15 below for the identity of the *a priori* and *a posteriori*.

This point is key. To Hegel's mind, Kant's distinction is essential, but not absolute. The *a priori* distinction is vital for recognizing genuine necessity. However, genuine necessity can and must contain within itself, as part of its growth, the *a posteriori* in a specific way. Insofar as these two can and do form and identity in the "scientific method," to that degree genuine necessity of the concept is possible. This genuine necessity represents for Hegel the same kind of necessity as the *a priori* did for Kant, but also a more adequate conception of the nature of that necessity, which will prove pivotal. So, he explains that this scientific method established the concept grounding universal rights: "Hence the concept of right, so far as its *coming into being* is concerned, falls outside the *science of right*; its deduction is presupposed here and is to be taken as *given*" (PR §2). The "chief concern [in the *Science of Logic*] is the *necessity* of a concept, and the route by which it has become a *result* [is] its proof and deduction" (PR §2).

It is in the *Logic* that Hegel develops his *a priori* system (to use Kant's language), but also there that he shows how Kant failed to see a specific identity that does occur through the *scientific method* between the "*a priori*" and *a posteriori* without reducing the validity of the former judgment to the latter.<sup>38</sup>

So, the proof of the necessity that structures the "concept of right" occurs in the *Logic*, but the *Logic* is not the *science of right* itself. The science of right then is the

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<sup>38</sup> I will continue to use the term "a priori" for the sake of continuity in this article, but it must be kept in mind that Hegel uses necessity of the concept, absolute necessity, and scientific method to identify *a priori* status. And those terms are not synonymous with the *a priori*. He is, from the *Logic* to the *Philosophy of Right*, showing a modified form of the *a priori*, which does not allow for the absolute distinction between *a priori* and *a posteriori*. However, the identity of *a priori* and *a posteriori* is only possible through the scientific method, which does develop this proven identity *via* an initial distinction of the *a priori*. In other words, this is a very different conclusion than the collapse of the two, which would merely reduce *a priori* necessity to contingency or elevate contingency in experience improperly to *a priori* necessity. For Hegel, the *scientific method* and finally the speculative method alone establishes the basis on which this proper identity and necessity in philosophy can proceed.

process of developing the concept of right, according to the scientific method established in the *Logic*, to a full actualized life of that concept.<sup>39</sup>

This process of understanding more fully through the actualized life of a concept will turn out to be a complex dialectic of the scientific method in individuals and institutions throughout history.

Unlike standard efforts at understanding, Hegel writes, this scientific method does not begin with “the definition,” since such a standard method “leaves out of account what is alone essential to science—with regard to content, the *necessity of the thing* [*Sache*] in and for itself (in this case, of right), and with regard to form, the nature of the concept” (PR §2).

I will not discuss the details of this, since that takes us too far afield. Suffice it to say that the final stage of the *Logic* establishes that this modified *a priori* method proves, internal to itself, the justification of a certain kind of dialectic with the empirical.<sup>40</sup>

For my purposes here, the following summary will suffice: The proof of the *Logic* proceeds by showing that the fundamental method of the logic requires an externalizing of itself as a matter of its own formal necessity (*WL* 21.15–16). This externality is at first a pure relation internal to the logic’s furthest abstraction from content (21.39), but developed further to ground the logically derived possibility of a distinction between the essence and appearance of a thing (*WL* II.367, II.368–375), and finally to the idea of life (still merely the *a priori* idea of life, not yet anything empirical, but now an *a priori* that contains within itself the recognized necessity of the *a posteriori*) (*WL* 12.165–188).

Put differently and in brief: Hegel shows that Kant’s synthetic *a priori* method of reason already justifies and demands the very externalizing, manifesting, actualizing that

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<sup>39</sup> This will be a fundamentally organic, logic of “life” such that there is no single complete point, but rather an ongoing life-growth (and decay): a dialectic of the science of right in historical particularities. See Longuenesse, *Hegel’s Critique of Metaphysics*, 114–146.

<sup>40</sup> For more on the nature of this identity of the *a priori* and *a posteriori*, see my article, “Hegel’s Kantian Logic of Purposiveness,” where I argue that in the final stage of the *Logic*, in the chapters on Teleology and Life, Hegel is not actually engaged with questions of real teleology as is often supposed, but rather with the logical necessity whereby the *a priori* and *a posteriori* form an identity in the scientific method of the concept. The result is the logic of the “idea,” which grounds Hegel’s absolute philosophy or the “life of reason.” See also my chapter, “The Ground of Hegel’s Logic of Life and the Unity of Reason,” 148–172.

will define higher stages of reason. These higher stages of reason are what Hegel calls the life of reason. By the time Hegel gets to the *Philosophy of Right*, which is systematically dependent on *The Science of Logic*, he has established the validity whereby we can recognize certain empirical uses of reason as importantly shaping the content and form of reason's necessity without undermining its universal validity.

In other words, from the outset of the *Philosophy of Right*, Hegel is already working with a modified conception of Kant's *a priori*. This modified conception was established through the entire method of the *Logic*.

### §3.2.

The relationship between the *a priori* and the *a posteriori* for Hegel is important. Like Kant, and as just mentioned, Hegel does not want to introduce any proposition that would invalidate the *a priori* necessity. Nevertheless, he thinks he has shown that experience or the *a posteriori* has a specific and important role to play in the *a priori* and, if the method is correct, does not thereby invalidate the *a priori* necessity of the proof as a whole. On the contrary, *a priori* necessity turns out to call forth and depend the *a posteriori* in its own path forward. Naturally, this identity in the necessity of reason is different from the claim that anything empirical or *a posteriori* somehow already bears a *a priori* necessity and validity.

So, how does this work? I take Hegel's great insight here to be that the limits of pure reason<sup>41</sup> are not merely transcendental or logical limits, but limits of finite experience. Human beings cannot escape the fact that our conception of any concept, pure or empirical, is meaningfully bound to our experience. We can think we have in view a pure concept, which we can define without appeal to experience. But even in proofs that proceed purely *via a priori* judgments (analytic and synthetic), our reason is still limited by our experience.

Here is one such limitation: various viable *a priori* judgments fail to present themselves to the mind without relevant and sufficient experience. Experience provides

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<sup>41</sup> I will continue to employ some of Kant's language for the sake of the continuity of this article, while nevertheless giving expression to Hegel's thought, which (for important reasons) leaves much of Kant's language behind.

the mind with basis and real insight for searching out (through pure reason) possible paths forward, while not employing experience as the source of validity in the given proof.

What is more, if this is the case, if our experience makes a difference in our ability to develop richer and fuller synthetic *a priori* proofs, then it also, thereby follows that the diversity of experiences of individuals both now and across time and space would likewise make possible richer and more dynamic capacities for reflection. This more dynamic form inevitably leads to recognitions of blindness and even possible failures of *a priori* proofs that would otherwise have remained hidden.

Take two quick examples of this experientially constituted *a priori* reflection. The development of pure mathematics in history is importantly historical. This is not because the validity of the judgments depends on experience, but rather because dynamic *a priori* thought does depend on experience for its progression (not its validity). However, to separate adequate *a priori* proofs from the progression whereby the most adequate proof is possible is a category mistake. It is to mistake the kind of thing that reason in general is. Reason is not a static set of completely accessible conceptual forms. Instead, it is a developmental, methodologically progressive, dialectic of universality and particularity. We are *closer* to an understanding of reason if we view it in terms of the purposive life-growth (the self-determining necessity) of an organism according to its kind, then it is to understand it as a static, mechanistic set of accessible forms and laws.

This means that the historical life of reason is vital because blindnesses and mistakes result in improper *a priori* conclusions, but proper *a priori* conclusions are not possible if abstracted from any such failure of reason. These failures can never be fully lucid to any given individual due to the finitude of every discursive reasoner. Likewise, adequate *a priori* concepts can never be lucid if stripped of the very method by which rational adequacy takes form. The laws of reason and viability of pure possibilities cannot be lucid to any one mind. However, over time, through the dialectic of human reason in history (which is a kind of large-scale version of an individual's continual reflection), human reason is capable of recognizing mistakes and paths forward according to the laws of reason where they were not adequately recognized.<sup>42</sup>

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<sup>42</sup> Pippin, 2019, 151–155, 265–275.



In cases of complex networks of judgments like those found in pure mathematics, the system is built over generations. Mathematicians now are not smarter than those living in the Poleis of Ancient Greece. Nevertheless, they have access to more complex ideas, recognition of previous misunderstandings, richer forms of mathematical systems, and in turn can contribute at a far higher level to the further development of that network of judgments than possible for even the most brilliant ancient mathematician employing synthetic *a priori* judgments. Similarly, we are not smarter or better than Kant or moral philosophers of past eras, yet we can and should recognize the way in which we have the possibility of recognizing and actualizing equality more adequately than Kant precisely because of Kant's successes and failures (and the successes and failures of everyone else whose lives build into this story).

So, to say that *a priori* knowledge is possible should not be seen as separable from the historical process whereby that knowability is made possible. Every individual has access to pure reason, but no individual has access to the dynamic products of pure reason without the real life of that reason in history. Moreover, no one can reason perfectly and fully according to those laws and so the expectation that we can remove ourselves from our historical context and give anything like an adequate universal account is to mistake the relation we as individuals have to the very laws of reason that we are subject to and operate under.<sup>43</sup>

Hegel identifies this process as the actualization of reason.<sup>44</sup> Reason necessitates its own actualization in life in order for it to grow. This actualization process is essential

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<sup>43</sup> For more on Hegel's rejection of mechanistic causality in favor of what he takes to be a more adequate form of organic freedom, namely spiritual freedom, see Pippin, *Hegel's Practical Philosophy*, 38. Cf. Franco, *Hegel's Philosophy of Freedom*.

<sup>44</sup> Some, like Allen Wood, have argued that Hegel's ethical thought and this theory of actualization cannot be understood as deontic nor teleological; see Wood, *Hegel's Ethical Thought*, 30–31. Against such readings, I understand Hegel's ethical thought to be a deontic teleology. It is a teleology, but one in which the "nature" that determines the *telos* is itself a matter of the laws of reason, which incorporate materiality, but are not reducible to an account of natural kinds.

to the growth of that which is necessarily true in reason.<sup>45</sup> Unfortunately, it is a necessity of reason that is messy and takes time and is anything but linear.

Hegel's move here does not reduce the validity reason to the empirical, but nevertheless recognizes the role of the empirical in the stages of reason's necessity. It is this life of reason that disallows the possibility that any one individual could sit down and work out a complete and adequate answer to anything that has genuine, universal (*a priori*) import. This need of pure reason to actualize itself is nothing like an embrace of empiricism. It is rather the real dialectic of reason's very necessity.<sup>46</sup>

This dialectic, then, is methodologically like an organic life. There can be progress, but also, like any organic life, the dialectic development can be diseased, damaged, and so a regressive "development". There is a real necessity internal to the whole (§ 267), but the truth of this necessity (e.g., equality) is only knowable in the very organic life-struggle and growth that proceeds through diversities of experience in relation to the necessary laws of reason.<sup>47</sup> The greater the diversity of voices, diverse experiences, and diverse reflections on the laws of reason, the greater the adequacy of reason's necessity in this life.

So, what does this mean for the possibility of *a priori* equality. It means that we could not do a greater injustice to equality than to reject the *a priori*, reason's necessity, or a "comprehensive doctrine" for the sake of some political conception in a reasonable democratic pluralism. Instead, equality, no matter what the masses may think, no matter how reasonable they find a system of equity, even if in some dystopian future every single

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<sup>45</sup> For an excellent and extensive handling of Hegel's theory of actualization, see Alznauer, *Hegel's Theory of Responsibility*, 27–60. See also Novakovic, *Hegel on Second Nature in Ethical Life*, 174–179; and Ng, "Hegel's Logic of Actuality," 139–172. Cf. Pippin, 2008, 92–118.

<sup>46</sup> This is merely assumed in Hegel's *Philosophy of Right* because the *Logic* (on which the *PR* is grounded) already established that reason's necessity contains within itself a pure logical (formal) identity of the *a priori* and *a posteriori* in the dialectic method, which serves as the logical basis for the later establishment of the real identity of the two (in the *Philosophy of Nature* and *Philosophy of Spirit*). Cf. Pippin, *Hegel's Idealism: The Satisfaction of Self-Consciousness*; and "Hegel's Political Argument and the Problem of *Verwirklichung*," 509–532.

<sup>47</sup> For more on the organic (not mechanic) logical relation, which grounds the method of the philosophy of right, see Kreines, "Hegel's Critique of Pure Mechanism and the Philosophical Appeal of the Logic Project," 38–74. See also Ng, "Life and the Space of Reasons: On Hegel's Subjective Logic," 121–142; and Gentry, "The Ground of Hegel's Logic of Life and the Unity of Reason," 148–172.

person is in agreement about some problematic variant, no matter what the collective in a democratic republic agrees on, equality is a universally necessary right with a universally necessary life that should never be subjected to pluralistic agreement. Instead, it must be the highest condition structuring any pluralism and any collective. It is an indispensable feature of the truth of reality (no matter how resoundingly the idea is rejected or twisted).

