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REFLECTIVE JUDGMENT, DETERMINATIVE JUDGMENT, AND THE PROBLEM OF PARTICULARITY

ANGELICA NUZZO*

What I set out to do in this essay is something modest, spanning a limited textual range—sections four through five of the First Introduction in Kant’s *Critique of Judgment*¹—to put forth a broader claim concerning the central problem of the *Critique of Judgment* as a *Kritik der Urteilstkraft*. The question of the new distinction between “determinant” and “reflective” *Urteilstkraft* is at stake. In these sections, Kant introduces and advances the problem of judgment beyond the results of the first *Critique*—and, more precisely, beyond what is now perceived as the gap left open by this work. Thereby it supports the view of *Urteilstkraft* as an independent cognitive faculty endowed with an *a priori* principle of its own that is fundamentally distinct from the faculty of the understanding.

In sections one through three of the First Introduction, Kant argues that, in order to set foot on the territory disclosed by a third “critique,” further conditions are required than those provided by the critique of speculative and practical reason. Accordingly, in section four he introduces the conditions under which the realm of nature’s manifold empirical forms can first be conceived, while in section five he indicates in this realm the peculiar jurisdiction proper to the faculty of judgment in its distinctive transcendental features. The chief question of the *Critique of Judgment* regards the possibility of *empirical knowledge* insofar as this implies a reflection upon empirically given, contingent individual cases, a reflection capable of attributing to these cases sense and meaning within

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1. IMMANUEL KANT, *CRITIQUE OF JUDGMENT* 208’-16’, at 397–404 (Werner S. Pluhar trans., 1987) (1790) [hereinafter KANT, JUDGMENT]. Page references, e.g., 208’-16’, are to the *Akademie* edition, with the primed numbers referring to volume 20 and the unprimed numbers referring to volume 5 of the *Akademie* edition. The second page number, e.g., 397–404, refers to the corresponding page in the 1987 Pluhar edition, as translated by Pluhar and not by the author. However, the author’s translation appears in this article.

the systematic framework of a lawful structure of order. Such reflection underlies the procedures of scientific induction, and is the transcendental common ground of judgments of taste and teleological judgments more generally. At stake in all these cases is the peculiar way that humans have of making sense of nature in its particular and contingent manifestations. In Kant's view, this kind of reflective cognition hinges on the possibility of thinking the given particulars as inscribed, despite their contingency, within a certain lawful order. The problem that this cognition raises lies in the fact that such lawful order is neither pre-determined by one of the cognitive faculties, nor can it be derived from the given particular. In presenting this problem, Kant reconsiders the results of the first *Critique* and integrates them with a new notion of "nature" and a new concept of "experience." The jurisdiction of the *Critique of Judgment* is no longer "nature in general" and is not sufficiently described if presented exclusively as the world ruled by the *universal* laws of nature brought to light by the understanding's *a priori* legislation. The new realm under investigation is the seemingly chaotic "labyrinth" of an infinite multiplicity of empirical forms for which only particular, empirical laws can be formulated. It is a random collection of manifold phenomena whose possible connection into the unitary picture of a "world" and a unitary "nature" is precisely the problem at issue. This is the problem that elicits the dramatic questions that Kant raises in these sections: How can we orient ourselves in the labyrinth that nature has now become for us; how is a coherent and unitary (and systematic) experience possible in—and of—the manifold of nature's empirical and contingent manifestations? In these questions lies the deeper motivation of the new critical investigation; from them hinges the overall development of the *Critique of Judgment*. In sections four through five Kant finally isolates the issue that we already find adumbrated but not yet directly addressed in an important footnote of section two.² Key to its answer is now the idea of the *reflective* faculty of judgment and its *a priori* principle of formal purposiveness.

In what follows, I present the development of Kant's argument in section four of the First Introduction and discuss the relation between Kant's general account of *Urteilkraft* in the introduction to the *Analytic of Principles* of the *Critique of Pure Reason* and his distinction between determinant and reflective faculty of judgment in the introductory sections of the *Critique of Judgment*. My aim is to bring to light the novelty of the idea of *reflektierende Urteilkraft* and its *a priori* principle in relation to

2. See *id.* at 204' n.13, at 393. The note will be discussed extensively below.

the horizon of the first *Critique*, and to show the extent to which the 1790 work advances the argument made by Kant in 1787. The crucial issue posed by the manifold forms of nature and its empirical laws—which, if not addressed, is indeed a radical “threat” to the idea of “nature in general” established by the first *Critique*—is taken up in connection with section five of the First Introduction.

