



The Matter of Critique

Readings in Kant's Philosophy

Editors

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Affinity, Judgement and Things in Themselves

Alistair Welchman

For most of the twentieth century, a psychological understanding of Kant has been almost universally regarded as an unpardonable philosophical naïveté. Indeed, one of the few points of unequivocal agreement between the main streams of both analytic and European philosophy has been that the psychological elements in Kant undermine the philosophical ones. Analytic philosophy was arguably initiated as a result of Frege's profound allergy to Kant's idea that logic is grounded in an (allegedly) psychological act of judgement. At about the same time, Husserl's phenomenology exhibited a similarly deep aversion to any attempted reduction of philosophical enquiry to the programme of a merely empirical psychological science.

These two general tendencies in twentieth-century thought are both developments – albeit in very different directions – of Kantianism. But their application to Kant's own work involves some historical ironies. The formalist conception of the synthetic *a priori* as the manifestation of an extra-logical choice of linguistic conventions is tied to new discoveries in logic and proof-theory which have no counter-part in Kant, since they were aimed precisely against Kant. Thus all that is left to characterise Kant's works is the austere apparatus of Fregean philosophy (conceptual analysis and the study of logical validity). The primary stream of analytic Kant interpretation follows Frege directly in associating psychologism with idealism, and rejecting the former because of the latter. As a result transcendental idealism all but disappears from the Kant literature, and is replaced by a common sense (transcendental) realism. The best icon of this interpretative strategy is to think of Kant as posing two problems¹: a problem of conceptual analysis (what does the concept of experience actually involve?), and a problem of the logical validity of

'transcendental' arguments (where such arguments are understood to be simply of the form 'if experience then x').

There appears to be no such explicit consensus in European readings of Kant. But the variety of readings pursued, for instance, by Lyotard, Heidegger, Derrida, and Nancy, is undergirt by an implicit methodological consensus that Kant's works should be trawled for elaborations of the transcendental which reveal that it, as transcendental, can never be simply assimilated to something empirical. These readings do not simply ignore Kant's psychologism (Heidegger, for instance, was famously partial to the A Deduction),² but such psychological reference is never understood as merely empirical. It is instead a clue towards a more primordial – that is to say more transcendental – understanding of the subject (as Dasein etc.). Indeed, the whole structure of this kind of approach can be understood as a meditation on Kant's Paralogisms, extending the sense of Kant's critique of Descartes. The subject (understood in what Heidegger calls 'its broadest sense')³ is paradigmatically transcendental because it is that which cannot be present to itself as it is in itself, as a subject, but only as what it is not (an object). Kant's analysis of the sublime in the third *Critique* stands as an icon of this kind of reading. The paradoxical problematic of this analysis is that of the presentation of the unrepresentable, where the unrepresentable is understood precisely as the condition of presentation.⁴

This geographical regionalisation is obviously inadequate. Within analytic philosophy, Henry Allison has defended a strong conception of transcendental idealism (although not a psychological one).⁵ In the same tradition, Richard Aquila and John Zammito defend an essentially phenomenological understanding of Kant.⁶ Even the doctrine of synthesis, which seems irremediably psychological, has occasionally become the object of a philosophical account.⁷ Conversely, in Europe many recent German accounts of Kant operate within a more historically nuanced version of the ambit defined by analytic philosophy. And even the French – excluding the banality of the *noweaux philosophes* – have one or two broadly analytic Kant interpreters, like Descombes.

What is more important than this cross-fertilisation, however, is that both traditions have been *internally* contested. The problems with each tradition – at the very least in terms of Kant interpretation – are clearly visible. The analytic approach has its own sense of the synthetic *a priori* as choice of axioms in a formal system. But this cannot be easily reapplied to an understanding of Kant himself. Consequently, this approach loses all sense of the novelty of Kant's arguments because it collapses the

transcendental into general logic – albeit a new and modern form of general logic. On the other hand, the European tradition pays exceedingly close attention to the transcendental, but only to the conceptual problems of representing it (in its difference from the empirical, that is, from everything that could actually be present in experience).

In the anglophone world, the advent and increasing sophistication of cognitive science have begun to change things by gradually restoring philosophical respectability to the study of internal mental processes. For the most part, the historical backdrop of cognitive science has, however, been pre-critical: Chomsky refers his innatism about language to the rationalists; and the recently fashionable neural network models of mental processes have often been compared with Humean empiricism (indeed, some of them are called ‘associationist engines’). But, within the last decade or so, several authors have begun to acknowledge the significance of Kant’s work, understood as a kind of psychological constructivism, for cognitive science.⁸ In broad outline, Kant’s critiques of pre-critical rationalism and empiricism are sympathetically redirected on to rationalist and empiricist versions of cognitive science.

This new Kantian psychology faces an evident exegetical problem, related to the difficulty of understanding a project that is both transcendental and psychological. Kant is clearly committed to the necessity of certain mental processes (syntheses), and argues that they constitute transcendental conditions of the possibility of experience. He also has a place for psychology, as an empirical science of the succession of states of internal sense (although he does not hold out much prospect for its achievements).⁹ But he is also committed to the view that transcendental syntheses are *not* accessible objects for a scientific inquiry.¹⁰ They are mental processes of some sort, but can only be known through their effects, *viz.*, the constitution of experience. If they can be attributed to the subject at all, then it is not to the *empirical* subject, but to the subject as it is in itself. This is an unwelcome consequence (to say the least) for a Kantian cognitive science. A philosophical reconciliation with psychology is purchased at the inordinate price of consigning perhaps the most important part of psychology to the blankly unknowable.