But likewise, this means that even when we think we have a proper *a priori* account of equality, we are never justified (according to the necessity of reason itself) in thinking, like Kant, that we have the true concept in view. The richest *a priori* concept of equality that any age of humanity possesses must always and continually actualize itself. This means, we must always hold our reflective forms with a degree of humility. In this actualized life new difficulties, new needs, new nuances may present themselves, which lead us to rethink or push further those *a priori* features that we previously thought adequate. Reason has a life and its own necessity is not indifferent to that life, but rather grows and knows itself through that life. This does not mean that its laws change, but neither are its laws truly real and knowable apart from their actualization over time.

This means that we should not be surprised to find that just as Kant was blind to a thoroughgoing application of his own idea of equality in gender and race, and this blindness may suggest theoretical weaknesses, so too, we may and certainly are blind not only to the application, but even to limitations and weaknesses in our present definition itself.

We might start with something like the following *a priori* definition of equality: *every being with the capacity for rationality must be treated equally as an end in themselves, not merely as a means; and thus, no one is free to constrain the will of another (or of the self) where such constraint is not warranted by the systematic right of equality itself.* Nevertheless, it must always be viewed as an idea with a life, not a dead, abstract definition. This logic of the life of a concept is a part of the demand on us that we continually assess, refine, and rethink for the sake of understanding more fully. If we fail to do this, we fail to understand at all.

My actions may never become visible to me as violations of this *a priori* equality toward another precisely because I am not living the life of the other. So, the unending imperative presents itself to always seek richer understanding of the diversity of

experiences for the sake of more adequately recognizing and living out a life in accord with that supreme ethical requirement of reason: absolute equality.

From the standpoint of the world-historic life of reason it becomes clear that the nuances of genuine equality are so complex in human lives—and the organisms of society through history—that we, society, must take on the eternal imperative to strive for it, to instantiate it, to discuss, debate, sympathize, empathize and be willing to admit: I thought I knew equality, that fundamental right, but:

“That is not it at all,  
That is not what I meant, at all.”<sup>48</sup>

If this modified *a priori* standpoint is right, such admission stemming from the actual life of reason is not external to the *a priori*, but rather essential to the possibility of recognizing a true *a priori* concept of equality. Such admission should not be a point of condemnation, but rather a welcome humility in everyone for the sake of genuine understanding.

The adequacy of *a priori* equality lives and grows in historical situatedness, actual experiences, embodied selves, institutions, and collective perspectives. This adequacy must necessarily develop to account for the particular embodiment in question. It can never remain abstract and claim adequacy.

Blindnesses, biases, and limitations only become fully apparent to reason through the empirical life of reason itself. I take this to be Mills’ point in distinguishing a Kantian morality that is made color-conscious instead of one that attempts to proceed with color-blindness.<sup>49</sup> Since color-blindness fails to recognize precisely that genuine *a priori* equality must take into itself a recognition of real history and diverse lives of individuals and peoples to be able to recognize inherent and systemic biases for what they are. These biases do not become normatively visible under a disembodied conception of *a priori*

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<sup>48</sup> T. S. Eliot, “The Love Song of J. Alfred Prufrock.” In many ways, this profound poem takes as its content the very heart of Hegel’s *Aesthetics* and the *Philosophy of Right*. Eliot so powerfully brings to life the relational misfit between the idea, the actualized life of that idea, and the possibility of manifesting such a union in an adequate material form (i.e., through words). The poem itself *qua* poem (i.e., fine art) is an implicit answer to what the speaker in the poem suggests is never adequately manifest.

<sup>49</sup> See Mills, “*Black Radical Kantianism*,” 42.

equality.<sup>50</sup> Likewise, Helga Varden develops this point in relation to gender. In “Kant’s Moral Theory and Feminist Ethics: Women, Embodiment, Care Relations, and Systemic Injustice,” she argues for the importance of recognizing persons not as disembodied rational agents, but as embodied.<sup>51</sup>

To give up on universal equality because we cannot agree on a single definition is to mistake the nature of genuine knowledge and so to mistake the basis on which claims to fundamental human rights are made. We do not need complete agreement. On the contrary, it is disagreement in a reasonable pluralism that drives us in the right direction. Such disagreement is a crucial part of that recognition of the inadequacy and needed growth. It should not be avoided through reduction to the common denominator, which a political conception in effect does. Rather the *a priori* must remain while also welcoming the disagreement as opportunity for bringing a diversity of experiences to bear for the sake of questioning and calling forth the possibility of richer forms of understanding: more adequate conceptions of *a priori* equality. Blindness, bias, injustice, and inequality are part of a genuine organic growth: the real life of universal equality.

If this is right, then it offers a pure basis for grounding claims to universal human rights while also recognizing that such claims must never become abstracted from the ever-changing embodied reality of human action, institutions, and laws. Genuine *a priori* equality is not an abstract, static ideal. It is an embedded, necessary (pure) norm. As an embedded, universal right, it can be neither abstracted from a deeply organic, lifelike process of reflection, articulation, and formation, nor reduced to contingent forms of experience.<sup>52</sup>

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<sup>50</sup> I also take this point to be in agreement with one of Kleingeld’s concluding points in “Kant’s Second Thoughts on Race,” that “if present-day Kantian theorists take over the structure of Kant’s 1780s moral or political theory and the set of issues he deemed salient (together with the concomitant blind spots), without realizing that their articulation has been influenced by racist assumptions, they are likely to prolong racism’s distorting effects. In short, racist prejudice can (and in Kant’s case does) influence how the most basic moral and political principles are applied in the elaboration of the full theory” (586).

<sup>51</sup> Varden, “Kant’s Moral Theory and Feminist Ethics,” 460; see also, Varden, “Kant and Women.”

<sup>52</sup> Special thanks to David Wellbery and the entire Germanic Studies department at the University of Chicago for the continued support of my research and work. My sincerest thanks to Andreja Novakovic (Berkeley) for helpful critical feedback on an early draft of this article.

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# Symposium: Author Meets Critics

**Joseph J. Tinguely**

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***Reviewed by:***

**Moran Godess-Riccitelli**, University of Potsdam

**Samantha Matherne**, Harvard University

***Response by:***

**Joseph J. Tinguely**, University of South Dakota

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## **Review 1: Moran Godess-Riccitelli**

What does “Finding the World” mean?<sup>1</sup> This poetic, somewhat enigmatic subtitle of Joseph Tinguely’s book embodies, to my reading, the mindset of the text as a whole. In a sort of Heideggerian clever gesture, Tinguely posits the notion of “Finding-the-World” as a single unit yielding simultaneously various senses; it is an activity (the *process* of finding out the world), it points at its resulting product (the *world* that is to be found), and it echoes the state of mind of the subject engaged in this activity (*how* does one find the world?).<sup>2</sup> None of these senses reduces to the other. That is to say, we cannot define

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<sup>1</sup> I thank SGIR for inviting me to participate in this panel. I am particularly indebted to Keren Gorodeisky and Gerad Gentry.

<sup>2</sup> Cf. 213–215. All references refer to Joseph J. Tinguely’s *Kant and the Reorientation of Aesthetics* (Routledge, 2018) unless otherwise stated.

away the ambiguity of “Finding the World,” for *what* we find is no guarantee of *how* we will find it.<sup>3</sup>

According to my reading, this ambiguous notion of “Finding the World” functions for Tinguely as the aesthetic dimension of the world; it articulates an abiding movement between the effectivity of the world and its objects, on the one hand, and the subject’s *manner* of attending to it and being affected by it, on the other hand. It does this in a way that what one finds, in effect, makes sense.

The main point is that this aesthetic dimension of the world is not something that takes place merely in the subject’s private domain. But the very possibility of her own experience in the world (experience, in this regard, referring aesthetically to the *ability* of being affected by it) consists of her being *intentionally* oriented toward the world.<sup>4</sup> Here lies another significant component of the general claim of the book: the activeness (or active elements) of *both* affectivity in the world and receptivity of it, which alludes to aesthetic experience of the world being essentially intentional.

Thus, “Finding the World” aesthetically consists of being “both a product and a process,” as Tinguely puts it in the final sentences of the book. This is because it has the ambiguous sense of both “*discover[ing]* how things are and *mak[ing]* them so” (215).<sup>5</sup> In other words, the aesthetic dimension is not something that is merely added to the world. Rather, it *constitutes* the world in the sense that part of the meaning of the world as something intelligible and effective depends on subjects being (actively) affected by it.

The structure of Tinguely’s book is Ars-Poetic in that it echoes this double notion. On the one hand, it disorients the reader with respect to the text by not “stating at the outset a precise definition of the phenomenon of ‘orientation’ as a whole” (26).<sup>6</sup> Yet at the

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<sup>3</sup> Cf. 215.

<sup>4</sup> By “intentionality” Tinguely means “the basic ways in which the human mind is oriented in the world” (1).

<sup>5</sup> All emphases are mine and do not appear in the original text unless mentioned otherwise.

<sup>6</sup> Tinguely explains that the main feature that distinguishes his argument from typical philosophical practices is that he seeks to make logical progress through the argument itself. In other words, he does not wish to present a solution to a problem, but rather presents the “problem,” so to speak, as if it emerges from his very analysis of Kant’s aesthetic. Thus, his primary effort is “to bring into view a problem, to which the notion of ‘orientation’ could then appear as a response” (26).

same time it reorients her “to imagine or to create the impression of [that] absence,” *not* as an end, Tinguely stresses, but as the beginning of the examination (27).

In what follows, I wish to trace the ambiguity of “Finding the World” throughout the book and to understand how it is interwoven with reorienting Kant’s aesthetics. In particular, I wish to dwell on Chapters 2 and 7, which examine the productive imagination and the *Orientation* essay, respectively.<sup>7</sup> I begin by examining Tinguely’s notion of the *productivity* of productive imagination in aesthetic experience both of the manifold as well as of beauty through a general *conceptual* form. I wish to speculate whether this productive dimension of our experience can indeed yield *intentionality* without (or prior to) an act of judgment. I then turn to Tinguely’s view on orientation as the aesthetic *symbolization* of the world. I discuss how this view further unfolds the connection between orientation and intentionality. Finally, I wish to raise a theme that is mentioned occasionally in the book without receiving much attention, namely, the theme of “purposiveness” [*Zweckmäßigkeit*] and indicate its relevance to Tinguely’s productive account of intentionality in his reorientation of Kant’s aesthetics.

### §1) The Productivity of Productive Imagination

Tinguely takes our aesthetic experience to be the key for the examination of intentionality mainly due to the way imagination functions in it. “[T]he imagination,” he writes “is involved not just in the matter, but also the *manner or form*, of sense perception” (23). Tinguely draws a direct line between the notion of spontaneous exercise of the imagination referred to in the first *Critique* regarding empirical cognition and its freely lawful exercise in the third *Critique* concerning aesthetic experience. By doing so, Tinguely positions himself as part of a distinguished scholarly group whose aim is to systemize Kant’s sense of aesthetics in the first and third *Critiques* by treating productive imagination as the common thread of both.<sup>8</sup> In particular, Tinguely’s goal is to show how,

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<sup>7</sup> I permit myself to treat these two issues separately based on Tinguely’s invitation at the introduction of the book to read the various chapters as independent essays in which “each topic can be considered on its own” (25).

<sup>8</sup> E.g., Hannah Ginsborg, Sarah L. Gibbons, Dieter Henrich, Rolf-Peter Horstmann, Rudolf Makkreel, J. Michael Young. The centrality of the various roles played by imagination in perception and in aesthetic experience has already received wide scholarly attention. Tinguely’s novelty is that he uses the analysis of

through the productivity of productive imagination in aesthetic experience in the third *Critique*, “Kant’s account of intentionality comes into view” (36).

Although Kant himself, of course, did not refer explicitly to an “account of intentionality” in his philosophy, the challenge Tinguely seems to present us is to understand how such an account can be reconciled with Kant’s account of productive imagination without assigning psychological features to it.<sup>9</sup> In order to better understand this kinship, let me dwell briefly on the broader relationship Tinguely draws between productive imagination and intentionality.

Tinguely’s goal, as stated in the introduction of the book, is to take certain elements in human experience related to aesthetics, e.g., “affect,” “feeling,” and “sense,” which are usually referred to as our passive way of experiencing the world, and relocate them under “the category of active, spontaneous, free agent” (2).<sup>10</sup> That is the “affective turn”—analogous to the “Copernican turn”—that constitutes Tinguely’s motivation for the reorientation of aesthetics by deepening the affinity between aesthetics and effectivity. The implications of the “affective turn” in the context of Kantian aesthetics, according to Tinguely, are that we must *actively* take responsibility both for our experiences in beauty and art (which are articulated via judgments of taste), and *also* for our sense perception in the general sense, i.e., the *way* we perceive the manifold as appearances or objects in the world (which ends with determinate judgments).

Productive imagination is central to these two forms of experience by demonstrating the active elements in both through what Tinguely designates as “the form of a concept in general” (60–64).<sup>11</sup> In aesthetic experience considering beauty, this

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imagination in aesthetic experience in the third *Critique* as a key to understanding the productive way in which imagination works in empirical cognition.

<sup>9</sup> This kind of motivation has some affinity with views put forward by Rudolf Makkreel in *Imagination and Interpretation in Kant* and by Dieter Henrich in *Aesthetic Judgment and the Moral Image of the World*. What is common to all three is the goal of placing the imagination in a deeper, more complex, and richer relationship to the world than being a mere mediator between concepts and intuitions.