I. DETERMINANT AND REFLECTIVE FACULTY OF JUDGMENT: THE STARTING POINT OF A *KRITIK DER URTEILSKRAFT*

In the conclusion of section three of the Introduction to the *Critique of Judgment*, Kant suggests “all we may have to say of the faculty of judgment’s own principles must be ascribed to the theoretical part of philosophy.”³ The faculty of judgment “in general” is the “faculty of thinking the particular as contained under the universal.”⁴ That is to say, judgment establishes a relation between the particular and the universal—the particular being a case or instance, and the universal being the concept, rule or principle, law or maxim.⁵ *Urteilskraft überhaupt* connects particular cases to the general laws that *apply* to those cases, and connects universal laws with the particular cases that *instantiate* those laws. This connection can take place in two different ways. If the universal law, rule or principle “is given” by the understanding as the faculty of principles, then the faculty of judgment’s task is simply—and exclusively—that of “subsuming” the particular case under the given universal. To be sure, in this situation, what is given to the faculty of judgment is not only the rule but also the case—*both* the particular *and* the universal *are given*. Provided with both, judgment has the task of bringing the particular instance to the universal *under which* it is contained. Thereby the particular is thought precisely as an instance of the given law. Kant names this activity of judgment “determinant” (*bestimmende*). The general concept *is determined* by the particular case to which it applies as the rule for that instance; the case *is determined* as a case of that law.⁶

3. *Id.* at 179, at 18.

4. *Id.*

5. See Hanna Ginsborg, *Thinking the Particular as Contained under the Universal*, in *AESTHETICS AND COGNITION IN KANT’S CRITICAL PHILOSOPHY* 35 (Rebecca Kukla ed., 2006) for an analysis of what the universal is; Thomas Teufel, *Kant’s Sensationalist Conception of Particularity in the Critique of the (Reflecting) Power of Judgment*, *KANT STUDIES ONLINE* (Mar. 11, 2011), http://www.kantstudiesonline.net/KSO_Author_files/TeufelThomas01211.pdf for a discussion of what “the particular” is.

6. See KANT, *JUDGMENT*, *supra* note 1, at 211, at 54 (illustrating that the faculty of judgment determines the “concept that lays to the ground through a given empirical representation”).

“*Determination*,” explains Kant in the first *Critique*, “is a predicate that is added to the concept of the subject and extends it.”⁷

This operation describes the “transcendental faculty of judgment” at work in the first *Critique*. Such faculty “provides *a priori* the conditions” that justify the subsumption under the given law.⁸ More precisely, however, transcendental philosophy (and specifically transcendental logic) does not provide the rule directly, but the “general conditions for rules,”⁹ setting the discussion on a more original level.

If, on the contrary, “*only* the particular is given” (and not, as in the case of the determinant faculty of judgment, *both* the particular *and* the universal), then the faculty of judgment must first of all “find” the universal for that particular instance, i.e., must find the universal concept “made possible” by that particular instance.¹⁰ This task must obviously be fulfilled *before* all other further operation of judgment can take place, thereby becoming judgment’s most fundamental and defining task. Since in this case no determination of objects takes place but only “reflection,” the faculty of judgment is here “merely reflective.”¹¹

The distinction between determinant and reflective judgment is the distinction between *application* and *acquisition* of concepts or general rules. In section three of the First Introduction, Kant describes the faculty of judgment’s peculiar relation to law as a “*searching* for laws”¹² and contrasts judgment to the understanding’s and reason’s “legislation,” which is the act of *giving* law. The latter are faculties legislative over an objective order. Judgment by contrast is only self-legislating; properly, it is a heuristic faculty with regard to law.

In section four the task of “finding” the law is indicated, more precisely, as the specific activity of the *reflective* faculty of judgment.¹³ This connection to law reveals that it is the *reflective* faculty of judgment that interests Kant specifically in the *Critique of Judgment* as an autonomous cognitive faculty. The relevant point is that determinant and reflective faculties of judgment do not stand to each other as parallel

7. IMMANUEL KANT, *CRITIQUE OF PURE REASON*, B626, at 566–67 (Paul Guyer & Allen W. Wood eds. & trans., 1998) (2d ed. 1787) [hereinafter KANT, *PURE REASON*]. Page references, e.g., B626, are to the first (A) and second (B) editions, or both where applicable. The second page number, e.g., 397–404, refers to the corresponding page in the 1998 Guyer and Wood edition, as translated by Guyer and Wood, and not by the author. However, the author’s translation appears in this article.