The solution preferred by Kitcher and Brook is to side-step any problem of the transcendental by rejecting the tight connection Kant makes between his (interesting and illuminating) transcendental arguments for the conditions of the possibility of experience and his (incomprehensible and indefensible) metaphysical position of transcendental idealism. Constructivism is thereby divorced from idealism. Self-conscious expe-

rience of the world of objects is certainly not given at the sensory surfaces, and therefore has to be constructed. But the result of this construction of experience of objects from disorganised sensible traces is the construction of an experience of the world as it really is, in a transcendentially realist sense. In a nutshell, the psychology Kant provides is simply an empirical one: the psychological processes that construct experience are unproblematically empirical processes. This solution identifies the transcendental with abstraction at the level of cognitive task. Kant may well be right that such processes are not introspectively available as such because they are only known through their effects. But that does not in any way preclude their being the objects of an *external* empirical science (cognitive science, psychology, neurophysiology etc.).

In Europe, the work of Gilles Deleuze has developed a concept of the transcendental that differs from the empirical without being exhausted by the attempt to conceive a scarcely presentable condition of the presentation of the empirical. The transcendental for Deleuze is not the empirical but it is still material, involving a more capacious conception of material nature than that afforded by the empirical understood as everyday experience. Deleuze attends to and deepens the idea of the transcendental without making of it simply a kind of representational problem.

This essay is an attempt to engineer a cross-fertilisation between these deviations from orthodoxy. This will involve a critical interrogation of two Kantian distinctions: between things and things (regarded as they are) in themselves, and between constitutive and regulative principles. Taking a cue from Kitcher’s re-worked psychologism, I shall argue that experience involves definite cognitive tasks, and that these tasks impose constraints on what kind of mental apparatus can perform them. However, I shall go beyond Kitcher’s very weak conception of the transcendental (she understands it as just the abstraction of a task-based specification of mental process) by arguing that the mental apparatus cannot be simply identified with an everyday empirical object. What can be learned from Kant is that the processes required to construct experience of things (unified consciousness of objects in a mechanical-causal nexus) must, *in some respects*, not be themselves thing-like (unified, objective, mechanical-causal) processes. This insight leads to a deepened sense of the transcendental that is not simply the epistemological problematic of *the* transcendental, but, following Deleuze, an enhanced form of empiricism.¹¹

1 Affinity

In the A Deduction Kant appears to confront the possibility that the data of intuition could in some sense go awry, that they might be inimical or even positively refractory to synthesis and, at the limit, incompatible with the constitution of cognitive experience. This problem later comes to form the systematic intent of the third *Critique*, and has led some commentators, especially Guyer and Tuschling, to regard the third *Critique* as having a priority over the first. This section will follow through this debate, and add to it a discussion, inspired by Kitcher's new transcendental psychological Kant reading, of the implications of this priority for the mechanisms of cognition.

1.1 The data

The A Deduction

Part of Kant's general strategy is to provide informal *reductio* arguments whose conclusions involve contemplating the possibility of some strange counter-factuals.¹² In the introduction to the Deductions (common to both editions), for instance, he writes:

Appearances might very well be so constituted that the understanding would not find them to be in any kind of conformity with the conditions of its unity. Everything might be in such a confusion, that, for example, in the series of appearances, nothing would present itself that would yield a rule of synthesis and so correspond to the concept of cause and effect. In this case, the concept would be completely empty, null and meaningless. Nevertheless, appearances would still provide objects for our intuition, because intuition has no need at all of the functions of thought.¹³

Within the A version of the Deduction, Kant mentions several similar disquieting scenarios. In the Preliminary Explanation of the Possibility of the Categories (Section 4), for instance, he writes:

For even though we should have the power of associating perceptions, it would remain entirely undetermined and accidental whether they would themselves be associable; and should they not be associable, there might exist a multitude of perceptions, and indeed an entire sensibility, in which much empirical consciousness would arise in my mind, but in a state of separation, and without belonging to a consciousness of myself. This, however, is impossible.¹⁴

The use of the term 'association' here, as well as the allusion to neces-

sary connection at A90–1/B123, indicate that Kant is directing his comments towards Hume, and therefore that it is a Humean account of the mind whose falsity is being shown by the *reductio* argument.¹⁵ A little after the above passage Kant presents his alternative:

There must, therefore, be an objective ground (that is, one that can be comprehended *a priori*, antecedently to all empirical laws of the imagination) upon which rests the possibility, nay, the necessity, of a law that extends to all appearances – a ground, namely, which constrains us to regard all appearances as data of the senses that must be associable in themselves and subject to universal rules of a thoroughgoing connection in their reproduction. This objective ground of all as ... appearances I entitle their *affinity*.¹⁶

The general structure of the argument appears fairly clear (even if its details are not). The empiricist conception of the mind does not provide any guarantee that experience will be constituted because it fails to provide an account of personal identity, that is, of the fact that the 'I think' must be able to accompany all experiences. On a logicist reading, this is the essence of the transcendental argument. On a psychological reading, what is important is what the unity of the 'I think' implies, namely, synthesis. But Kant seems clearly to add another condition that is of interest here, i.e., affinity.