<sup>10</sup> This idea echoes to some extent the motivation of John McDowell in *Mind and World*, in particular McDowell’s reading of Kant regarding sensibility as structured by spontaneity.

<sup>11</sup> Tinguely borrows this terminology from Sellars and Strawson’s account of “logical form” that relates to Kantian productive imagination as absorbed by our conceptual capacities when perceiving empirical objects

conceptual form is provided by the “free yet lawful exercise of the productive imagination” that is “general or indeterminate” (63), whereas in sense perception “conceptuality ... reflects a particular way of perceiving or mode of activity in which the mind binds together the manifold of sense, not only in light of spatio-temporal coherence but also of *teleological cogence*.”<sup>12</sup> This, Tinguely argues, is an “imaginative act” (65).<sup>13</sup>

Tinguely takes this general conceptual form of both experiences to indicate that every encounter we have with the world has a form of intentionality. Or as he puts it:

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in the world. (See: Wilfrid Sellars, “The Role of the Imagination in Kant’s Theory of Experience,” in *Categories: A Colloquium*, ed. H. Johnstone Jr. University Park: Pennsylvania State University, 1978, 231–245; P. F. Strawson, “Imagination and Perception,” in *Kant on Pure Reason*, ed. Ralph Walker. Oxford: Oxford University Press, 1982, 82–99.) Tinguely’s novelty is that he takes their account of empirical objects and reads it into the third *Critique*. But instead of a given object that is already determined through the predicates of the concept, Tinguely provides an “alternative” notion of conceptual form that is non-determinative and is articulated in the “free yet lawful” engagement of the productive imagination with beautiful objects (CJ 5:241). All citations from Kant are according to the Akademie edition by reference to volume and page number: the *Akademie Ausgabe* (AA), *Kants Gesammelte Schriften*, ed. by *Königlich Preussische Akademie der Wissenschaften* (29 vols. Berlin: de Gruyter, 1900–). I will use the following abbreviations: CJ = *Critique of the Power of Judgment*, Orientation = “What Does It Mean to Orient Oneself in Thinking?”

<sup>12</sup> The notion of “teleological cogence” is borrowed from Béatrice Longuenesse in *Kant and the Capacity to Judge*, 1998, who claims that the synthetic activity of the imagination anticipates a whole that is not present. Tinguely wishes to further develop this notion by claiming that the work of imagination penetrates our perceptual dealings with the world, all the way down to the impressions of sensibility themselves (65).

<sup>13</sup> Tinguely’s emphasis is on the conceptual *form* through which the sense manifold is perceived. He associates this form with two activities of the imagination: the ability “to discern a particular against a background sense manifold from which it is separated” and the ability “to bind or synthesize a manifold of properties that are combined together in the object” (36). These two functions can be identified as the first two moments of the Transcendental Deduction from the A-edition of the first *Critique*, i.e., synthesis of apprehension in intuition and synthesis of reproduction in the imagination. Tinguely unfolds these two functions through his examination of the fundamental role the imagination plays in aesthetic judgments in the third *Critique* that reveals an “alternative possibility that perception could be logically structured by an ‘indeterminate’ use of concepts” (37).

our basic relation to the outside world ... is less like having one's door knocked upon by a stranger and more like opening up to, welcoming in, and embracing an invited guest (65).<sup>14</sup>

To the extent that this line of thought is appealing, there are still a number of matters requiring further explanation, namely: how exactly does the spontaneous activity of productive imagination grant every *experience* we have in the world the form of a concept in general? Can it be argued unequivocally that it is *merely* imagination that bears this conceptual form? And perhaps most importantly, is it truly enough to claim intentionality? For, even if we accept the argument that our experience indeed contains active elements all the way down, as Tinguely's scrutinizing analysis throughout the book compellingly shows, the only moment in which one can genuinely claim intentionality in an explicitly "Kantian" sense is *judgment*.<sup>15</sup> This matter becomes even more acute in the context of the third *Critique* when the differences between aesthetic *experience* and aesthetic *judgment* often seem blurred. Let me consider these points in more detail within the framework of the third *Critique*.

The uniqueness of aesthetic judgment is embodied in its being, on the one hand, a form of judgment that begins with a particular intuition and does *not* rely on a determinate concept as its point of departure. Yet, on the other hand, it is carried out in an indeterminate, general *conceptual* space. The point Tinguely seeks to make is that this conceptual space is not given to us passively from the mere fact that we are discursive beings, but it is rather the general conceptual form that is imparted by our "productive and spontaneous imagination in its free yet lawful engagement with beautiful objects"

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<sup>14</sup> I take this metaphor to be central to Tinguely's account of intentionality as the basic mind–world relation, when the "invited guest," as I read it, stands for the form of intentionality that enables us to grasp the world and objects in it.

<sup>15</sup> The question can be formulated as follows: does the general conceptual form of our experience, granted by the activity of imagination, transform it automatically to be grasped as judgment? Tinguely does *not* seem to wish to argue this, yet he insists on intentionality as equivalent to the general conceptual form of *experience* (cf. 37, 53, 63, 65). In the following chapters Tinguely seems to change the terminology of this claim by arguing that the activity of imagination on the perceptual manifold should be seen as interwoven within the space of judgment and not as a stage that leads to it or precedes it (cf. 92, 170, 177).

(60). While one can easily be persuaded by the first part of this argument, its second part remains abstruse, since it is not clear how the general conceptual form is provided *exclusively* by the productive imagination, as Tinguely seems to argue.<sup>16</sup>

The argument continues to become tangled as Tinguely shifts terminologies, in this context, between that of aesthetic *experience* and that of aesthetic *judgment*: thus it is often unclear which of them actually bears this general conceptual form according to him.<sup>17</sup>

I believe Tinguely's argument could have much stronger impact within the broader claim of the book if: 1) an account had been given *also* of the role the understanding has in this context. This is because the free and lawful activity of imagination in engagement with the beautiful object is articulated in its free play *with* the understanding.<sup>18</sup> 2) Consequently, the general conceptual form could have been accounted for as constituting simultaneously the form of aesthetic *judgment* itself, since *in* this free play, that is, when the imagination harmonizes freely with the understanding, we feel aesthetic pleasure in the object, which is a structural element of the judgment (and not its effect, as Tinguely

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<sup>16</sup> Another issue I find difficult, in this context, is the claim that “in aesthetic judgment the epistemic stakes are lowered, thus easing the proleptical drive towards a final, conceptual form and thereby allowing the imagination considerable latitude to play with the way different particular concepts might structure the rich variety of sense properties” (61–62). I do not think Kant understands aesthetic judgments as a lower level of epistemic commitment than empirical judgments. Rather, I think aesthetic judgments constitute a different *kind* of relation to the object, which is not aimed at cognizing it; but I do not delve into this issue in the present review.

<sup>17</sup> Here are some examples: “Aesthetic *experience* provides an opportunity to become aware of how the moments of receptivity by which the mind ‘takes in’ external stimuli in an *act of perception* occurs” (17); “It is not until the analysis of the imagination in aesthetic *experience* ... that the full force and scope of Kant’s account of intentionality comes into view, although the relation between aesthetic and cognitive *judgment* nevertheless remains ‘indirect’” (36); “An aesthetic *experience* is both something one does and something that happens to one. Such *judgments* appeal to ...” (215).

<sup>18</sup> Emphasizing the role of the understanding could add a deeper conceptual dimension also to Tinguely’s account of aesthetic *experience*, as an experience that is already conceptualized as opposed to a pure form of experience. Since Tinguely ultimately seeks to weave aesthetic experience together with intentionality, the understanding should be described as a vital part of the equation.

stresses further on).<sup>19</sup> 3) Stressing the *act* of aesthetic judgment could aptly illuminate both the way imagination is conceptualized and the bond it has with intentionality.<sup>20</sup> For while aesthetic experiences are of private validity, the universal communicability of the judgment derives directly from its general conceptual form.<sup>21</sup> It follows that *in* our being “oriented towards the object” in a *certain way*, to use Tinguely’s terminology (37), by ascribing to it a general conceptual form, our judgment may claim universal validity, ergo, be argued to be intentional.<sup>22</sup>

After all, Tinguely’s goal is to tie conceptuality together with the mind’s orientation toward the world, a combination that he describes as “the way in which it [the world]<sup>23</sup> is *taken up*” (63). Now, although aesthetic experiences are those that ground aesthetic judgments (therefore, they must be conceptual), this notion of orientation could not be perceived as being intentional, as Tinguely seems to argue, without or prior to an act of judgment. For, only in judgment can the “active” terminology that Tinguely associates

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<sup>19</sup> The feeling of pleasure as constituting aesthetic judgment plays a major role in Tinguely’s line of argument. This is particularly true in Chapter 6 where he discusses aesthetic judgment as idiosyncratic in its being a “felt” judgment (159). Thus, aesthetic pleasure is not a passive feeling but a feeling one can account for.

<sup>20</sup> I do not argue that only aesthetic judgment is conceptual; on the contrary, I argue that a greater place must be given to the understanding in order to show the conceptuality of aesthetic experience all the way down. The point I wish to make is that aesthetic judgment best exemplifies how imagination is conceptualized.

<sup>21</sup> In Chapter 5, Tinguely demonstrates the structure of general agreement in judgments of taste through the notion of “quarreling.” The notion of quarrel in judgments of taste implies internal conflict: It is within the boundaries of a normative activity “as it refers to a basis of determination that is not private” (119), yet at the same time it cannot be brought under determinate concepts since it is a judgment that is based on the subject’s feeling. Thus, the question is “on what possible basis could there ... be some hope for us to arrive at agreement?” (120). The answer, Tinguely argues, lies in the way we can reach “agreement in the way we sense” through an active receptivity of the world (120–121).

<sup>22</sup> Since the *free play* consists in a relation of the faculties is a “requisite for cognition in general” CJ, 5:218. Cf. Ginsborg, “Lawfulness without a Law,” 38.

<sup>23</sup> Although the reference here is specifically to the sense manifold in the context of the transcendental deduction (cf. 63), I think it would not be mistaken to refer to it generally as “the world” and thus apply the argument also to the way it is *taken up* aesthetically (in reflective judgments for that matter).



with orientation in experience—as in: “taking up the world,” “opened out onto it,” “reaching out towards it,” etc.<sup>24</sup>—take the *form* of intentionality in the full sense.<sup>25</sup>

To return, in light of this, to the ambiguous nature of “finding the world,” we can see how aesthetic judgment preserves this ambiguity in a way that is consistent with Tinguely’s overall argument: by granting the beautiful object a general, conceptual form *and* simultaneously presenting the various, endless possibilities in which it can be *taken up*.

In order to further unfold the affinity between orientation and intentionality in the aesthetic nexus, let me turn to Tinguely’s discussion of the *Orientation* essay, which offers an additional direction for examining this relationship.

## §2. Orientation and the Aesthetic Symbolization of the World

The question that serves as a guideline for Tinguely’s discussion of the *Orientation* essay (1786) is “how can a mere feeling constitute an experience in which the world reveals itself to us?” (185).<sup>26</sup> His answer consists in considering “whether an affective state can enable a particular sense object to function as a *symbol* for the layout of the world as

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<sup>24</sup> Similarly, one can think of how aesthetic judgment is involved in creativity in the sense that we learn to become creative in the ways requiring us to judge aesthetically, i.e., to *take* aesthetic pleasure in things.

<sup>25</sup> The implication of this argument about empirical cognition is that “empirical content bears conceptual form” (60). Tinguely’s point is that in synthesizing the manifold—that is, in separating an object from the manifold and holding it together in a binding act—productive imagination grants the manifold the form of a concept in general. “Conceptuality, then, reflects a particular way of perceiving or mode of activity in which the mind binds together the manifold of sense” (65). I think my suggestion regarding the way the imagination is conceptualized in the aesthetic nexus can reinforce Tinguely’s motivation also regarding empirical cognition. This is because it demonstrates Kant’s threefold synthesis in the A-edition of the “First Critique” as conceptual all the way down. In other words, it shows that the moment of the “synthesis of recognition in a concept” is already contained in the other two.

<sup>26</sup> Tinguely reformulates here the problem raised by McDowell in his *Mind, Value, Reality*, p. 130, regarding the claim “that ‘feeling’ could be a *constituent* of ‘knowing’” (185). A question arises as to whether Tinguely’s rephrasing of McDowell does indeed retain the same meaning, for to “constitute an experience in which the world reveals itself to us” and to be a “*constituent* of ‘knowing’” do not overlap. However, I do not think that this terminological distinction is fundamental to Tinguely’s account of the feeling of orientation “as a *symbol* for the layout of the world as a whole” (185).

a whole” (85).<sup>27</sup> In order to appreciate Tinguely’s answer, we should first clarify the “aesthetic” feature of orientation as a non-conceptual feeling that functions as an *active* element of subjectivity in perceiving the world.

Tinguely posits the feeling of orientation as part of the “affective turn” *mood* of the book as a whole, by arguing that it constitutes “the forms of *commitment* by which we expose ourselves to the world’s being the way it is” (26, 207). The idea is that orienting oneself in the world depends, on the one hand, on our subjective position in it, i.e., on the subject standing in certain relations to objects in the world. Yet, on the other hand, orientational feelings remain “epistemically objective” in the sense that they carry normative standards of application binding upon all subjects in the same position; thus, they cannot be reduced to an arbitrary way of “looking at things” (194).<sup>28</sup>

Tinguely’s point is that the feeling of orientation “is *no* mere attitude” that one can choose whether to adopt or not. It is rather

an instance of the “Copernican turn” *par excellence* in that it instantiates a kind of judgment in which subjectivity ... makes possible knowledge of the objective layout of the world (194).