8. KANT, *JUDGMENT*, *supra* note 1, at 179, at 18–19.

9. KANT, *PURE REASON*, *supra* note 7, at A135/B174, at 269.

10. KANT, *JUDGMENT*, *supra* note 1, at 179, at 18–19; *see also id.* at 211’, at 399.

11. *Id.* at 179, at 18–19.

12. *Id.* at 177, at 16.

13. *See id.* at 179–81, at 18–20.

functions of a faculty of judgment in general. In the opening passage of the section, it becomes clear why the *Urteilkraft* that occupies the *Critique of Judgment* can only be the *reflective* faculty of judgment. For one thing, the meaning of the “givenness” respectively of the rule and the instance with which judgment operates is different in the case of determinant and reflective *Urteilkraft* because different is the source from which they are given. For determinant judgment, the fact that the rule is given means that the faculty of judgment has only to execute or apply an *a priori* rule whose source is the understanding. For reflective judgment, by contrast, the givenness of the particular has an exclusively empirical meaning. It is only experience that can provide *a posteriori* the specific case—and this is also all reflective judgment can count on (for only the particular is given to it). In other words, the reflective faculty of judgment has its necessary starting point in experience; judgment’s activity is not dependent on principles or cases offered by any other mental power. Hence the crucial issue in this case is not that of thinking the particular as contained under the universal but rather that of *finding* the universal for a given empirical particular. This is, in fact, quite a complicated task: the universal must be found. But this universal must be precisely the rule *required by that specific given empirical case*.

II. UNDERSTANDING AND JUDGMENT: TRANSCENDENTAL LOGIC AND THE PROBLEM OF STUPIDITY

In the transcendental logic of the first *Critique*, in the introductory section “On the Transcendental Faculty of Judgment in General,” Kant defines *Urteilkraft überhaupt* as the “faculty of *subsuming* under rules, i.e., of distinguishing whether something does or does not stand under a given rule (*casus datae legis*).”¹⁴ The rule is given by the understanding as “faculty of rules.”¹⁵ Judgment is in charge of distinguishing whether the given rule applies to the case at hand. Subsumption is judgment’s proper task. It is the act of bringing the particular under the universal or the representation of an object under a concept. Kant identifies the crucial problem of this faculty from the outset: *Urteilkraft* is the faculty of subsuming under rules, and yet there is no rule for subsuming. The understanding gives the rule under which to subsume but there is no

14. KANT, *PURE REASON*, *supra* note 7, at A132/B171, at 268.

15. See KANT, *PURE REASON*, *supra* note 7, at A126, at 242 for the various definitions of *Verstand*, among which “faculty of rules” is seen as “more fruitful” and, as such, to better render the nature of the understanding.

objective rule that can teach the faculty of judgment *how* to perform the subsumption correctly. In other words, the activity of subsumption under rules does not itself seem to stand under any rule. This leaves judgment, which is otherwise provided with both the universal and the case, in a precarious position.

Kant distinguishes the role of the faculty of judgment in general logic from its function in transcendental logic. “General logic contains, and can contain, no rules for the faculty of judgment.”¹⁶ Making abstraction from all content of cognition, general logic is a merely analytical exposition of the forms of thinking: concepts, judgments, and syllogisms, in which “all employment of the understanding” ultimately consists. The faculty of judgment is thereby considered only insofar as the understanding’s formal employment is concerned. General logic, however, cannot give any prescription or rule as to how to operate the subsumption (for this would require yet another rule in a *regressus ad infinitum*).¹⁷ There seem to be only two ways out of this predicament: either to declare that the faculty of judgment is a peculiar “natural talent”¹⁸ that cannot be taught but only practiced—either one is naturally endowed with it or there is no way one can successively acquire it—or to declare that the faculty of judgment is an *a priori* faculty that finds in itself and gives to itself its own *a priori* principle or rule. The *Critique of Pure Reason* suggests the first solution; the *Critique of Judgment* advances, for the first time, the second.

The problem that judgment faces given the lack of rules for subsuming is, Kant suggests, the problem of “stupidity.” For this he offers the erudite formulation of defect of *secunda Petri: non legit secundam Petri* (i.e., “he did not read the second part of Petrus Ramus’ *Dialectica* on judgment”), being an erudite and elliptical way of referring to someone as an imbecile.¹⁹ Indeed, stupidity is the lack of “natural judgment” and for it there is no remedy:

A dull or narrow-minded person, to whom nothing is wanting but a proper degree of understanding, may be improved by tuition, even

16. *Id.* at A132/B171, at 268.