Affinity appears on the face of it to be separate from – and prior to – the question of synthesis and synthetic unity. Without rehearsing Kant's argument for the requirement of synthetic unity in all its details, it nevertheless appears that affinity is Kant's name for the *capacity* of the manifold to undergo synthesis, and hence be unified in a single consciousness. This capacity – that appearances be *assoziabel* – is, however, not a function of any formal properties that might be introduced by the subject. It is not a result of synthesis, but rather a property of the *content* of the manifold, that which is the most direct consequence of the subject being affected by things as they are in themselves. Calling affinity the 'objective ground'¹⁷ of association, or locating it 'in the object',¹⁸ therefore seems to indicate a condition imposed on the content of experience, on things as they are in themselves. This is made most clear in a passage from the description of the Synthesis of Reproduction in Section 3 of the A Deduction, even though affinity is not mentioned by name:

It is a merely empirical law, that representations which have often followed or accompanied one another finally become associated ... But this law of

reproduction presupposes that appearances are themselves actually subject to such a rule.¹⁹

That appearances are necessarily subject to the law of association cannot be a result merely of an *a priori* version of association (synthesis), but makes demands on the matter of experience as well as its form. The problems that such a doctrine would present for Kant are obvious: if the content of the manifold as well as its form are transcendently conditioned, then the dualism of conceptual form and intuitive given, to which Kant clung tenaciously throughout the critical period, would be in serious jeopardy.

Regulation and reflection

Elsewhere, in the Dialectic of the first *Critique* and in the third *Critique*, Kant contemplates other slightly different, but still unwelcome, possibilities: that the manifold of intuition might be such as to prevent the formation of empirical concepts, or empirical laws, or, at the least extreme end, that a fully fledged system of empirical laws might not be possible. In each case he suggests a slightly different formulation of the affinity requirement, as a regulative idea of reason and then as the result of reflective judgement.

In the Dialectic of the first *Critique*, and then again, although implicitly, in the third *Critique*, Kant addresses a second conception of affinity – or perhaps delivers an increasingly sophisticated account of the first conception of affinity. In the Regulative Employment of Ideas section appended to the Dialectic of the first *Critique*,²⁰ Kant defends a set of scholastic maxims, reconceived as regulative ideas governing scientific research. These maxims express a transcendental but merely regulative presupposition that science converge upon an ordered tree of empirical concepts, laws and forms (as in the cladistic tree in evolutionary biology) which includes all knowledge in a universal encyclopaedia. Affinity is there defined as what guarantees the continuity of the tree, that is, that nothing is left in the gaps between concepts, and it corresponds to the maxim that nature makes no leaps.²¹ Both the problem at issue here (that of the system of empirical laws etc.) and the mode of solution (merely regulative not constitutive) appear to indicate that this invocation of affinity is substantially different from the first.

In this section Kant follows a method similar to the *reductio* approach of the Deductions. Again, this involves him tabling a disquieting and

strange counter-factual whose absurdity would show that the regulative presuppositions he defends are indeed necessary. What is interesting is just how radical this counter-factual actually is:

If among the appearances which present themselves to us, there were so great a variety – I do not say in form, for in that respect the appearances might resemble one another; but in content, that is, in the manifoldness of the existing entities – that even the acutest human understanding could never by comparison of one with another detect the slightest similarity (a case which is quite conceivable), the logical law of genera would have no sort of standing; there would not even be the concept of a genus, or any other universal concept. Indeed, there would not even be understanding, since the understanding has to do only with such concepts.²²

Although Kant is talking about the law of genera here, affinity clearly underwrites the possibility of genera (generic concepts generalise what the species that fall under them have in common, that is, their affinities). This counter-factual is just as devastating as those given in the A Deduction of the first *Critique*: without the regulative presupposition of affinity ‘there would not even be understanding’. What becomes difficult to understand is how such a presupposition can be merely regulative. It seems as if Kant now acknowledges that affinity concerns the content of the manifold, and is therefore not a formal condition of experience. But he can only do so because he has avoided the issue of imposing a constitutive condition on things as they are in themselves by making affinity a regulative guideline.

The Introductions to the third *Critique* promise an architectonic revision that responds precisely to the problem of a system of empirical laws, concepts and forms. This leads Kant to invoke a third set of counter-factual possibilities. In the First Introduction to the third *Critique*, for instance, he writes that empirical laws might demonstrate

so infinite a manifoldness, and so great a heterogeneity of natural forms ... that the concept of a system according to these (empirical) laws must be completely alien to the understanding. Neither the possibility, nor even less, however, the necessity of such a whole can be grasped.²³

Similarly, he tables the possibility that:

the manifoldness and heterogeneity of these [empirical] laws (as well as the natural forms that correspond to them) might be infinitely great, and present to us a raw chaotic aggregate without the slightest trace of a system.²⁴

Kant does not explicitly determine whether experience itself would be

impossible under these circumstances (although he is architectonically committed to thinking that it would *not* be impossible). But he is very clear about what a solution to the problem of empirical laws must look like. This solution involves drawing a new distinction between reflective and determinant judgements,²⁵ the latter being familiar from the *Critique of Pure Reason*,²⁶ and the former bearing a close (but not exact) resemblance to the regulative ideas of the first *Critique*. When Kant gives examples of the kinds of maxims involved in reflective judgement he uses the same set of scholastic tags that he had used as examples of ideas in the *Critique of Pure Reason*.²⁷ In the *Critique of Teleological Judgement* he explicitly associates regulative reason with reflective judgement.²⁸

Reflective judgement is supposed to warrant the transcendental presupposition that we treat the world 'as if an understanding contained the ground of the unity of the manifold of its empirical laws'.²⁹ The argument of the *Critique of Judgement* as a whole is supposed to be a solution to the problem of the 'infinite manifoldness' of nature,³⁰ because we may assume (regulatively or reflectively) that nature has been produced in its content with a view to its 'fit' for our cognitive faculties.