Further, to the discussion of the general conceptual form associated with the productivity of productive imagination in our every encounter with the world, which enables us to “take the world up” as in orienting ourselves toward it, Tinguely suggests here a similar interpretive line from the opposite, non-conceptual direction. He draws on the fact that our “self-orientational” feeling is the only means we have for constituting differences in the world that cannot be established with reference to empirical objects. Indeed, without such a feeling, knowledge of the world would be impossible as it would have no order. Thus, we would not be able to “take the world up” since it would no longer have the meaning of a “world” to us. The point Tinguely seeks to make is that through *the way* we

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<sup>27</sup> Emphasis in the original text.

<sup>28</sup> See the example of the “Polar Star due north” (194). It is true regardless of the subject’s point of view on the one hand, yet on the other hand it needs subjects for its validation.

orient ourselves in the world “we come to expose ourselves to the world’s being one way or another” (207).

This point might seem trivial at first sight, but a closer look reveals Tinguely’s originality. I find its distinctive value precisely in what it leaves out of the picture, namely: the metaphysical dimension. Instead of following Kant’s declared goal in the essay to reconcile reason and faith via the analogical relation between orienting oneself in the sensible and the supersensible world, Tinguely applies the feeling of orientation to particular objects *in* the world to stand as a symbol for the constellation of the world as a whole. By shifting the direction back into the world, Tinguely reinforces the general claim of his book, namely: the congruence between orientation and intentionality. The emphasis is not on *what* the feeling of orientation symbolically stands for but on *how* this symbolization is carried out.<sup>29</sup>

To illustrate this, Tinguely turns to Kant’s prominent discussion of the symbol in §59 of the third *Critique*. Here, Kant describes symbolic presentation as an analogical relation between two distinct objects based on the similarity of “the rule of reflection on both” (CJ, 5:352). While Kant’s goal is to present beauty as the symbol of morality, i.e., to show the possibility of “the transportation of the reflection on one *object* of intuition to another quite different *concept*, to which perhaps no intuition can ever directly correspond” (CJ, 5:352–353),<sup>30</sup> Tinguely seems to be interested, instead, in the *mode of operation* of this form of reflection in a non-conceptual context, namely: the aesthetic feeling of left and right.

In a fairly straightforward illustration, he draws a triangle of subject–object–world in which the subject–object relation is analogical to the subject–world relation. The vital point is that this analogy is based on a form of reflection that is “not discursively codified but is, technically speaking, *felt*” (200). From this, Tinguely concludes that “the *process* of orienting oneself is one in which a feeling is revelatory of the structure of the world” (200), since the manner in which one’s feeling of left- and rightward orientation toward a given object constitutes *mutatis mutandis* one’s commitment to the way objects in general stand in respect to the world at large.

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<sup>29</sup> Cf. 200.

<sup>30</sup> Emphasis mine.

Despite Tinguely's concern merely about the cognitive and objective role of orientation, by turning attention away from the question of *what* to the question of *how*, I think his argument alludes more to Kant's own metaphysical project in the *Orientation* essay than he intended. This is true particularly in the context of moral faith and the postulates. For when one believes in the practical possibility of the postulates, one in fact adopts a *reflective* way of thinking, or "a form of commitment" in Tinguely's words, since it is the *manner* one chooses to think about oneself as a capable moral being, or again paraphrasing Tinguely's terminology: a choice "to plac[e] the objects of the world in one way rather than another" (200). Tinguely stresses that even though it takes the form of a feeling, orientation stands within the normative sphere of distinction between right and wrong, hence it entails commitment to a certain way of "ordering" the world as in placing its objects.<sup>31</sup> This argument conforms very well with Kant's terminology in the *Orientation* essay regarding faith as something that must be committed to in a certain way, i.e., guided by reason, so that it will not be opened to superstition.<sup>32</sup>

The issue that continues to hover over the argument is the apparent leap to intentionality. On the one hand, Tinguely convincingly paints orientation as an *active* feeling over which we can and should take responsibility in revealing the "world's being one way or another" (207). On the other hand, however, we seem to have no control over "the world's being the way it is" (*ibid.*). It seems to me that Tinguely's solution lies precisely in the link he draws between orientation and aesthetic judgment, a link that was missing in the context of productive imagination. Thus, he argues that

Kant's account of worldly orientation requires a *judgmental* capacity that is (i) aesthetic insofar as it draws on an ineliminable affective and thus subjective state but is (ii) cognitive in the sense that it gets purchase on and discloses features of the objective world (207).

Tinguely's broader point is that experiences that are essentially affective, such as orienting oneself in the world, involve intentional awareness in order for them to have

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<sup>31</sup> 201.

<sup>32</sup> *Orientation*, 8:145–146.

objective validity. This point goes hand in hand with the terminology of aesthetic judgment that Tinguely calls elsewhere “Internal-Objectivism” (167). The basic idea is that although aesthetic judgment is based on subjective feeling, it simultaneously articulates an objective claim. That is how Tinguely can argue that aesthetic judgments “both discover how things are and make them so” (215).

I would like to conclude by briefly returning to the ambiguous notion of “Finding the World” through the idea of purposiveness.

### **§3. Conclusion: Finding the World Purposively**

Although Tinguely does not pretend to provide a complete or conclusive theory of affective intentionality in the book, the lack of a specific reference to Kant’s unique principle of purposiveness in aesthetics is, in my opinion, unfortunate.<sup>33</sup> I believe that this principle could have contributed greatly to Tinguely’s original endeavor in reorienting features of Kantian aesthetics from being associated with a terminology of passivity and receptivity to being essentially active, constitutive, and revelatory.

Generally phrased, the principle of the purposiveness of nature<sup>34</sup> allows us to regard nature as purposive in accordance with our faculties. However, by itself this principle

does *not* ground any theory and does *not* ... contain cognition of objects and their constitution, but only gives a principle for progress in accordance with laws of experience, whereby the investigation of nature becomes possible [for us].<sup>35</sup>

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<sup>33</sup> Tinguely *does* mention the subject of purposiveness in Chapter 6 with regard to his interpretative proposition of “internal-objectivism.” However, he does not expand on it and refers mainly to Kant’s description of natural (objective) purposes and less to subjective purposiveness exhibited in natural beauty in which nature is actually presenting its *own* subjective purposiveness, i.e., its purposiveness with respect to our faculties.

<sup>34</sup> *Die Zweckmäßigkeit der Natur*, (CJ, 5:193–194).

<sup>35</sup> CJ, 20:204–205. Parentheses and emphases are mine.

In other words, the purposiveness of nature is a principle of the *reflective* power of judgment, for it provides us with a universal “but at the same time *indeterminate* principle of a purposive arrangement of nature in a system.”<sup>36</sup>

As such, the principle of purposiveness can capture, I think, just about every characteristic Tinguely indicates in the act of reorientation:<sup>37</sup> it is “actively” subjective, in the sense that *we apply* it to nature as if nature itself was purposively organized. Nevertheless, it is seen as objective, for it is presented objectively *in* the beautiful object when we judge it aesthetically.<sup>38</sup> It can also correspond aptly with the general conceptual form Tinguely grants the productive imagination, since the principle of purposiveness presented in natural beauty as its subjective formal presentation is charged with “providing *concepts* in the face of this excessive multiplicity in nature (*in order to be able to be oriented in it*).”<sup>39</sup>

According to my reading of Kant, the fact that natural beauty “reveals” to us a formal purposiveness of nature with respect to *our* power of judgment echoes the essential ambiguity of Tinguely’s “Finding the World,” as to both “discover how things are and make them so.” Thus, Tinguely’s concluding question of the book—“How does one find the world?” (215)—can be safely responded to (based on my reading) by saying “I find it beautiful.”

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<sup>36</sup> CJ, 20:214. Emphasis mine.

<sup>37</sup> I refer here particularly to the principle of *subjective* purposiveness in its aesthetic nexus of the third *Critique*.

<sup>38</sup> Although Tinguely is concerned with the reorientation of *Aesthetics*, the relevance of the principle of purposiveness for him can be demonstrated also in the context of Kant’s “Teleology.” Since in order for us to *not* regard nature’s causality as a blind mechanism, we must *represent the possibility* of objects in it teleologically, i.e., as ends (CJ, 5:360). However, even though this is *our* way of observing nature and conceiving objects in it, the presentation of purposiveness in this regard is nevertheless *objective*. This means that when we intuitively construct certain natural objects in imagination according to the concept of purposiveness, we actually observe *real* purposiveness *in* nature. For more on the presentation of purposiveness in both aesthetic and teleological judgments, see my “The Nature of Moral Faith.”

<sup>39</sup> CJ, 5:193. Emphases are mine.

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## **Review 2: Samantha Matherne, Harvard University**

### **§1. Introduction**

Readers of Kant's third *Critique* often divide between those who see it as the genuine key to unlocking Kant's critical system and those who regard Kant's forays into beauty and biology as the stuff of architectonic indulgence. However, even if one is sympathetic to the third *Critique* making a substantial contribution to Kant's critical project, the challenge becomes specifying exactly what that contribution is. In *Kant and the Reorientation of Aesthetics*, Joseph Tinguely makes the case that the third *Critique* should be read as the key to understanding Kant's theory of *intentionality*. More specifically, Tinguely argues that it is Kant's aesthetics that sheds light on his account of intentionality, construed as "the basic ways in which the human mind is oriented in the world" (2).

In defending this interpretation, Tinguely offers a rich and nuanced reading of many features of Kant's account of aesthetics, including more familiar features, such as his theory of the "free lawfulness" of imagination (Ch. 2), aesthetic disagreement (Ch. 5), and aesthetic judgments (Ch. 6), and less familiar features, such as his theory of tone (Ch. 3), the parallels between his account of judgment and Aristotelian rhetoric (Ch. 4), and his theory of orientation (Ch. 7). Drawing on these diverse resources, Tinguely ultimately attributes to Kant an *affectively laden* theory of intentionality, according to which our orientation and directedness toward the world is something that has an ineliminable affective dimension.

While there is much that could be said about Tinguely's original approach to Kant's aesthetics, in what follows I will focus on two elements of his view. First, his understanding of the methodological priority of Kant's aesthetics, and, second, his account of the normative dimensions of affect. After presenting these two features of his view, I will then raise some questions and concerns about them.



## §2. Tinguely on the Priority of the Aesthetic and Affective Normativity

In the opening chapter, Tinguely appears to align his approach to the third *Critique* with a philosophical methodology that he calls “Philosophical Aestheticism” (8). As I understand it, there are, at least, two main commitments of Philosophical Aestheticism. The first commitment is a substantive commitment regarding the relationship between cognitive and aesthetic experience, according to which they involve perceptual activities that differ not in kind, but degree (8). That is to say, whether I am cognizing the tree I see outside my window or taking in the beauty of Gabriele Münter’s *Trees Near Hagenweg* (1931), I am engaged in the same kind of perceptual activity. The difference, according to Philosophical Aestheticism, is that the aesthetic case involves a “particularly heightened” form of this activity (8). When I look at the Münter painting, for example, “my senses are keen and alive” and I am “alert, attuned, and self-aware” in a way that I am not when I look at the tree outside my window (8).

The second commitment of Philosophical Aestheticism is a methodological one, according to which “aesthetics represents a privileged method” in philosophy because it “makes explicit the background conditions at work but only implicit in our normal modes of sense coping and interaction” (9). From the perspective of Philosophical Aestheticism, then, aesthetics is not just one sub-discipline among others, but rather has a foundational role to play in philosophy insofar as it promises to shed light on our basic ways of engaging with the world.

Tinguely then offers a reading of the third *Critique* that is guided by these two commitments. In line with the first substantive commitment, Tinguely argues that Kant’s analysis of the perceptual activities we enact in the aesthetic context sheds light on those we enact in the cognitive context. To this end, he argues that we should read Kant’s claim that imagination is a “necessary ingredient in perception” in the first *Critique* in light of his analysis of the “free, yet lawful” activity of productive imagination in the third *Critique* and conclude that imagination engages in this activity in both contexts (36–37). And by teasing out this parallel, Tinguely seeks to establish that there is a deep continuity between the activities involved in cognitive and aesthetic judgment, such that the latter is a heightened form of the former.

Moreover, Tinguely contends that in our efforts to understand Kant’s theory of cognition and intentionality, we should give methodological priority to the third *Critique*.

In this spirit, Tinguely argues that we have reason to revise our understanding of Kant's account of cognition in the first *Critique* in light of the third. More specifically, Tinguely claims that whereas in the first *Critique* cognition appears to be a matter of subsuming intuitions under concepts, the third *Critique* reveals that there is an additional affective component of cognition and, indeed, of intentionality.

In his analysis of the affective dimensions of Kant's theory of intentionality, Tinguely argues that one of the most "radical" claims we find in the third *Critique* is the claim that our affects are subject to normative demands, and this brings me to the second feature of Tinguely's view I want to explore, viz., affective normativity (18). By "affects," Tinguely has in mind the wide range of affective states that pertain to "how we are passive in respect to the world," e.g., sense perceptions, pleasures, pains, emotions, moods, etc. (121). And Tinguely argues that, on Kant's view, affects are subject to normative demands in the sense that there are ways that we "should" or "ought" to feel, that affective states are ones we are "responsible" for, and that we can be "praised or blamed" for them (18, 120, 121, 201).