17. See KANT, JUDGMENT, *supra* note 1, at 169, at 6–7 (Preface to the *Akademie* edition). In a different context, Ginsborg insists on the idea of “natural disposition,” which would bring Kant closer to Hume (at stake is the discussion of the imaginative synthesis). See Ginsborg, *supra* note 5, at 51. The interesting point is that Ginsborg juxtaposes the natural disposition with the rule-governed mental activity in relation to an intersubjective demand. This latter constellation comes close to the one I hint at in relation to the position of the CRITIQUE OF JUDGMENT. See also Ginsborg, *supra* note 5, at 58.

18. KANT, PURE REASON, *supra* note 7, at A133–34/B172–73, at 269–70.

19. See Rémi Brague, *Kant et la secunda Petri. Un contresens fréquent*, 1999 REVUE DE MÉTAPHYSIQUE ET DE MORALE 419.

so far as to deserve the epithet of learned. But as such persons frequently labor under a deficiency in the faculty of judgment, it is not uncommon to find men extremely learned who in the application of their science betray in a lamentable degree this irremediable want.²⁰

Kant offers the examples of a physician, a judge, or a ruler who may very well know the universal rules and master all the concepts of the particular discipline, yet may still not be able to *apply* them correctly to particular and concrete cases. These are all instances of professional stupidity, which no doctrine can correct. Even examples from experience cannot produce judgment although they can sharpen judgment if one already has it (examples rather presuppose the capacity to judge). Most importantly, our professionals may lack the ability to distinguish “whether a case *in concreto* belongs” to the universal *in abstracto* expressed by the rule; that is, they may not be able to judge of which rule a particular case is in fact a case. The faculty of judgment deals with the “*application*” of the rule. To *subsume* under a rule means precisely to *apply* the rule to those given cases that can be correctly construed as cases *of that rule*.²¹ The important point is that, from the fact that one may lack judgment but not understanding (and even doctrine)—i.e., that one may have the rule (and even the particular case) and still be unable to apply it—it follows that *the two faculties of understanding and judgment are not reducible to one*. This irreducibility holds true even within the framework of the transcendental logic of the first *Critique* when judgment is merely subsumptive and clearly not an independent cognitive faculty distinct from understanding. In this case, judgment’s defect or stupidity is exposed despite the fact that judgment still relies entirely on the understanding. The *Critique of Judgment*, with its discovery of the *reflective* faculty of judgment distinct from and this time independent of the understanding and its rules, will draw the ultimate conclusion from the lesson of stupidity.

To be sure, this is the case in a significant additional sense. The question raised by the problem of stupidity presented in the first *Critique* is the following: given that judgment is a natural talent and that there are no rules for how to subsume correctly—no rules that can be imparted and

20. KANT, PURE REASON, *supra* note 7, at A133/B172, at 268; see also IMMANUEL KANT, ANTHROPOLOGY FROM A PRAGMATIC POINT OF VIEW 199, at 71 (Mary J. Gregor trans., 1974) (1797); see also the very beginning of IMMANUEL KANT, *On the Common Saying: That May Be Correct in Theory, But It Is of No Use in Practice*, in PRACTICAL PHILOSOPHY, 8:273, at 278, 8:275, at 279 (Mary J. Gregor ed. & trans., 1996) (1793).

21. See KANT, PURE REASON, *supra* note 7, at A134/B173, at 269, A137/B176, at 271–72.

no rules that can be taught—are we justified in our being stupid, i.e., does the claim of stupidity really end the infinite regress? This is obviously a *de jure*, not a *de facto*, question.²² Whereas logic can only answer affirmatively, the doctrine of reflective judgment provides Kant with the basis for a negative answer. There is no excuse or justification for stupidity because there is a universal principle—albeit a merely subjective one—that judgment gives to itself that enables it to inscribe the particular within its rule. What the first *Critique* indicates as a merely “natural talent” in order to cut off the infinite regress in the rules for subsumption; in the *Critique of Judgment* this talent becomes the *a priori* principle of the independent and “heautonomous” faculty of judgment. In this case, one’s individual judgment of taste is regarded as “the example of a universal rule which cannot be stated.”²³ Although the rule cannot be known, there is an ultimate rule that has actual examples in the exemplarity of individual judgments of taste. Stupidity is not justified in this new framework; it has to confront itself with the broader and more complex horizon of *sensus communis*, and it is held in check by the condition of communicability of the judgment of taste.