1.2 Reception

The idea of affinity raises the following problem. If affinity imposes a constitutive transcendental condition on things in themselves, then Kant is faced with a dilemma that he never resolves. On the one hand, this condition would undercut the dualism that is crucial to Kant's whole project: things as they are in themselves would have, in their content and not only their form, to be subject to transcendental demands. The most historically obvious position that this entails would therefore be the absolute idealism of Fichte, Hegel, and the young Schelling. With the third *Critique* in mind, one way of summarising this is that reflective judgements must ultimately be taken as determinate. On the other hand, to deny that affinity is a constitutive condition, and instead to relegate it to a regulative ideal or an expectation of reflective judgement, is not to take Kant's own counter-factuals fully seriously. Since the expectations generated by regulation and reflection are compatible with their not being fulfilled, Kant would not have succeeded in proving what he set out to: that the counter-factuals are the conclusions of a *reductio ad absurdum*. Nature could indeed be as wild as he suggests, and if it were (or when it is), experience would be impossible.

Those immersed in the German Idealist tradition have, of course, welcomed the first prong of this dilemma, arguing that as Kant came increasingly to dwell upon the problem of the system of laws, he was entering into ever closer proximity with an idealist monism.³¹ Most commentators, however, have been horrified by this possibility.³² Some have therefore tried to read Kant's texts more exactly, and have disputed that he intends affinity to be a transcendental condition at all. Instead, it is – in the A Deduction – the *post hoc* phenomenal registration of the constitution of experience, of synthesis having taken place.³³ Then it is possible to make a clear distinction between this kind of affinity and that required for empirical laws. The latter may well have to do with the content of the manifold, but since it is not necessary for the constitution of experience, it can be sensibly understood as simply a regulative or reflective expectation. This move is probably true to Kant's own intentions, but does nothing to undermine the force of the counter-factuals. Even if Kant did not intend them to show this, the question they raise is: what could *possibly* stop nature from being refractory to synthesis?

Others have therefore found in the affinity problem a *reductio* of Kant's own project of transcendental idealism, and have used the insoluble nature of the problem – short of absolute idealism – to develop a transcendentially realist understanding of Kant. Guyer, for instance, sees affinity as the most extreme example of the 'metaphysical' (that is, transcendently idealist) Kant, in which 'the mind can impose an "affinity" on all appearances'.³⁴ This leads Guyer – in ironic agreement with Tuschling – to suggest that the third *Critique* has priority over the first. For Guyer this means that even determinant judgements really have only the force of reflective ones;³⁵ for Tuschling it means more or less the reverse, that reflective judgements – that the manifold is produced so as to fit our faculties – must be thought determinately.

In a second irony, this in turn has led to a reappraisal of the idea of affinity³⁶ that makes it quite consistent with a transcendental realist reading of Kant like Guyer's.³⁷ The idea is that transcendental realism shows how Kant's transcendental arguments can be re-interpreted as logically conditional arguments, setting out the conditions required for experience, and not therefore attempting to demonstrate the unconditional modal necessity of experience. If this is so, then conditions can sensibly be imposed on the content of nature without lapsing into idealism. Such conditions merely (and convincingly) state that there would indeed be no experience if nature did not have some degree of regularity or affinity.

1.3 The priority of the third *Critique*?

Westphal maintains the regulative (or reflective)/determinant distinction and argues that some amount of affinity is a constitutive transcendental condition of experience (understood as meaning that if there is experience, then nature must have whatever regularity it takes to constitute experience). But how extensive a system of nature is possible is just an empirical matter, about which at best regulative or reflective expectations are possible.³⁸ Guyer and Tuschling, however, are right to suggest that this distinction is not as effective as Kant (and Westphal) want it to be.

The counter-factuals of the third *Critique* all present possibilities that Kant supposes to be compatible with the constitution of experience by the categories. Strong readings, however, are justified because what Kant succeeds in showing is how little is warranted by the Deductions; indeed, not enough is warranted to make experience possible. Take the example that taxes Kant so much in the Introductions to the third *Critique*, that of empirical law. The argument of the second Analogy shows that an objective or publicly accessible time-order of mental contents can only be achieved by positing a law-like necessary connection between objects,³⁹ that is, their subordination to causal law. Assuming the validity of the argument, the conclusion is nevertheless somewhat ambiguous. 'Causal law' could here refer either to some particular nomological generalisation (which, on Kant's argument, would therefore become a necessary law), or it could refer simply to the causal maxim that every individual event must (necessarily) have some individual cause.⁴⁰ What the sceptical possibilities raised by the Introductions to the third *Critique* show is that Kant comes to acknowledge that the arguments of the first *Critique* do not prove the necessity for any particular causal law. This acknowledgement has rather severe consequences. Every event could therefore be in principle deemed to have a cause, in fact necessarily to have the cause that it in fact has. But this is compatible with every actual instance of causation being the unique representative of its own law: there could be as many laws as there are events.