Central to Tinguely's argument for attributing a view of affective normativity to Kant is Kant's discussion of "quarrels" (Ch. 5). As Tinguely notes, Kant introduces the notion of a "quarrel" as the mode of debate we can viably engage in about aesthetic matters. Unlike "disputes," in which both parties can resort to conceptual proofs to attempt to get the other to agree, in cases of aesthetic disagreement, since judgments of taste are not grounded in concepts, we cannot "dispute" the matter. Nevertheless, we can quarrel. Suppose, for example, you and I are debating the beauty of M $\ddot{u}$ nter's *Trees Near Hagenweg*. I defend its beauty, you claim it is derivative. Although neither of us thinks we can convince the other by means of a proof, as Tinguely points out, from Kant's perspective, we nevertheless continue the debate because "there must be hope of coming to mutual agreement" (119, KU 5:338).<sup>40</sup> This hope is fueled by the thought that even though our aesthetic judgments are not grounded in concepts, they "do not have merely private validity and thus are not merely subjective" (119, KU 5:338). Our quarrel then is

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<sup>40</sup> KU: Immanuel Kant, *Critique of the Power of Judgment*, trans. Paul Guyer and Eric Matthews (Cambridge: Cambridge University Press, 2002). References to Kant are to the volume and page of *Kants gesammelte Schriften*.

grounded in the presupposition that each of us has a feeling that the other “ought” to share. Tinguely labels this ought the “aesthetic ought” (120).

In examining this aesthetic ought, Tinguely highlights Kant’s claim that quarrels involve a “demand of reason to produce such a unanimity in the manner of sensing [*Sinnesart*]” (120, KU 5:240). Tinguely further emphasizes Kant’s characterization of this demand as the “ought” or “should” [*das Sollen*] that involves “the objective necessity of the confluence of the feeling of everyone with that of each” [*die objective Nothwendigkeit des Zusammenfliessens des Gefühls von jedermann mit jedes seinem besondern*] (120, KU 5:240). Altogether, then, on Tinguely’s interpretation, the aesthetic ought amounts to a normative demand to “sense” or “feel” in a way that “flows along” with—in short, agrees—with others.

Although Tinguely first discusses the aesthetic ought in the context of quarrels about matters of taste, he argues that, on the Kantian view, this ought is not just operative in these narrow aesthetic contexts. According to Tinguely, once we appreciate the aesthetic dimensions of all experience, then we will find that this aesthetic ought extends to our affectivity in a broader sense, viz., “how we are passive in respect to the world” (121). From this more general perspective, the aesthetic ought is thus one that demands “assuming responsibility” for that affectivity (121). In this way, Tinguely develops a more general claim about affective normativity on the basis of Kant’s account of the affective normativity involved in quarrels about the beautiful.

Building on his commitment to Philosophical Aestheticism, Tinguely thus attributes to Kant an account of cognition and intentionality that cannot be understood merely in terms of how concepts and intuitions fit together in judgment, but must be enriched with the analysis of the aesthetic, affective, and normative dimensions of aesthetic experience that Kant defends in the third *Critique*.

### **§3. The Scope and Source of Affective Normativity**

In what remains, I want to raise a set of questions and concerns about each of these two features of Tinguely’s view, beginning with his analysis of the normativity of affect. There are two concerns, in particular, that I want to explore: the first pertains to the *scope* of Tinguely’s view and the second to the *source* of affective normativity.

My first question about Tinguely's view is this: how general is his thesis that affects are subject to normative demands? Is the thesis that *all* affects are subject to the demand that one's feelings "flow together" with the feelings of others? Or are there only *some* feelings that are subject to this demand?

To put a finer point on this question, let me lay out some of the different kinds of "feelings" [*Gefühle*] that Kant delineates. Though this is by no means exhaustive, Kant distinguishes between the following five sorts of feelings. In the third *Critique*, Kant is largely, though not exclusively, concerned with hedonic feelings, viz., the feelings of pleasure or displeasure [*Lust, Unlust*]. And he distinguishes between two species of the feeling of pleasure: interested and disinterested. Kant then identifies the feeling of pleasure in the "agreeable" and "good" as two sub-species of interested feelings of pleasure, and the feeling of pleasure in the "beautiful" and "sublime" as two sub-species of disinterested feelings of pleasure.

In addition to the feeling of pleasure or displeasure, in the *Anthropology* and other writings, Kant delineates two further kinds of feelings: "affects" and "passions." "Affects," in Kant's technical sense, are feelings that arise all of a sudden, e.g., when you feel a sudden rush of gratitude for the cup of coffee in front of you (Anthro 7:251, KU 5:272fn).<sup>41</sup> By contrast, "passions" are feelings that develop over time in relation to what you desire through practical reason, e.g., the persistent anger you feel toward an enemy (Anthro 7:252).

Meanwhile, as Tinguely highlights, in Kant's "How to Orient Oneself in Thinking" essay, Kant discusses another feeling, viz., the "feeling of difference in my own subject, namely the difference between my right and left hands" (8:134). Tinguely labels this type of a feeling an "orientation feeling" (201). Finally, Kant also discusses moral feelings, such as the feelings of respect and the love of human beings.

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<sup>41</sup> Anthro: Immanuel Kant, *Anthropology from a Pragmatic Point of View*, trans. Robert Loudon (Cambridge: Cambridge University Press, 2006).

We now have five kinds of feelings on hand: hedonic feelings, affects, passions, orientation feelings, and moral feelings. So, which of these feelings, on Tinguely's view, are subject to normative demands?

In his discussion of quarrels in Chapter 5, Tinguely seems to claim that *all* affects are subject to normative demands:

It is through our shared capacity to quarrel that affectivity (in the broad sense of all the ways we are open, receptive to, and affected by the world) is brought into the domain of the normative (151).

However, I do not think that there are resources in Kant's account of aesthetic quarrels to justify this sweeping view. At most, I think that it can be used to build a more restricted view of affective normativity.

In order to motivate this concern, I want to return to Kant's account of affect in the context of his aesthetics. Central to Kant's analysis of the feeling of pleasure in the beautiful is the contrast he draws between it and the feeling of pleasure we have in the agreeable. As is familiar, Kant characterizes the agreeable in terms of the pleasures we feel given our individual proclivities and predispositions. And he contrasts this pleasure, as a "private feeling," with the "universal" pleasure that we at least claim to feel in the beautiful (KU 5:212).

While this much is familiar, by my lights, the contrast between the universal pleasure in the beautiful and private pleasure in the agreeable reveals something important about Kant's account of the normativity of feeling more generally. It is only those feelings that we can justifiably expect to share with others that involve a normative demand. If this is right, then I think that the list of feelings that can be subject to a normative demand shrinks. In addition to the feeling of pleasure in the beautiful and sublime, it seems that the feeling of respect and love is one we could justifiably expect other human beings to feel. Perhaps also the bodily feeling of orientation between left and right is one we could expect of others (though not the thicker account of orientation toward the right and left in terms of feelings such as "fear, hope, or anger" that Tinguely proposes) (203). But beyond this short list (or some version of it), it seems the majority of our hedonic feelings, passions, and affects are precisely the sort of thing that are private

rather than universal; hence not subject to a normative demand. Insofar as this more restricted account still places some affects in the normative domain, it is radical, but perhaps not as radical as the one Tinguely envisions.

The second question about affective normativity I want to pursue concerns the *source* of affective normativity. What, on Tinguely's view, grounds the aesthetic "ought"? Why should I feel in ways that "flow along with the feelings of others" rather than along my own path? One possible Kantian answer is that morality is the ultimate source of affective normativity. And, in this vein, one could perhaps point toward Kant's claim in the third *Critique* that the "feeling in the judgment of taste is expected of everyone as if it were a duty" (KU 5:296). However, Tinguely argues that the normativity of the aesthetic is distinct from that of morality. To this end, he claims that whereas moral norms "have an indefeasible or categorial quality," aesthetic norms do not:

there is no higher-order aesthetic demand that one ought to remain in an aesthetic frame of mind ... Other than missing out on beauty, there is no other penalty for not being aesthetic; thus beauty permits its own neglect because there is no wider purpose that is failing to be served (22).

If not morality, then, perhaps cognition or our cognitive capacities could serve as the source of the aesthetic ought? But this would seem to violate the methodological commitment of Philosophical Aestheticism. What then is the source of affective normativity?

#### **§4. An Alternative to Philosophical Aestheticism?**

The other feature of Tinguely's view I want to pursue concerns his commitment to Philosophical Aestheticism. I am quite sympathetic to efforts to read the third *Critique* as shedding significant light on Kant's account of perception and cognition in the first *Critique*. However, I worry that there is something about Philosophical Aestheticism that levels off important differences between aesthetic and cognitive experience. I wonder, then, if there is an alternative to Philosophical Aestheticism that does justice to both the differences and similarities between the two. More specifically, I am going to suggest that

a *capacity*-oriented, rather than *activity*-oriented, account of the continuity between aesthetic and cognitive experience might be a more viable alternative.

Following the first guiding commitment of Philosophical Aestheticism, Tinguely argues that aesthetic and cognitive experience are continuous insofar as they involve the same kind of perceptual *activity*. In particular, as I indicated above, Tinguely argues that they both involve the “free, yet lawful” activity of the productive imagination. My worry about this view is that it seems to conflict with an ongoing thread in the third *Critique* in which Kant attempts to distinguish aesthetic from cognitive activity. The first instance of this thread is arguably the distinction Kant draws in the Introduction between “determining” judgment, which subsumes a particular under a given universal, and “reflecting” judgment that seeks a universal for a particular (KU 5:179). It seems that cognitive judgment is a paradigmatic case of determining judgment and aesthetic judgment of the latter. Turning then to the *Analytic of the Beautiful*, Kant’s opening move is to claim that a “judgment of taste is ... not a cognitive judgment ... but is rather aesthetic,” because in it we “relate the representation by means of understanding” not to “the object of cognition, but rather ... to the subject and its feeling of pleasure or displeasure” (KU 5:203). And finally, in his account of genius, Kant asserts that,

in the use of imagination for cognition, the imagination is under the constraint of the understanding and is subject to the limitation of being adequate to its concept; in an aesthetic respect, however, the imagination is free to provide, beyond that concord with the concept, unsought extensive underdeveloped material for the understanding (KU 5:316–317).

It seems, then, that there is a through line that Kant follows from the Introduction, through his analysis of aesthetic judgment, and into his account of genius, which distinguishes the reflective, subject-oriented, free activities involved in aesthetic judgment from the determinative, object-oriented, constrained activities involved in cognitive judgment.

Yet, the last passage quoted about genius is instructive because even if we allow for the activities involved in aesthetic and cognitive experience to be distinct, we can nevertheless recognize that they are continuous insofar as they involve the exercise of the

same *cognitive capacities*, viz., imagination and understanding. By my lights, a capacity-centric reading of the continuity between the two recognizes the similarities, while still allowing for those capacities to interact in genuinely different ways, viz., the “compelled” activity of cognition and the “free” activity of judgments of the beautiful. What is more, this capacity-centric reading of the continuity still points toward important intersections between the first and third *Critiques*, and still leaves room for the latter’s analysis of the infrastructure of cognition to contribute to our understanding of Kant’s position in the first *Critique*. But what it also preserves, and what I find phenomenologically attractive, is the thought that there are different activities through which we intentionally engage with the world, with some of these acts being geared toward freely playing with the beautiful and other of these acts geared toward the serious business of cognizing the objects we find around us. Why not read the relationship between the first and third *Critiques* as giving us reason to endorse this intentional pluralism within a broader framework of the rich and diverse ways we can exercise our cognitive capacities?

Questions and concerns aside, Tinguely’s monograph opens up new and welcome avenues for thinking about the philosophical significance of Kant’s aesthetics, just a few of which I am thankful to have had the opportunity to pursue here.

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## **Author Response: Joseph J. Tinguely**

### **§1. Introductory Comments**

#### Overview

When someone asks me, “What is your book about?” I take immediate evasive action by replying, “It’s about what somebody who nobody knows didn’t say about a topic nobody cares about.” The somebody who nobody knows is Immanuel Kant, a name even most people with a four-year college degree have never heard. The topic no one cares about is aesthetics, nominally the study of beauty and art. Since the participants in this conversation are among the exceptionally rare few who do know who Kant is and do care about aesthetics, we can move directly to the third disavowal: what Kant *didn’t* say about aesthetics.

First, what Kant *did* say about beauty and art is extraordinary: aesthetic judgments are possible. Even though taste is grounded in a subjective feeling rather than an objectively definable concept, we have a right to demand good taste from others. Posing the issue as a combination of demand and feeling and mounting a philosophical argument for it is a remarkable undertaking, even if it fails, hence all the fuss about it. There is a lot to be said.

But what Kant *didn’t* say is that in the process of describing what the human mind and what the world must be like such that we could find it beautiful, he develops the resources to describe how minds could find a world *at all*. Hence the primary thesis (and first sentence) of my book: the philosophical significance of Kant’s aesthetics lies not in its explicit account of beauty but in its implicit account of intentionality.