And yet, logic’s response to stupidity (or to the defect of *secunda Petri*) seems to require an additional distinction. If general logic can give no instruction as to how to emend the faculty of judgment (i.e., as to how to avoid stupidity by providing an objective rule for subsumption), it appears that transcendental logic, which deals with the content of knowledge instead of making abstraction from it, may have something to say with regard to the issue. Transcendental logic “would seem to have as its peculiar task to correct and secure the faculty of judgment by means of determinate rules in the use of pure understanding.”²⁴ For “transcendental philosophy has the peculiarity that besides the rule (or rather the universal condition of rules), which is given in the pure concept of the understanding, it can at the same time specify *a priori* the case to which each rule is to be applied.”²⁵ Does this claim solve the problem of judgment? The transcendental faculty of judgment provides the *a priori* conditions under which objects can be given as instances of the rule. These conditions are space, time, and the transcendental schemata. What results from this doctrine are the “synthetic judgments which under these

22. See LUIGI SCARAVELLI, *SCRITTI KANTIANI* 403 (1973).

23. KANT, *JUDGMENT*, *supra* note 1, at 237, at 85–87.

24. KANT, *PURE REASON*, *supra* note 7, at A135/B174, at 269.

25. *Id.* at A135/B174–75, at 269–70.

conditions follow *a priori* from the pure concepts of understanding.”²⁶ The universal rule is provided by the category of the understanding. But since the particular is specified *a priori* as an instance of the rule, it cannot be the empirically given particular. In fact, Kant designates it as “appearances in general.”²⁷ The particular to which the category is applied as a rule is sensible intuition insofar as it is schematized *a priori* through the transcendental determination of time. It follows that the synthetic *a priori* judgments or principles of the understanding formulated by the Transcendental Doctrine of Judgment (or Analytic of Principles) are not those same judgments that the physician, the judge, and the ruler need to correctly pronounce when facing concrete and particular empirical cases. Instead, the synthetic *a priori* judgments of the understanding are universal laws that contain in themselves no rule or principle as to how the faculty of judgment should carry out its subsumptions of *empirically given cases*. Thus, with regard to the issue that troubles the physician, the judge, and the ruler (*casus datae legis*) testing, alternatively, their intelligence or stupidity, transcendental logic offers no substantial advance over merely formal logic.²⁸ In sum, this is the problem that logic (both general and transcendental logic) faces and that the *Critique of Judgment* inherits with regard to judgment: not only is there no rule for subsuming, but it is logically impossible to derive analytically from a particular case the rule by which one can ascend from that case to the law or principle under which that case stands (as its genus), just as it is impossible to derive analytically from a law or principle the rule for its application to a particular case. In other words, in both directions the rule according to which judgment must find the genus or apply the law requires a self-standing and independent principle in the lack of which only the claim of a natural talent that one either has or does not have can be advanced.

III. “NATURE IN GENERAL” BECOMES A “LABYRINTH”—THE TASK OF THE REFLECTIVE FACULTY OF JUDGMENT

The Transcendental Doctrine of Judgment is concerned with the understanding as the faculty of principles and its use in providing pure *a priori* cognition of “nature in general.” In the first *Critique* the particular

26. *Id.* at A136/B175, at 270.

27. *Id.* at A139/B178, at 272.

28. In the framework of transcendental logic, however, their problem does not even seem to subsist. The *a priori* synthetic judgments of the understanding do not, after all, require the faculty of judgment as an independent faculty for their formulation.

empirical instance does not yet come to the fore. Accordingly, the activity of subsuming given empirical cases under concepts does not yet need to be carried out. The chief problem of the *Critique*, namely, the problem of the transcendental laws of nature, does not yet require the subsumption of empirically given particulars under rules since it deals with the conditions under which particulars can first be given to us at all. Thus, the first *Critique* provides the pure *a priori* conditions for all possible subsumption under *a priori* universal rules.²⁹ In the *Critique of Judgment*, Kant identifies the logical procedure of the “transcendental faculty of judgment” at work in the *Analytic of Principles* as the work of the *determinant* faculty of judgment. In defining this judgment in section four, Kant offers no specification of the type of particulars that are subsumed under the universal.³⁰ The particular can be either appearance in general as the *a priori* instance specified by the understanding or the empirically given case. Although transcendental and determinant *Urteilkraft* are not identical, the two cases can be discussed together at this point since in both cases the faculty of judgment does not pose a problem of principles of its own. By claiming that the “determinant” faculty of judgment, which operates under the universal transcendental laws given by the understanding, is “subsumptive” *only*,³¹ Kant recognizes that determinant judgment as such does not raise any specific problem. For the “only” task it has to perform is to subsume under the rule provided by the understanding without regard to the question of *what* is it that must be subsumed (i.e., it must simply decide whether or not a particular case *in concreto* falls under the universal *in abstracto*).