However, it is no longer clear that the argument of the second Analogy could be made out in the absence of particular empirical laws. If every event exhausts the law of which it is the unique instance, then the subjective time-order cannot be distinguished from the objective time-order. The subjective order in which mental contents enter conscious-

ness is, in the absence of particular causal laws, compatible with saying that each unique mental event is necessarily connected with its predecessor. A putative objective time-sequence would not be qualitatively different from this subjective time-sequence. It would be *another* sequence in which each unique event would necessarily be preceded by the unique event that in fact precedes it.

If this were the case, then it is not even clear if *objects* would be constituted out of the aggregate of non-representative mental contents. It would follow from the absence of any particular causal law that, if there were objects, they could not share any causal properties. *A fortiori*, they could not share any of those properties that (empirically) cause registrations on human sensibility. But this implies that there could be no empirical *predicates* that could be applied to more than one object. Again, this situation is impossible to distinguish from the counter-factuals of the A Deduction: what criterion could there be for attributing predicates (which are no longer general terms) to objects? In the language of the A Deduction: there would be no synthesis of reproduction. This argument is parallel to that given above concerning the second Analogy. What the second Analogy shows is only the transcendental law that every individual event must have the cause that it in fact has; but what it needs is some empirical law which covers more than one cause-effect event pairing. Similarly, what the Deduction shows is only that mental contents must be ascribed to the transcendental object = x; what it needs to show is that there are particular empirical objects which *share* properties with one another.

It follows that Kant's arguments in the third *Critique* against the disquieting counter-factuals (in which no empirical laws appear at all) should be treated as indications of what must be the case for experience to be constituted. Correlatively, what Kant presents as merely regulative conditions (warranted only by reflective judgement) *can* be regarded as constitutive. Westphal's transcendental realism view of affinity permits this collapse of the third *Critique* into the first to avoid terminating in the absolute idealism of Tuschling's reading.

1.4 Mechanisms

The psychological interest of Kant's transcendental philosophy lies in the kinds of tasks that he shows need to be performed for experience to be constituted. Kitcher shows that these tasks are non-trivial even when Kant is interpreted as a transcendental realist. That there are in fact

objects is only a necessary and not a sufficient condition of objective representation. Similarly, if the argument that empirical laws and forms are necessary for experience is correct, a further question may be raised. Assuming that nature is regular enough to permit the construction of such laws and forms, what mental *mechanisms* are required actually to perform such construction?

On a number of occasions, Kant suggests a structure for the autonomous (reflective) faculty of judgement that explains why it is specifically appropriate as a description of the mental processes required for the re-construction of empirical laws (and objects) from the data of sensation. In the First Introduction to the *Critique of Judgement*, Kant writes that judgement in general 'is merely an ability to subsume under concepts given from elsewhere.'⁴¹ This is clearly true, but only applies to determinant judgement. The new thought being introduced is that of *reflective* judgement. Kant characterises it – by contrast with determinant judgement – as the capacity to subsume under concepts that are 'not given'.⁴² Similarly, in §4, Kant makes the distinction between determinant and reflective judgement like this:

Judgment is not just a capacity to subsume the particular under the universal (whose concept is given), but also the other way round, a capacity to find the universal for the particular.⁴³

Clearly, 'find' here cannot be taken to mean looking around for something *already given*, for then the contrast would be vitiated, but must mean *made*. In the next section (§ 5), whose title is On Reflective Judgement, this becomes obvious. He writes, glossing the same contrast for a third time:

Judgment can be regarded either as mere[ly] an ability to *reflect*, in terms of a certain principle, on a given presentation so as to [make] a concept possible, or as an ability to *determine* an underlying concept by means of a given empirical presentation.⁴⁴

This certainly makes the case that the function of reflective judgement is consonant with the requirements of mental processes for re-constructing empirical laws and objects (processes also required for the constitution of experience of objects at all). But the description of the function is vague.

Kant does, however, say rather more than this about the structure of reflective judgement. In the *Critique of Aesthetic Judgement* in particular he attaches some importance to two slogans. He writes: 'Beauty is esti-

mated on the ground of a mere formal finality, i.e., conformity to an end without an end [*eine Zweckmäßigkeit ohne Zweck*].⁴⁵ This first slogan, *Zweckmäßigkeit ohne Zweck*, pertains to judgement. The second pertains to the imagination. In the remark attached to § 22 of the *Critique of Aesthetic Judgement*, but intended to refer to all the previous text, Kant writes that in aesthetic experience the imagination manifests 'conformity to law without a law [*Gesetzmäßigkeit ohne Gesetz*].'⁴⁶ Reference to the structure of a transcendental mental process is explicit: Kant writes that the imagination here must be taken in its *productive* and not its *reproductive* guise. The productive imagination he then defines as 'exerting an activity of its own (as originator of arbitrary forms of possible intuitions)'.⁴⁷