#### The Core Argument

The positive argument of the book is that Kant’s aesthetics contains the intellectual resources needed to understand how the mind is cognitively oriented in the world. Thus, contemporary philosophers (in a broadly Sellarsian mode) who find in Kant the outlines of a robust theory of intentionality suffer from a neglect of Kant’s own best account, which lies (between the lines, as it were) in the *Critique of Judgment*. That is, Kant’s explicit

account of judgments of beauty contains an implicit but distinctive and defensible account of intentionality in which (i) feeling, affect, or mood broadly considered must be operative within the way the mind receives the world and, moreover, (ii) these modes of receptivity fall within the normative domain so that we can hold each other responsible for how we are “struck” by an object or scene. One of the overarching themes of the book is to defuse the appearance of a contradiction in the claim that one can be responsible for how things appear, which is exactly what happens in judgments of beauty, *viz.*, one is credited or blamed for how she sees and feels about a sense object.

Put otherwise, my book adopts a reading of Kant according to which the first *Critique* shows how the capacity for judgment is implicated in experience, in “having a world in view” as McDowell puts it. I am impressed by that reading, but the trouble is that it is only half of the story. The other half occurs in the third *Critique*, where in the process of giving an account of taste Kant implicates *feeling* in the very process of judgment. Thus, in highly schematic form, my argument has the shape of a hypothetical syllogism: if a world then judgment, but if a judgment then feeling; therefore, if a world then feeling. I gesture at this interrelation between affectivity and objectivity in the elliptical subtitle “Finding the World,” since a finding is both an affective how (“How did you find your meal?”) and an objective what (“What did you find on the menu?”)

### Précis

Although I was guided by the overarching intuition of affectivity within objectivity, the book I wrote was not the positive one of a systematic logical construction, nor was it the historical one of reconstruction in order to attribute the view to Kant. Rather, the book I wrote was composed as a series of investigations into the philosophically rich but regrettably neglected topics at the intersection of Kant’s aesthetics and epistemology. After an introduction laying out the project of reading an account of intentionality out Kant’s analysis of aesthetic judgment, Chapter 2, “The Productive Imagination: An Aesthetic Touch,” examines why the details of Kant’s account of aesthetic experience in the third *Critique* are necessary for filling out the account of empirical cognition and intentionality initiated in the first *Critique*. The key connection between aesthetic judgment and empirical experience is the spontaneous exercise of the “productive imagination.”

Chapter 3, “Tone, Modulation, and Affectivity: Kant and the Aesthetics of Intentionality,” places Kant’s notion of “tone” as the keystone of a robust model of “intentionality.” Any theory of intentionality is incomplete if it fails to take stock of a distinctively tonal form of a sense percept that provides intuitional structure above and beyond spatio-temporal shape. Chapter 4, “The Implicit Affection between Kantian Judgment and Aristotelian Rhetoric,” finds a philosophical precedent for my reading of Kant in the account of how feeling and judgments relate in Aristotle’s account of persuasion in book II of the *Rhetoric*. Chapter 5, “Kantian Quarrels: Hume, Rousseau, and the Making of Aesthetic Discourse,” credits Kant with identifying a distinctive form of speech act called “*streiten*” or “quarreling,” which is a form of discourse that places normative demands upon the affective states of others. I reconstruct the development of “quarreling” by imagining how Kant would reconcile a quarrel between Hume and Rousseau that plays out in a pair of posthumously published texts, Hume’s *Dialogues on Natural Religion* and Rousseau’s *Essay on the Origin of Language*.

Chapter 6, “Kantian Meta-aesthetics and the Neglected Alternative,” argues that aesthetic judgment should be understood to be both “internalist” in that the pleasure of taste is a constitutive element of the judgment itself (rather than its external effect or prior referent) and “objective” insofar as the pleasure of taste not only reflects the mental state of the judging subject but discriminates features or properties of the object judged. The last full chapter, Chapter 7, “Kant, Orientation, and the Aesthetic Symbolization of the World,” offers a critical and reconstructive reading of Kant’s *Orientation* essay for the wider philosophical purpose of arguing that the ability to orient oneself in the world requires knowledge claims about sense objects that cannot be made without an irreducible aesthetic or “felt” discrimination. By carefully articulating the logical structure by which a particular object of orientation comes to serve as the aesthetic symbol of the world as a whole, we come to appreciate the affective quality of our cognitive judgments about the world in general.

The conclusion of Chapter 7, then, is in many ways the culminating claim of the book as a whole: our feelings, considered as orientational, are the forms of exposure through which we commit ourselves to the world’s being the way it is. A final and brief “Postscript” offers a concluding reflection on the subtitle of the book, “Finding the World,” and reasserts that the primary effect of Kant’s aesthetics is to reorient the

fundamental sense in which the mind is in touch with the world: the world is an object of our finding.

### Methodology

Taken on their own, these interventions are an important contribution to the existing literature, in part because no one has paid much attention to these topics (e.g., the literature on tonality and quarreling is virtually nonexistent). But their main value is that when taken together a robust and defensible picture of mind emerges that not only resolves tensions in a Kantian account of intentionality but also offers a timely intervention into contemporary debates about the “aesthetic” nature of the way the mind is in touch with the world.

Although the book covers new terrain, the primary and most consequential difference from the existing literature is not the topics considered but my underlying philosophical methodology. As I explain in the Introduction, contemporary Kant studies, like the history of philosophy more generally, uncritically takes as its starting point an intentionalist reading of texts (meaning that it takes for granted the question a text sets out to solve and considers it the job of the philosophical historian to reconstruct the answer as the author himself would have understood it). By contrast, my methodological starting point is non-intentionalist insofar as I show that the most important philosophical consequences of Kant’s aesthetics are not the answers the author offers but the questions that shape the subsequent philosophical agenda.

In that sense, the book is not attempting to find an unoccupied space on the crowded field of Kant’s aesthetics but aims rather to expand the field of possibilities. The method I followed was neither constructivist nor reconstructivist but unapologetically revisionist. There are well-established audiences for constructivist and reconstructivist philosophy. The question is whether there is also any shared interest in a revisionist project. I honestly do not know the answer to that question, but the book was written as an exercise of “radical hope”<sup>42</sup> that others would find meaning in a “Reorientation of Kant’s Aesthetics.”

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<sup>42</sup> “Radical Hope” is Jonathan Lear’s cultural and therapeutic description of the move out of resignation and into faith in Kierkegaard. What resignation and radical hope have in common is that they each occur

## §2. Responses to Moran Godess-Riccitelli

After very nicely characterizing how my project begins not by asserting a precise definition of “orientation” but by inducing a sense of disorientation for the purposes of eliciting a reorientation of aesthetics, Godess-Riccitelli turns to three specific issues that call for further discussion. (1) With regard to the productive imagination, she thinks that I follow Kant in “blurring” a distinction between aesthetic experience and judgment. (2) She sees in my treatment of the *Orientation* essay a missed opportunity to expand on metaphysical (religious) implications of Kant’s position. (3) And, overall, she thinks I was too neglectful of purposiveness, a notion that she suggests “can capture just about every characteristic [involved] in the act of reorientation.”

I will conclude by saying something briefly about the second two issues together, which I think points to a difference in emphasis but not in substance. I don’t myself go in much for purposiveness or hope (in the Kantian sense), but that’s a question of degree and a point on which reasonable people have no choice but to agree somewhat and disagree somewhat.<sup>43</sup> On the first point, though, of productive imagination there may be a disagreement not of preference but of principle. The issue concerns the relation between “aesthetic experience” and “aesthetic judgment,” a distinction that Godess-Riccitelli sees me blurring but that I see myself denying. I don’t see myself as trying but failing to hold them apart; I want to succeed at holding them together.

Perhaps one way of clearing the decks or short-cutting right to the heart of the matter is politely to decline Godess-Riccitelli’s kind description of my reading of Kant as “original.” Looking back, with the benefit of hindsight, it seems clear to me now that there is one specific sense in which my reading is baldly unoriginal. That is, I mean to adopt

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in the face of devastation or breakdown so severe that on the basis of any available evidence it is not rational to proceed. Although neither Lear nor Kierkegaard takes advantage of the fact, there is a model of the movement out of cognitive and perceptual breakdown in Kant’s account of the *mathematical* sublime in §§23–27 of the third *Critique*. Like much in Kant’s aesthetics, the account of the mathematical sublime gives more shape to subsequent philosophical problems than is generally appreciated.

<sup>43</sup> Or so Hume’s *Dialogues on Natural Religion* has persuaded me. I have, of course, already gone in for hope of a different, “radical” kind, but besides a passing nod to mortality it would take us too far afield to discuss how that is a different form of hope than the sense that Kant understands the term.

and defend a reading of Kant attributed to the Pittsburg or Chicago Schools associated with McDowell, Haugeland, Conant, Pippin, and others.<sup>44</sup> All it does to add the “South Dakota wing” onto the Pittsburg–Chicago house is to lay out explicitly how the *first-half* of the third *Critique* (and Kant’s aesthetics more generally) bolsters that reading (and answers some of its own questions) by building in a more robust understanding of the affective side of intentionality.<sup>45</sup>

What characterizes this school of thought is an interpretation of the B-Deduction that eschews the common reading of Kant as bravely crossing the great Arabian desert of skepticism, charting a course from appearance or experience to the homeland of knowledge or judgment. The alternative reading holds that the deduction does not endeavor a *gap-crossing* project (from experience to judgment) but rather means to be *gap-denying*.<sup>46</sup> To deny there is a gap between experience and judgment is to say that the only conceivable way sense experience itself is available is by way of the same capacities of intuition and concepts that jointly issue in explicit acts of judgment.

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<sup>44</sup> The orbit of course includes other important figures such as Sally Sedgwick or Matthew Boyle, who are not actually, or have not always been, employed by the universities of Pittsburg or Chicago.

<sup>45</sup> Spending time in the Chicago–Pittsburg school, one could be forgiven for having the impression that Kant’s texts end approximately with the conclusion of the B-Deduction of the *Critique of Pure Reason*, which then passes on the torch to Hegel’s *Phenomenology*. The mechanics of that handoff are sometimes said to require attention to how the Jena Hegel espied the speculative implications of Kant’s teleology in the closing sections (§§76–77) of the third *Critique*. To the extent that there is anything original in my position it is to emphasize how much of the philosophical transition is happening already in Part I of the third *Critique* on aesthetics rather than waiting for the teleology of Part II. Shifting attention to the mechanics of *aesthetic* reflective judgment shows the extent to which the important questions at issue require attention to *affectivity*, not just reflectivity (an issue of which, say, the Frankfurt Hegel appears well aware).

<sup>46</sup> Those who spend any time in the Pittsburg–Chicago house will know that there are important domestic disputes, one of which played out about 10 years ago in an extended exchange between Pippin and McDowell on the Kant–Hegel relation in general and the specific relation of spontaneity and receptivity in particular. One way of construing my project is to propose a *via media* in the remaining differences between them. If not a reconciliation, then at least I offer a plea: if you want to get the spontaneity–receptivity question in Kant worked out you shouldn’t sideline Kant’s own most extended treatment of the issue as it plays out in the aesthetics. Pippin hints in this direction in a footnote (432n38). My book can be read as an effort to make this subtext text.

To claim that experience already is a passive exercise of the capacities deployed actively in judgment is certainly a mouthful and not easy to wrap one's mind around.<sup>47</sup> But while messy, heading straight into the B-Deduction is a quick way to determine if the differences between Godess-Riccitelli and me are merely apparent or actually real. For instance, Godess-Riccitelli states, "Since the ... activity of the imagination ... is articulated in its free play *with* the understanding ... Tinguely's argument could have much stronger impact ... if ... an account had been given *also* for the role of the understanding." Whereas by showing how the productive imagination broadens the nature of conceptuality to a distinctive but general *form* of experience, I took myself *already* to be giving an account of the understanding.<sup>48</sup> (I'm referring, for example, to the two notions of "concept" (45–50) and an indeterminate form of a concept in general (55–63).) Taking the issues from this point of view means that there is not a difference in kind between imagination and the understanding, experience and judgment, that would require a "transformation." As

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<sup>47</sup> At least it isn't easy for me. And Kant himself seems to have equivocated, for example, writing two versions of the Deduction.

<sup>48</sup> The issues here are extraordinarily messy in no small part because they test the boundaries of Kant's "faculty" talk. To what extent does it remain analytically necessary to hold apart an "understanding" as a faculty of rules and an "imagination" as a faculty of presentation? And at what point do we threaten to hypostatize or alienate co-dependent functions as though they have independent mental existence? There are no easy answers here because interpretive decisions can't be separated from philosophical commitments, and it is no surprise that this issue gives rise to some of the most contested issues in Kant studies. Is the "free play" best construed as one of the imagination (an independent mental operation) *with* the understanding (a different mental operation)? Or is the free play one of the imagination in the mode of exhibition with imagination itself in the mode of apprehension (a single mental process considered from two different points of view)? (See, for example Ginsborg (1997: 43) and my own long footnote #8 on page 66 of Chapter 2, which broaches the question of why Kant assigns two contrasting functions of apprehension of the sense manifold and the exhibition of concepts to one and the "same power" (5:269, 279).) An analogous problem arises in the moral context in the relation between the good will and the moral law. One way of putting the question is whether the free play of the imagination is an aesthetic analog to the "holy will" whose desire is in *accordance* with duty but not *under* duty (5:82–84, cf. also 5:32, 122, 128). My own inclination, for whatever it is worth, is to say that policing a bright line between the notions of imagination and understanding is to ask more of words than they can deliver. We should take advantage of the features of reality that language illuminates, but every object, no matter how brightly illuminated by a clear concept, casts a penumbra. One of the most profound gestures of Kantian *critique* is to know when to stop.