The world of nature in general, established by the first *Critique*, and the procedure of subsumption under rules proper of the determinant faculty of judgment, still leave a broad realm of experience unaccounted for. Kant recognizes that the transcendental “laws given *a priori* by the understanding” guarantee the “possibility of a nature (as object of sense) *in general*” but still leave undetermined the great variety of possible applications (and “modifications”) of those “universal transcendental concepts of nature.”³² In this framework, no account can be given of the

29. See KANT, PURE REASON, *supra* note 7, at A135/B174, at 269; see also KANT, JUDGMENT, *supra* note 1, at 179, at 18–19.

30. See KANT, JUDGMENT, *supra* note 1, at 207–09, at 48–51. Different is the case of section five of the *Critique of Judgment*, where Kant claims that the faculty of judgment determines the “concepts that lay as the basis through a given empirical representation.” KANT, JUDGMENT, *supra* note 1, at 211, at 53.

31. KANT, JUDGMENT, *supra* note 1, at 179, at 18–19.

32. *Id.*

manifold particular forms that nature displays. Thereby Kant juxtaposes the “manifold forms” of nature that are expressed by the infinite variety of possible particular applications of the transcendental universal laws to the order legislated by the understanding, i.e., to those universal laws that constitute “nature in general.” In other words, Kant discloses the existence of *another nature* for which the principles of the first *Critique* no longer provide a sufficient explanation. There is *another* nature within the realm of nature in general that cannot be analytically deduced from it since its order—assuming there is such an order—does not follow analytically from it. This is the world that the *Critique of Judgment* will populate with particular objects and new forms of experience—the experience of beauty and life.

What is the epistemological problem that the *Critique of Pure Reason* leaves open to the independent, *reflective* faculty of judgment to solve? According to the *Analytic of Principles*, the understanding gives, for example, the transcendental law according to which all events in the world of nature’s appearances can be measured. This law does not contribute anything to the specific issue of how a particular given appearance that one has to measure must be compared with a given measurement standard. The *Analytic* proves that all appearance and intuition can be determined quantitatively. Yet, on the basis of this principle *alone*, no single given appearance or intuition can be quantitatively determined in its specificity. Similarly, in the case of the principle that every event has a cause, transcendental logic does not say *what* this cause specifically is or *which* among the many possible causes is the real cause.³³ This is precisely the main issue in natural science (and in our particular *actual* experiences).

The task of the first *Critique* is only to establish the objective validity of the universal order governing the physical world as the “world” of *possible* experience or nature *in general*. As the understanding’s *a priori* synthetic judgments or universal laws of nature *leave undetermined* all the infinite empirical cases that can be counted under those laws, it follows that, in addition to the understanding, a particular faculty is needed that can effectively *determine* those particular empirical cases thereby lending to the world of nature in general its empirical specificity and concreteness. This faculty will be able to connect general laws with particular cases and particular cases with their general laws. This is the faculty of judgment that comes to the fore in the *Critique of Judgment*.

33. See SCARAVELLI, *supra* note 22, at 405.

Since determinant judgment by simply executing the understanding's rule "is only subsumptive," it can provide no real determination for those manifold, empirical forms of nature that are left, as it were, thoroughly "indeterminate." At this juncture Kant places the specific function of the *reflective* faculty of judgment and its *a priori* principle.

The principle of the *reflective* faculty of judgment is the condition that allows us to have a meaningful experience of the manifold forms of nature left out of (or left indeterminate by) the first *Critique*. This is the basis for Kant's argument outlining the insufficiency of determinant judgment to its task once we are facing nature in the infinite variety of its manifold empirical forms. Kant's chief point is to introduce—with the necessity of a "must"—our need to appeal to an entirely new principle. "[T]here are such manifold forms of nature, so many modifications as it were of the universal transcendental concepts of nature left indeterminate by those laws . . . that there must also be laws for this manifold of forms and modifications."³⁴ Empirical laws of nature are neither deduced nor inferred; they are *given* to our understanding on the basis of the fact that "there are such manifold forms." Kant holds that since a manifold of empirical laws actually exists, they must owe their lawfulness to an *a priori* necessary principle (this is an inference from the very notion of law). However, the understanding that legislates over "nature in general" is no longer legislative in "the labyrinth of the manifold of possible particular laws."³⁵ In this apparently chaotic labyrinth, the understanding is suddenly dumb: "it cannot say a word" concerning such laws, confesses Kant in the First Introduction,³⁶ recognizing that the very "concept of a system according to these (empirical) laws is thoroughly alien to the understanding."³⁷ The point is that particular empirical laws cannot be deduced from the transcendental laws of nature in a merely analytical way. Particular laws are indeed "modifications" of the universal concepts of nature (as their applications),³⁸ but the transition from the universal to the particular is the problem the understanding cannot solve. Crucially, there is no deductive transition from experience in general to a system of empirical laws. Hence, in the perspective of the understanding, a gap of legislation seems to threaten the world of nature—the idea of systematicity and order is at odds with the idea of a manifold of empirical laws, which rather conjures up the

34. KANT, JUDGMENT, *supra* note 1, at 179–80, at 18–20.

35. *Id.* at 214³, at 402.