These slogans of course have much to do with Kant's attempt to find a space within the critical architectonic for aesthetic valuations (in which specific ends and laws should not be reached, in order to preserve the autonomy of aesthetics). But they also play a crucial role in the systematic project of the third *Critique*. In this context, what Kant is saying is that the mental capacities required for the re-construction of empirical laws, forms and objects from sensory registrations (processes, it is argued here, that are also requisite for the re-construction of experience as such) are not oriented towards explicit ends, and not governed by explicit laws. These processes are autonomous in a sense analogous to the autonomy of aesthetics. They cannot be conceptually determined (that is, determined by explicit rules, laws or concepts) because they are *generative* of concepts. If they were so determined, they would presuppose the prior existence of what they are supposed to produce. It is, however, also important to observe that he does not thereby just assimilate them to random or completely chaotic processes (i.e., merely empirical, associationist or pathological ones). They exhibit, precisely, conformity to lawlikeness in general, but without being exhaustively governed by any specific law: *Gesetzmäßigkeit ohne Gesetz*.

The argument so far has been that reflective judgement is the mental process that permits the construction of representations of empirical laws and forms. These have turned out to be constitutive conditions of possibility of experience, and therefore Kant's description of reflective judgement must be regarded as the description of the mental processes required for experience. However, even in the first *Critique* Kant suggests an argument that implies that even *determinant* judgements cannot be rule-governed.⁴⁸ This argument is that the *application* of a rule cannot itself be rule-governed on pain of an infinite regress. Since determinant

judgement *is* the capacity to apply rules, it cannot itself be rule-governed. Kant calls it instead a 'particular talent', 'gift of nature',⁴⁹ or 'mother-wit' which 'cannot be taught, but only practised'.⁵⁰ In brief, the discussion up to this point has demonstrated that the transcendental conditions for the possibility of experience (as a rule-governed unity) cannot themselves be (exhaustively) rule-governed processes.

2 Informal materialism

Affinity is a problem for Kant because the precise extent of regularity in nature cannot be legislated *a priori*. The 'counter-factuals' point repeatedly to the possibility that nature could always be wild. The wildness of nature is limited only by the fact that, if there is experience, at least some aspects of nature must be regular enough to permit its construction. But the affinity problem also suggests that this wildness is far from being the all-or-nothing matter that it is often taken to be. The limit case, in which affinity is at a minimum, is still compatible with the causal maxim that every event has a cause. Earlier this idea was used to raise the important doubt that experience of objects could be constituted at all under such circumstances. But it is also easy to imagine 'things' whose powers are not *entirely* rule-governed: affinity is a question of gradation rather than kind.

Indeed, the correlative of Kant's discussion of the structure of the processes of reflection, judgement and the productive imagination in the third *Critique* is that he also delineates two domains, those of art and biology, whose referents, works and organisms, are not strictly constituted experiential objects with definite cognisable properties according to the strictures of the first *Critique*. Works of art are both produced and judged without reference to explicit conceptual rules, and hence by the operation of a kind of causality, an 'inner causality',⁵¹ that is neither mechanical nor teleological. Similarly, organisms are produced by a kind of causation that has no analogue in any conceptually determinate mode of production (mechanical causation or determination of the will by reason) and can only be recognised as organisms in the first place through a judgement of reflective teleology whose operation is irreducible to a conceptual determination.⁵² Kant clearly contemplates the possibility that some object domains lack an exhaustive affinity (and are therefore not strictly speaking 'object' domains at all). What I have tried to show here is that even supposing that experience must have certain formal features (the pre-condition of Kant's transcendental arguments),

the subject, the locus of the capacity to have such experiences, depends on a mode of production (synthesis) that cannot be completely formalised conceptually as a determinate experience. The subject is – must be – wild nature.

This view involves a slightly delicate operation on some of Kant's concepts, namely, distinguishing between the thing in itself and the noumenon. With the thought of the former, Kant introduces a material manifold of indefinite complexity (lack of affinity) at the base of experience. But by identifying this with the noumenon, a purely intellectual object, he assimilates an incipient thought of pre-empirical material complexity to the rational and obliterates its interest in the name of moral personality. But in the absence of such an identification, Kant's philosophy would point to the idea that the subject in itself (as a special case of a thing in itself) must possess a complexity refractory to experience as a transcendental condition of experience.

This sense of the transcendental pervades Deleuze's work. There is an occasional danger that when Deleuze insists that the transcendental not 'resemble' the empirical,⁵³ he may be understood to be invoking an anti-psychologistic critique of Kant that runs parallel to the phenomenological critique of Kant.⁵⁴ But in fact his critique runs in the opposite direction. The notion of conditions of existence rather than possibility, conditions no bigger than what they condition,⁵⁵ opens up a transcendental field that is occupied by an informal materiality prior to the empirical of constituted experience, not a transcendental pre-occupied with prolonging, as Heidegger does, the spiritual sense of the Paralogism of Substantiality.