Godess-Riccitelli helpfully crystallizes the issue in a footnote: “The question can be formulated as follows: does the general conceptual form of our experience, granted by the activity of the imagination, transform it automatically to be grasped as judgment?”

That all being said, there is good reason to hold on to a distinction between “aesthetic experience” and “aesthetic judgment.” Implicating spontaneity in receptivity, and vice versa, comes at too high a price if we have to deny a difference between thinking and perceiving. Surely, *something* has to happen by which the experience of something as thus-and-so is *judged to be* thus-and-so.<sup>49</sup> But, still, I do not think this “something” is best approached in the language of a *transformation*. I do, however, accept the criticism that my language often treated experience and judgment as interchangeable. And I see now that I ought to have been more careful about how I used those terms. I am grateful for Godess-Riccitelli’s prompting to make up for that carelessness here.

Given that experience and judgment are deployments of the same capacities, why retain two different notions? The answer must be that there is an important difference between them, but the trick is to see the difference as one of degree not of kind. To get at what I think the difference is I want to exploit the language of *exposure* and *commitment*, which I use in the final chapter of the book on the notion of “orientation.” Experience requires *exposing* oneself to the world whereas judgment is a matter of *commitment*.<sup>50</sup> Neither is outside the reach of our spontaneous capacities, but there is a difference in the degree to which we take responsibility. In experience I am *liable* to the world and vulnerable, but in judgment I hold myself *accountable*.<sup>51</sup> To use economic terms, in a

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<sup>49</sup> I own in two different footnotes (210n26 and 68n51) that the most philosophically fraught question at issue concerns the distinction between perceiving an object *in* a certain way and perceiving the object *as being* that way. My own intuition at the time was that that the notion of orientation in the world defangs the problem of its philosophical bite. I expanded on that view in my comments to Michel Chaouli in the *SGIR Review* (volume 1, issue 2, 61–62). The North Star *is* objectively orienting because it *appears* to be so; a given note does actually resolve a leading-tone *because* we hear it that way.

<sup>50</sup> Having now clarified these terms, I should rewrite the final sentence of Chapter 7. I wrote “Our feelings, considered as orientational, are the forms of commitment by which we expose ourselves to the world’s being the way it is.” I should have written “Our feelings, considered as orientational, are the forms of exposure by which we commit ourselves to the world’s being the way it is.”

<sup>51</sup> In a couple of my book’s more speculative moments, I point to passages where Kant seems to think that “problematic” judgments (how the world could be) precede “assertoric” ones (how the world is). (See, e.g.,



business venture I am exposed to the possibility of loss or profit. But economic judgment is to audit my accounts and have assurance that I am solvent, that I can meet the obligations afforded to me on credit. In business practice, shipping and receiving takes in the deliveries that were ordered; accounting takes an inventory. An audit can correct important misunderstandings and even criticize how things were received, but at no point in the accounting process is anything “transformed” (or least the law says it shouldn’t be).

This unusual detour through the B-Deduction is the shortest way I know how to explain that what Godess-Riccitelli sees as a bug of my handling of productive imagination I meant as a feature. The lesson of the Pittsburg–Chicago interpretation of the B-deduction is that rather than merely “blurring” the distinction between aesthetic experience and aesthetic judgment, we should understand how they are bound. The only claim to originality here, the so-called “South Dakota wing,”<sup>52</sup> is to have read a ways into the third *Critique* and so noticed that judgmental capacities include affective or aesthetic elements, and hence those must be part of the mature story of what it is that is already at work in the having of experiences. The “aesthetics within intentionality” claim by way of the judgmental capacities is, anyways, the clear implication. I just set about to show how one can actually give a coherent account of affective intentionality, and the *Orientation* essay is a handy foil for showing how aesthetics can actually make good on some of the huge responsibilities Kant seems to offload onto it.

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p 83, 95 n22, and the distinction between strategic and alethic uses of language in Rousseau, 132–136.) It is in that sense that experience as exposing ourselves to the world precedes judgment. This amounts to a better way of handling the issue of Kant’s distinction in the *Prolegomena* between “judgments of perception” and “judgments of experience” (4: 297 ff) than the more common “two stage” interpretations according to which the categories are drawn on in a later “judgment of experience,” as if in a second step, after an already integrated perceptual encounter. Granted, Kant the author of the *Prolegomena* might have indeed been inclined at times to such a view, but a reformed Kant need not have been.

<sup>52</sup> I call it the “South Dakota wing” of the Pittsburg–Chicago school in jest, but really there is some claim to call it the “New School wing” after the place I went to graduate school. To give credit where credit is due: Jay Bernstein, Richard Bernstein, Alice Cary, Zed Adams, Jacob Browning, and generations of graduate students looking back at Hannah Arendt’s final lectures on the third *Critique* all taken together rather naturally prompt some mystification regarding why the Pittsburg Kantians do not avail themselves of Kant’s aesthetics.

So, although not especially creative, this reading of aesthetics into judgment (the lesson of the third *Critique*) and judgment into experience (the lesson of the first *Critique*) does, I think, serve as an important corrective to a common reading of Kant's third *Critique* according to which there is a gap between "aesthetic appraisal" (*Beurteilung*) and an "aesthetic judgment" (*Geschmacksurteil*) proper, which the Deduction of the third *Critique* is thought to have the task of crossing. This tempting but ultimately mistaken reading (an analog to the gap-crossing readings of the B-Deduction) is what in Chapter 6 I call the "two stage" or "externalist" interpretation of aesthetic judgment. And I argue there, to my own satisfaction at least, that such a reading isn't required by the text or by a Kantian philosophy of mind. The polemical aim of my strike against a distinction in kind between "aesthetic experience" and "aesthetic judgment" is to dislodge the impression that such "two stage" interpretations have their home in the text of the third *Critique* rather than in one particular interpretative camp, which for sociological reasons punches above its philosophical weight.

I don't think this pledge of allegiance to the gap-denying camp will by itself convince anyone dug in on the gap-crossing side. But I do think it will dispel what otherwise appears to be confusion in the way I treat the matter. At least we've made this much progress: If you were not convinced of the integration of judgment and experience, going forward you could no longer say I'm confused; you'd have to say I am wrong.<sup>53</sup> And,

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<sup>53</sup> One particular place, though, where I would be guilty of confusion emerges in Goddess-Riccitelli's footnote 13. She writes: "Another issue I find difficult, in this context, is the claim that [quoting then from pages 61–92 of my book] 'in aesthetic judgment the epistemic stakes are lowered thus easing the proleptical drive towards a final, conceptual form and thereby allowing the imagination considerable latitude to play with the way different particular concepts might structure the rich variety of sense properties.'" She then goes on to comment "I do not think Kant relates aesthetic judgment as a lower level of epistemic commitment than empirical judgments." I absolutely agree. The appearance to the contrary is a product of my failure as an author to guide the reader through a dialectical argument. The position Goddess-Riccitelli quotes is one in which I meant to raise *as an objection* to my own view in the form of an alternative interpretation sometimes called the "multicognitive view." In the passage quoted I meant to be showing how the "multicognitive" reading would attempt to deflate what it might consider the exaggerated nature of my interpretations. The full paragraph running from 61–62 from which the sentence is quoted is the dialectical expression of that purported alternative. The following paragraph on page 62 begins my own

of course, I might be. But if it's possible that Kant himself was not right or wrong but genuinely confused on the matter, and thus the texts express ambivalence, then no amount of exegesis is going to resolve the matter.<sup>54</sup> At some point the discussion should shift from the historical question of what Kant actually meant to the philosophical question of what he should have meant.

The other two issues Godess-Riccitelli raises don't turn on whether either of us is right or wrong but where we each think attention is due. In her final two sections Godess-Riccitelli rightly notices that there are metaphysical and moral implications of the *Orientation* essay that I do not exploit, and she rightly points to where I could have said more about purposiveness.

I can begin with one concession or clarification. While I do not address purposiveness by name, I don't avoid some function of teleological cogence, whatever one would call it: holistic commitment, whole-part logic, prolepsis, *Ausbildungsvermögen*. All of those descriptions are members of a teleological class that includes purposiveness. But it is true that I downplay purposiveness-talk so that purposiveness is not the representative spokesperson, as it were, for that class. Godess-Riccitelli is of course right that there is more to be said, and I don't begrudge anyone else doing so, but I myself politely demur. For my part, I have doubts about whether hope or faith (in the Kantian sense) is a moral virtue; but since I don't insist on that point, I'd regret if Kant's analysis of worldly orientation got hung up on the issue.<sup>55</sup>

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criticism of view. When I return to speaking in my own voice, as it were, I think Godess-Riccitelli and I agree.

<sup>54</sup> The pretense of bad Kant scholarship is that we are just one or two *Reflexionen* away from resolving the matter. One can get the impression that card-carrying Kantians have a pretty low opinion of Kant's abilities as a writer, as though he really had it all figured out, but he just wasn't very good at telling us. But a point I make in the introductory chapter is that shifting Kant's philosophical genius from the answers he offers to the questions he raises is likely too destabilizing for a profession that sees itself as in the business of selling answers. As the saying goes: It is difficult to get a man to understand something when his salary depends on his not understanding it.

<sup>55</sup> I regret, for instance, the way Derrida's at times remarkably sharp insight into a suite of Kantian aesthetic terms (such as attunement, tone, and handedness) gets drowned out (in his own writings) by attention to wider metaphysical implications. Having to weigh in on the whole thing crowds out being able to weigh out something. My book has an obscure footnote (153n19) on an obscure essay, the only one I know of actually

The trouble is not with what purposiveness is but with what it allegedly is *not*, that is, a *purpose*. The worry is that we can't long avoid a kind of double-speak where "purposive" talk becomes a kind of sly wink on top of an otherwise stern "without a purpose." For example, in a footnote, Godess-Riccitelli refers to a "subjective purposiveness exhibited in natural beauty in which nature is actually presenting its *own* subjective purposiveness." Whereas I'm inclined to say that what "without a purpose" means is that nature does not present its own anything. I think the worry is easier to see in a context where purposiveness leads in the direction of despair rather than hope.<sup>56</sup>

Consider, for instance, another arena in which we find purposiveness talk indispensable: forecasted recessions in free market economies in which many people will lose their means of livelihood. To the extent that such markets are free or unregulated they are "without a purpose" in the sense that market activity is not guided by any specific goal or outcome of a particular agent who can be specified ahead of time. And yet, even absent such purpose, such markets operate purposively, for example, as though the economy is shifting from a bull to a bear market. We can't make sense of market trends unless we think of the invisible hand of the marketplace as connected to an invisible person. Given that this invisible person, in times of recession, doesn't seem to be one who cares very much for most people, do we want to say (paraphrasing Godess-Riccitelli) "there is a subjective purposiveness exhibited in free markets in which the market is actually presenting its *own* subjective purposiveness"? Who or what is the "ownness" of the market? By that same measure, who or what is the "ownness" of nature? I'm not suggesting there are no answers to these questions.<sup>57</sup> My suggestion is that the

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noting the connection between Kant's theory of music and language in §53 of the third *Critique* and Rousseau's *Essay on the Origin of Languages*. I complain there, though, that the author does not have the patience to work through the connection because she is too eager to explore the metaphysical implications of purposiveness. Philosophers can be like baseball players who can't get a base hit because they swing for the fences on high fastballs.

<sup>56</sup> Another way to get at the point: the right place to begin talk about faith is not in the purposiveness of beauty but in the counter-purposiveness of the sublime.

<sup>57</sup> Adam Smith and Hegel had answers to both questions. I'm thinking of Lisa Herzog's discussion in 2013 of Hegel's reservations about Smith's notion of providence.

attractiveness or unattractiveness of “purposiveness” talk really is indexed to whether or not we happen to like the answer to those questions.<sup>58</sup>

In short, I’m skeptical that once you’re talking about purposiveness anyone really can (or even wants to) lay off talk of purposes. (Without some fat of purposes, the fiber of purposiveness doesn’t by itself satisfy much hunger.) So, in those cases where we don’t want or need to talk about purposes, we’re better off not talking about purposiveness either. In those cases where we want or need purposes, however, we should say so without a wink. Anyways, you see now why I demur. I didn’t talk about purposiveness, but that was on purpose.

### §3. Responses to Samantha Matherne

After helpfully situating my views within wider debates about the third *Critique*, Matherne raises three hard problems. (1) The source problem: what ultimately grounds the normativity of aesthetic judgments? (2) The scope problem: once we’ve extended aesthetic judgment from the pleasure of taste to include an orientational distinction between left and right, to what other affects, if any, can or should we expand a discriminating function? (3) The methodological problem: what are the shortcomings of “Philosophical Aestheticism,” which treats aesthetics as a “first philosophy”?

The source and scope problems cut right to the heart of the notion of “orientation” and may leave us in a real tug-of-war, the kind of problem where we are forced to “quarrel.” The first problem, though, presents us with a knot I think we can untie by way of a “dispute” over the term “Philosophical Aestheticism.”