36. *Id.* at 193³, at 383.

37. *Id.* at 203³, at 392.

38. *Id.* at 179, at 18–19.

image of the labyrinth. And yet, empirical laws are still *laws of nature*. With the term “nature” Kant invariably indicates a system of phenomena regulated by laws, never a disconnected aggregate of empirically given events. It follows that empirical laws must be *somehow* necessary even though “*our* understanding” cannot but regard them as “contingent.”³⁹ The labyrinth of nature is not chaos: there must be a way of navigating it; to *find* such a way is precisely the issue at hand. From the fact that nature is present to us in its manifold manifestations and that neither the understanding nor the determinant faculty of judgment can provide us with rules for thinking of those manifold forms in their empirical specificity, it follows that we “must” assume that the empirical laws that determine those forms owe their “necessity” to a *different* “principle of the unity of the manifold.”⁴⁰ We must assume “this principle” even though, at this point, what this principle is still remains “unknown to us.”⁴¹ Kant claims that this principle must be the principle of the *unity* of an empirical manifold (i.e., a principle that guarantees the *systematicity* of the empirical and particular components of our experience of nature). What is needed is the *reflective* faculty of judgment as the only faculty that is capable of *finding* out the universal rule for a particular empirical case. Since this faculty cannot be reduced to the understanding and its laws, it must display its own principle. Accordingly, the principle of the unity of the empirical manifold must be a principle for the reflective faculty of judgment and for this faculty only.

A passage of the 1781 edition of the Transcendental Deduction shows an early awareness of the issue at stake:

However exaggerated and absurd it may sound to say that the understanding is itself the source of the laws of nature, and so of its formal unity, such an assertion is nonetheless correct and is in keeping with the object to which it refers, namely experience. Certainly, *empirical laws* as such *can never derive their origin from the pure understanding*. That is as little possible as to conceive completely the inexhaustible multiplicity of appearances merely by reference to the pure form of sensible intuition. But *all empirical laws are only special determinations of the pure laws of the*

39. *Id.* at 180, at 19.

40. *Id.*

41. *Id.*

*understanding, under which, and according to the norm of which, they first become possible.*⁴²

While under the condition of Kant's Copernican revolution the claim that the understanding is legislative with regard to the universal laws of nature can easily be accepted, the (transcendental) relation between the understanding's laws and nature's *empirical laws* seems much harder to conceive, let alone to justify. Although within the horizon of the first *Critique* the "origin" of nature's empirical laws is not yet at issue, Kant remarks that such laws have the status of "special determinations" of the universal laws of the understanding that make them possible. The non-analytical and non-deductive relation between these two orders of law and the problems that arise from that relation eventually lead to the investigation of the *Critique of Judgment* but do not seem clear to Kant at this point. This awareness emerges instead dramatically in the crucial footnote to section two in the *Critique of Judgment* in which Kant presents the problem left open by the first *Critique* as follows:

The possibility of an experience in general is the possibility of empirical cognitions as synthetic judgments. Hence this possibility cannot be derived *analytically* from a mere comparison of perceptions . . . for the connection of two different perceptions in the concept of an object (to yield a cognition of it) is a *synthesis*, and the only way in which this synthesis makes empirical cognition, i.e., experience, possible is through principles [(*Prinzipien*)] of the synthetic unity of appearances, i.e., through principles [(*Grundsätze*)] by which they are brought under the categories. Now these empirical cognitions do form an *analytic unity of all experience according to that which they necessarily have in common (namely those transcendental laws of nature), but they do not form that synthetic unity of experience as a system that connects the empirical laws even according to that in which they differ (and where their diversity can be infinite).*⁴³

This text has not been included in the published introduction even though its content is integrally maintained in section five. It has been suggested that one of the reasons for not including this passage in the final

42. KANT, PURE REASON, *supra* note 7, at A127–28, at 242–43 (in Transcendental Deduction) (emphasis added); see also *id.* at B165, at 263–64 (discussing the relation between the lawfulness of "nature in general" and "particular laws" that concern "empirically determined appearances").