Deleuze regards this materialist sense of the transcendental, this transcendental empiricism, as the real upshot of critique.⁵⁶ In brief, an activity (a mode of production, a synthesis) is illegitimate or transcendent when its operation presupposes the prior application of a synthesis. The dominant mode of production in Kant's first *Critique* is conceptually determined, and invokes the familiar machinery of the transcendental unity of apperception, the table of categories etc. In this model, a numerically self-identical, purely formal, subject is regarded as the spontaneous operator of synthetic activity. What the third *Critique* shows is that the very capacity to unify experience into a formal whole requires a confrontation with the wild vagaries of empirical law, and therefore presupposes a synthetic activity that cannot be understood as formal or conceptual at all: law-likeness itself presupposes and is itself produced by law-likeness without a law. This constitutes a Deleuzian application

of critique: the formal syntheses of Kant's earlier work are illegitimate (uncritical) because they presuppose the application of the informal syntheses of the later works.

The re-introduction of psychology into analytic Kant interpretation is significant, but ultimately of limited value. It enables an investigation of the processes of production (syntheses) that underlie the construction of experience, rather than collapsing the transcendental into a logical formalism. But it does so at the cost of assuming that the mechanisms of such constructive, synthetic psychological processes can be easily identified with the causal mechanisms of everyday empirical systems, a transcendental realism that associates things in themselves with constructed experience. Synthetic processes must confront a nature whose affinity is great enough to permit the construction of unified experience; but the synthetic processes themselves are a nature (the subject in itself) whose wildness is what allows it to be constructive at all. As Deleuze says (more or less): 'Things in themselves tend to appear as such in complex systems'.⁵⁷

Notes

- 1 See Quassim Cassam, 'Transcendental Arguments, Transcendental Synthesis, Transcendental Idealism', *The Philosophical Quarterly* vol. 37 no. 149 (1987) 355–78.
- 2 See Martin Heidegger, *Kant and the Problem of Metaphysics*, trans. James S. Churchill (Bloomington and Indianapolis: Indiana University Press, 1962).
- 3 Martin Heidegger, *The Basic Problems of Phenomenology*, trans. Albert Hofstadter (Bloomington and Indianapolis: Indiana University Press, 1982), p. 73.
- 4 Jean-François Courtine et al, *Of the Sublime: Presence in Question*, trans. Jeffrey S. Librett (Albany: SUNY Press, 1993).
- 5 Henry Allison, 'Transcendental Affinity – Kant's Answer to Hume', in *Proceedings of the Third International Kant Congress*, ed. Lewis White Beck (Dordrecht, The Netherlands: D. Reidel Publishing Company, 1972), pp. 203–11.
- 6 See Richard Aquila, *Matter in Mind: A Study of Kant's Transcendental Deduction* (Bloomington and Indianapolis: Indiana University Press, 1989); and John H. Zammito, *The Genesis of Kant's Critique of Judgment* (Chicago and London: University of Chicago Press, 1992).
- 7 Robert Paul Wolff, *Kant's Theory of Mental Activity: A Commentary on the Transcendental Analytic of the Critique of Pure Reason* (Cambridge, MA: Harvard University Press, 1963).

- 8 See Patricia Kitcher, *Kant's Transcendental Psychology* (Oxford: Oxford University Press, 1990); and Andrew Brook, *Kant and the Mind* (Cambridge: Cambridge University Press, 1994).
- 9 See Kant, *Metaphysische Anfangsgründe der Naturwissenschaft*, *Ak.*IV: 471.
- 10 See, for instance, Kant, *CPR*, A78/B103.
- 11 Gilles Deleuze, *Bergsonism*, trans. Hugh Tomlinson and Barbara Habberjam (New York: Zone, 1991), p. 30.
- 12 They are strange because they suggest not another fact counter to one that is actually the case (i.e., a fact that is the case in some other possible world) but the presence to consciousness of the absence of facts at all (i.e., of any consciousness of objects).
- 13 Kant, *CPR*, A90–1/B123, t.m.
- 14 Kant, *CPR*, A121–2; see also A111.
- 15 Kant mentions Hume and affinity in a famous passage much later in the first *Critique* (A766–7/B794–5). Kitcher provides a detailed account of why Hume's account of personal identity is the object of Kant's critique in the *Deductions*, as well as why so many have not acknowledged this. Patricia Kitcher, *Kant's Transcendental Psychology* (Oxford: Oxford University Press, 1990), pp. 97ff.
- 16 Kant, *CPR*, A122; see also A113.
- 17 Kant, *CPR*, A122.
- 18 Kant, *CPR*, A113.
- 19 Kant, *CPR*, A100.
- 20 Kant, *CPR*, A642ff/B670ff.
- 21 Kant, *CPR*, A657/B686, A660/B688.
- 22 Kant, *CPR*, A653–4/B681–2, t.m.
- 23 Kant, *CJ*, First Introduction, sec. II, p. 392, t.m.; *Ak.*XX: 203.
- 24 Kant, *CJ*, First Introduction, sec. IV, p. 398, t.m.; *Ak.*XX: 209. Similar passages occur in the same section of the First Introduction (*CJ*, p. 398; *Ak.*XX: 210), in the next (*CJ*, p. 401; *Ak.*XX: 213) as well as, at somewhat less length, in the published Introduction (*CJ*, pp. 19, 22–3; *Ak.*V: 179, 183).
- 25 Kant, *CJ*, pp. 18–19; *Ak.*V: 179.
- 26 Kant, *CPR*, A132/B171.
- 27 Compare The Regulative Employment of the Ideas of Pure Reason (A641–2/B670–1, especially A652–3/B680–1 and A657–8/B685–6) with the *Critique of Judgement*, pp. 21–2, 24–5; *Ak.*V: 182, 185, and the First Introduction, sec. IV, p. 52; *Ak.*XX: 210.
- 28 Kant, *CJ*, pp. 254–5; *Ak.*V: 375.
- 29 Kant, *CJ*, p. 20, t.m.; *Ak.*V: 181.
- 30 Kant, *CJ*, First Introduction, sec. II, p. 392, t.m.; *Ak.*XX: 203.
- 31 Burkhard Tuschling, 'Apperception and Ether: On the Idea of a Transcendental Deduction of Matter in Kant's *Opus postumum*', in *Kant's Transcen-*