That is, I think Matherne reads me as putting more weight on this notion as a set of methodological commitments than I intended. “Philosophical Aestheticism” is a phrase I borrow from the existing literature,<sup>59</sup> and I use it three times over the course of about

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<sup>58</sup> That is another lesson of Hume’s *Dialogues*. In short, with a *tragic* view of nature, the purposiveness we’d have to assign to fate is not very appealing. In any event, there is an open question of whether we’d rather have *no* purposes than malign ones. (It is the kind of open question explored at length in Melville’s contrast between Ishmael and Captain Ahab in *Moby Dick* or in Nietzsche’s contrast between a second innocence and redemption in essays II and III of the *Genealogy of Morals*.) I cannot say I know how to put these issues to rest, which is why I am wary of rousing them.

<sup>59</sup> Gardner (2010).

five pages (8, 13) relatively early in the introduction in order to indicate how arcane questions internal to late eighteenth-century aesthetics have relevance for contemporary concerns. An indication that reference to “Philosophical Aestheticism” is largely rhetorical and protreptic is that I don’t return to it, even in a later section of the introduction called “Methodology” (26–31). (That is, I do take on certain methodological commitments, but they lie elsewhere.) “Philosophical Aestheticism” is a peg strong enough to hold a hat of an introduction, but it wasn’t meant to hold the full wardrobe of the remaining chapters.

That all being said, I actually do recognize myself in Matherne’s succinct summary in §2 of what that view amounts to (so I don’t take back anything I said about it). The only real trouble is that I also recognize my own views in §4 on the “Alternative to Philosophical Aestheticism” where she advocates a “capacity-oriented” account of the continuity between aesthetic and cognitive experience. Matherne asks quite reasonably, “Why not read the relationship between the first and third *Critiques* as giving us reason to endorse this intentional pluralism within a broader framework of the rich and diverse ways we can exercise our cognitive capacities?” To which I reply: Yes, why not? Matherne indicates I should be opposed to the intentional pluralism of her “capacity-oriented” alternative to the extent I am said to advocate an “activity-oriented” account of the continuity between aesthetics and cognition. “Following the first guiding commitment of Philosophical Aestheticism, Tinguely argues that aesthetic and cognitive experience are continuous insofar as they involve the same kind of perceptual *activity*.” But on some level the “same activity” claim is innocuously true. I do believe cognitive and aesthetic judgment “both involve the ‘free, yet lawful’ activity of the productive imagination.”<sup>60</sup> The long chapter on the productive imagination was an effort to show that neither aesthetic nor cognitive experience can get off the ground without the double-sided schematic function of

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<sup>60</sup> In an earlier footnote I suggested the following analogy between Kant’s aesthetics and moral philosophy: what the free but lawful imagination is to constrained, law-governed imagination the holy will is to the duty-bound will. I would be surprised if anyone could long hold off the “schematism problem” with an argument that there is no element of free spontaneity of the imagination in basic empirical, cognitive judgments. How did the understanding happen to have the right concept on hand, ready to regulate the imagination? Did it get lucky? Chapter 4 on rhetoric (e.g., the discussion of *paradiastole*) was supposed to show that strategy to be hopeless.

apprehending a manifold and exhibiting a conceptual form (the “same power” claim of [5:269, 279]). I don’t think Matherne wants to deny “same activity” at that general level.<sup>61</sup>

So it’s on another level that the “same activity” would be a problem. Specifically, it would be very problematic if I were to collapse knowledge-bound cognitive judgments into the freely playing pure judgments of taste.<sup>62</sup> But I don’t do so, and that mainly because I don’t say anything about pure judgments of taste at all. As I say in the first sentence of the book, I’m just not interested in Kant’s explicit account of beauty.<sup>63</sup> I’m interested in something else, an implicit account of intentionality. I agree that pure judgments of taste are different than cognitive judgments, and I agree that holding apart that distinction is central to the way Kant understands his own project. So I think we can leave taste alone. What we can’t leave alone, though, is an attempted account of empirical, cognitive judgment “uncontaminated,” as it were, from aesthetic or affective elements. That is what I think the *Orientation* essay shows. Orientation is a moment, internal to Kant’s own writings, which forces a corrective to Kant’s preferred way of posing the distinction between aesthetics and cognition. So it is to the *Orientation* essay we must turn in order to grapple with the source and scope problems.

The source problem is easier than the scope question to raise and to answer. The source problem is, “What, on Tinguely’s view, grounds the aesthetic ‘ought’?” And the answer is, the world. I meant to be making a case that feeling in the symbolic capacity of orienting us in the world is disclosive; meaning, it is genuinely revelatory of the layout of the world. Thus, if the world does not admit of being disclosed in a certain way, the feeling was *wrong*. (It’s the world that has the final say.) In the book I imagine a scenario

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<sup>61</sup> Matherne (2014) and (2015).

<sup>62</sup> Pure aesthetic judgments of taste remain free as long as they can sustain themselves; cognitive judgments commit to a determinate conceptual form. In the terms I use above, exposure is one way these capacities are activated, commitment is another.

<sup>63</sup> I sometimes refer to my interests as “extra-aesthetic,” meaning they are addressed to something other than beauty and art. I have found it particularly challenging to get through on this point. Most readers see me as trying but failing to give a Kantian account of taste, whereas I see myself as trying but failing to give a Kantian account of empirical cognition.

involving a disoriented sailor turned around at sea who makes a false orientational judgment—false because the world was not the way he judged it to be:

The feeling which reveals the layout of the world may then best be understood as a form of commitment to placing the objects of the world in one way rather than another. For example, to find oneself on the leeward side of a “familiar” buoy may be to place the unseen shoreline to one’s right and the open sea to the left, and not the other way around. Such commitments, while they are subjective feelings, are not, however, subjective impositions because they amount to a form of liability and exposure to the objective facts of the matter. That means, of course, that in placing the world in one way rather than another, a subject can go wrong and err in any number of ways. It is not enough that I merely commit myself to acting *as if* the shoreline is to my right—if I head off in the rightward direction and the shore fails to materialize, I was *wrong* either about the object being the “familiar” one [symbolizing the word] or about my feeling of left and rightward orientation. Thus my commitment, even though it takes the form of a feeling, is not a mere projection of the way things “feel to me” but constitutes a non-discursive form of liability to the way things, in fact, stand in respect to the world. One consequence is that such feelings, considered as forms of exposure to the world, can themselves be right or wrong and thus fall within the domain of things for which one can be praised or blamed. Orientational feelings, in other words, are fully normative because what one is right or wrong about in such cases is not how one happens to feel but whether the facts of the case justify one in feeling that way. (200–201)<sup>64</sup>

If a feeling of left and right is genuinely revelatory of the layout of the world, that answers the “source problem,” leaving the “scope question.” But here I think I can reduce but not

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<sup>64</sup> Also: “[B]ecause orientational feelings are commitments to the world’s being a certain way, a way that can be born out or fail to materialize, such affects are fully normative—one could be *wrong* to orient herself to a situation as worthy of anger; rather the facts of the case warrant that she *ought to* see it as an accident. In sum, as revelatory of the way the world is, the mere *feeling* of orientational affects is objective and normative; it is the kind of thing about which we can be right or wrong and for which we can be praised or blamed” (203).



ultimately close the distance between Matherne and me. The “scope question” is, granting that a feeling of left and right is a discriminatory capacity, what other affective mental states, if any, can engage in the work of symbolizing the world? It’s a hard question, to be sure, and we’re left without much help from historical or contemporary philosophy. It comes down to a judgment call, where the judgment is an aesthetic one. In this debate I’m playing the role of an affective expansionist and Matherne takes the part of a deflationist in the sense I use the term in one of the final sections of the book (“Against the Deflationary Interpretation,” 201–204).<sup>65</sup> A “deflationist” is my name for someone who admits a felt capacity for left and right but holds the line there, resisting the temptation to see left and right not as *sui generis* but as a representative of a wider class of affects that similarly enable particular objects to function as an aesthetic symbol for the wider world.<sup>66</sup> I take this deflationary view seriously, and I devoted a couple thousand words in response. But even there I offer not so much as a “dispute” in the form of a knockdown argument but a “quarrel” in the form of an invitation to consider what is lost by this affective austerity.

1. Looking Back: Throughout the book I made a case that a wider class of affects have an orienting function in Aristotle (the *pathē* of *Rhetoric* Book II), Hume (in the “irregular

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<sup>65</sup> I agree that Matherne is right to raise the scope problem. As I say, “Of course not any and every ‘emotional response’ is disclosive of the facts of the matter. Surely some feelings, such as perhaps restlessness or apathy, are just ‘ways of responding, which are nothing more than psychological states of the perceiver’” (202). If there are times when I gave a different impression, I was erring on the side of over-selling rather than under-selling the overlap of affectivity and normativity. To err for good reasons is an error nonetheless, and I accept Matherne’s gentle admonition to be less cavalier when addressing these already confusing topics.

<sup>66</sup> On page 201, I elaborate on the deflationary response. “But, one may reasonably ask, what is the ultimate philosophical significance of this difference? The most minimal interpretation is to allow a somewhat broader role than previously appreciated for the aesthetic or intuitive forms of left and right: that is, the ‘feeling’ of left and right not only is the intuitive form of any object possibly given to sense, but also serves as a rule for imaginatively structuring the rest of the world largely absent from view. Such a deflationary interpretation thus limits the ‘aesthetic’ elements of judging the world to the formal, intuitive elements of placing an object in space—where the ‘object’ in this case is the world considered as the ‘sum total of all appearances’ (A334/B391, A507/B535).”

arguments” of the *Dialogues*), and Rousseau (in the *Essay on the Origin of Languages* and writings on music). Kant, it cannot be denied, does not admit such a view. But I did my best to show that he could have admitted it (using his own notions of *Laune*, manner, orientation, tone, and quarrels). He wouldn’t lose anything important, and developing these elements would diminish gaps and inconsistencies in his own views.

2. Looking Forward: In the section in which I respond directly to a “deflationary” reading, I claim that the way Kant poses the *question* of orientation and aesthetic judgment gives shape to a subsequent philosophical agenda. I discuss Heidegger, Barrie Falk, and David Wiggins specifically, but one could include anyone who thinks it is meaningful to ask with McDowell, “how can a mere *feeling* constitute an experience in which the world reveals itself to us?” (2002: 130):

The point rather is to appreciate how adopting a wider interpretation of orientation places Kant at the forefront of a distinctive turn of thought within contemporary philosophy. By deflating the claims to a wider class of orienting feelings beyond the intuitive forms of left and right, the narrow interpretation does not misread the letter of Kant’s account, but it does close itself off to a philosophical spirit to which Falk and Heidegger are alive. The significance of Kant’s notion of orientation, in that case, is not that it purports to offer a solution to the contemporary problem of how affects could disclose rather than distort one’s right view of the world; its accomplishment rather is to have brought into view the *problem* of “aesthetic judgment,” which has set the agenda for subsequent philosophy. The shortcoming of the deflationary interpretation, then, is that it fails to make sense of why subsequent philosophy increasingly turns to the relationship between feeling and judgment and does so, moreover—whether explicitly or implicitly, sympathetic or critical—within the terms of the debate set by Kant (204).<sup>67</sup>

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<sup>67</sup> It was uncanny to encounter Haugeland’s (2013) treatment of “finding” in Heidegger after having written the orientation chapter and the final postscript on the notion of “finding” that I derive from Kant’s aesthetics. See also 204 (and 211n30) where I write: “The case of *Befindlichkeit* is also illuminating because a close reading of *Being and Time* shows that well before Heidegger lays out the well-known account of ‘moods’ in

3. Looking at Ourselves: I make an appeal throughout the book, but especially in the “Methodology” section of the first chapter, not to fixate our philosophical attention exclusively on the historical question of whether Kant himself really did allow a broad class of orientational judgments. A more productive guiding question is one of the philosophical merits of the position that comes into view for us, the readers, who notice an unresolved problem concerning the capacity for orienting oneself in the world. I think orientation amounts to an attractive account of intentionality that can stand on its own, and I recommend we adopt it.

So, then, if an expanded reading makes sense of Kant’s own inheritance, and it makes sense of the Kantian legacy, and it turns out Kant could have held it, and it turns out to be true, why should the fact that Kant himself didn’t hold it stop us from adopting it? That a new “common sense” may coalesce in response to this question is what I meant earlier when I expressed hope in a revisionist reading or a “Reorientation of Kant’s Aesthetics.”

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§29 he had already prepared the argument for how affective dispositions *could be* disclosive of the objective world with a discussion of signs or symbols in §17 and of spatial orientation in §§22–23. While Heidegger’s acknowledgment of the fact is limited to one passing endnote, a close review reveals that each of these sections (especially the latter) were written as an intervention with Kant’s notion of orientation. (See footnote xxi to §23. But cf. §25 [esp. 231–234] of the lectures of 1925, published as *History of the Concept of Time*, which are a draft of this section of *Being and Time* and where the engagement with Kant’s *Orientation* essay is more explicit.) It is thus through a critical engagement with Kant’s *Orientation* essay that Heidegger is first able to spell out an instance of an affect or feeling that is ‘not related to the psychical in the first instance, and is not itself an inner condition which then reaches forth in an enigmatical way and puts its mark on Things and persons’ (1962: 176).”

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