- dental Deductions, ed. Eckart Förster (Stanford: Stanford University Press, 1989), pp. 193–216; Tuschling, 'Intuitiver Verstand, absolute Identität, Idee. Thesen zu Hegels früher Rezeption der „Kritik der Urteilskraft“', in *Hegel und die „Kritik der Urteilskraft“*, eds. Hans-Friedrich Fulda und Rolf-Peter Horstmann (Stuttgart: Ernst Klett Verlag, 1990), pp. 175–88; Tuschling, 'The System of Transcendental Idealism: Questions Raised and Left Open in the *Kritik der Urteilskraft*', *Southern Journal of Philosophy* 30 (1992, supplement) 109–27.
- 32 Kitcher, *Kant's Transcendental Psychology*, p. 247 n45; Lewis White Beck, 'Kant on the Uniformity of Nature', *Synthese* 47 (1981) 456.
- 33 Kitcher, *Kant's Transcendental Psychology*, pp. 78–9; Allison, 'Transcendental Affinity'; Beck, 'Kant on the Uniformity of Nature'; Aquila, *Matter in Mind*, ch. 4.
- 34 Paul Guyer, *Kant and the Claims of Knowledge* (Cambridge: Cambridge University Press, 1987), p. 132; see also Cassam, 'Transcendental Arguments, Transcendental Synthesis, Transcendental Idealism'.
- 35 Paul Guyer, 'Reason and Reflective Judgment: Kant on the Significance of Systematicity' *Noûs* vol. 24 no. 1 (March 1990) 19.
- 36 Kenneth Westphal, 'Affinity, Idealism and Naturalism: The Stability of Cinnabar and the Possibility of Experience', *Kant-Studien* 88 (1997) 139–89.
- 37 Guyer, *Kant and the Claims of Knowledge*; and 'Reason and Reflective Judgment'.
- 38 Westphal, 'Affinity, Idealism and Naturalism', pp. 159–60.
- 39 Following Wolff, the term 'mental content' refers to a representation or *Vorstellung* that is capable of constituting the content of a synthetic experience, but has not yet been fully synthesised.
- 40 See Beck, 'Kant on the Uniformity of Nature'.
- 41 Kant, *CJ*, First Introduction, sec. II, p. 392; *Ak.XX*: 202.
- 42 *Ibid.*
- 43 Kant, *CJ*, First Introduction, sec. IV, p. 398, t.m.; *Ak.XX*: 209–10.
- 44 Kant, *CJ*, First Introduction, sec. V, p. 399; *Ak.XX*: 211. The same terminology re-occurs in the passages of the First Introduction concerned with teleological (or objective) applications of reflective judgement: these 'make a concept possible' (Kant, *CJ*, First Introduction, sec. IX, p. 421; *Ak.XX*: 232). And the thought is preserved in both the Preface to the third *Critique*, where Kant writes that judgement 'has...itself to furnish a concept' (Kant, *CJ*, p. 6, t.m.; *Ak.V*: 169), as well as in sec. IV of the Second Introduction where reflective judgement has 'to find the universal' (Kant, *CJ*, p. 19; *Ak.V*: 179).
- 45 Kant, *CJ*, p. 73, t.m.; *Ak.V*: 226.
- 46 Kant, *CJ*, p. 92, t.m.; *Ak.V*: 241.
- 47 Kant, *CJ*, p. 91, t.m.; *Ak.V*: 240.

- 48 Kant, *CPR*, A133/B172. This argument is repeated almost word for word in setting up the problem of the *Critique of Judgement* (p. 6; *Ak.V*: 169). Its similarity – both textual and argumentative – to Wittgenstein's rule following considerations is very striking.
- 49 The same word (*Naturgabe*) with which Kant later describes genius in the third *Critique* (p. 174, t.m.; *Ak.V*: 307).
- 50 Kant, *CPR*, A133/B172, t.m.
- 51 Kant, *CJ*, p. 68; *Ak.V*: 222.
- 52 Kant, *CJ*, p. 248–55; *Ak.V*: 369–76.
- 53 Gilles Deleuze, *The Logic of Sense*, trans. Mark Lester with Charles Stivale, ed. Constantin Boundas (New York: Columbia University Press, 1990), p. 105.
- 54 Gilles Deleuze, *Difference and Repetition*, trans. Paul Patton (New York: Columbia University Press, 1994), p. 135.
- 55 Deleuze, *Difference and Repetition*, p. 285.
- 56 Gilles Deleuze, *Anti-Oedipus*, trans. Robert Hurley, Mark Seem and Helen R. Lane (London: Athlone, 1983), p. 75.
- 57 Deleuze, *Difference and Repetition*, p. 156. Deleuze actually says 'noumena', but, given my distinction above, 'things in themselves' is a better term.