43. KANT, JUDGMENT, *supra* note 1, at 203'–04' n.13, at 393 (emphasis added).

introduction was probably the striking contrast between the main thesis of the first *Critique* and the claim that the *synthetic* principles of the understanding form, after all, a merely *analytic* unity and, despite all the first *Critique* tried to demonstrate, have a merely *analytical* function.⁴⁴

In the first *Critique* *a priori* principles and judgments make experience possible insofar as—and precisely because—they are *synthetic*. In the horizon of the *Critique of Judgment*, Kant contends that those synthetic *a priori* principles contain that which all our empirical cognitions “*have necessarily in common*”; hence that on the basis of the synthetic *a priori* principles (the transcendental laws of nature), “the *analytic* unity of all experience” first becomes possible. Strikingly, however, Kant now admits that the synthetic *a priori* principles still do not make possible “that *synthetic* unity of experience as a system that connects under one principle empirical laws *also according to that in which they differ*.” Clearly, in this passage, Kant presents as analytic what the first *Critique* claims instead to be synthetic (i.e., the unity of nature—whereby the ambiguity of “nature” once taken as nature in general, once taken as nature in its empirical laws should be underscored), thereby advancing the further need to guarantee the *synthetic* unity of the manifold empirical forms of experience. Those same transcendental principles that the first *Critique* demonstrates to be synthetic are recognized here as a merely analytic function. Although logically their synthetic nature is not repealed, Kant now assesses their transcendental role within the process of our *empirical* cognition of nature. The focus has changed from the order of nature in general to the manifold of nature’s empirical forms. With regard to this further problem, those transcendental principles provide (only) the *analytic* unity of experience in general by expressing that which all experiences have in common. Yet, since they cannot say anything regarding how different empirical laws actually *differ* from each other, they cannot ground the *synthetic* unity of empirical cognitions or the system of empirical laws of nature.

Both the work of the understanding and the work of determinant judgment take place in a realm where phenomena and objects are viewed as completely *homogeneous*. This is the world of nature in general. Its universal laws tell us what empirical objects have necessarily in common but nothing more than that. The synthetic *a priori* principles of the understanding provide us with no information regarding how empirical objects and events differ in their specificity since they cannot account for a world whose composition is fundamentally *heterogeneous*. To be sure, on

44. See SCARAVELLI, *supra* note 22, at 349.

the basis of those principles alone we would not even be able to distinguish one object from the other as a specifically and empirically determined object (and not just as appearance in general). A star, a flower, a beam of light are homogeneous things insofar as they are all appearances in space and time, all have a degree, stand in reciprocal connection, and so on. These features, however, by simply constituting the necessary conditions of the possibility of these objects as phenomena of nature—and hence the necessary conditions of their being, for us, objects of possible experience—are only conditions that all objects have necessarily in common. These conditions are indeed necessary in order to qualify those objects as objects of nature in general, but they do not specify them in their empirical difference, specificity, or individuality (i.e., precisely as a star, a flower, a beam of light—and even less as *this* star, flower, etc.).

The issue of what makes the *specific difference* of our empirical cognition of things in nature—the problem of the *synthetic* unity of experience and of empirical laws insofar as they are *heterogeneous*—is the peculiar problem addressed by the reflective faculty of judgment and its “special” *a priori* principle. In light of this new problem of synthesis, nature in its manifold forms raises new questions. If the “succession of the determinations of one and the same thing” (change) is the condition that guarantees the possibility of subsuming a given case under the universal law of causality, and if our judgment is supposed to determine our object for us in this way, then we must recognize that such determination is fundamentally insufficient when at stake is our experience of empirical particulars. For we can easily recognize that

besides that formal condition of time, objects of empirical cognition are further determined in a multiplicity of ways, or as far as we can judge *a priori*, are determinable in a multiplicity of ways so that *specifically different natures, apart from what they have in common as belonging to nature in general, can still be causes in an infinite variety of ways.*⁴⁵

What we need to know in this case is the specific cause (among many possible causes) of a particular given effect. When facing this problem, we cannot be satisfied with the general claim that all change has a cause. There is a broad empirical realm of possible determination, or a range of “determinability,” that both the understanding with its universal laws and determinant judgment in its application of them inevitably leave

45. KANT, JUDGMENT, *supra* note 1, at 183, at 22 (emphasis added).

indeterminate. This argument marks out the jurisdiction of the reflective faculty of judgment in the *Critique of Judgment*.

The *necessity* of the principle of formal purposiveness arises from the contemplation of an epistemologically dreadful scenario. At issue is the impossibility of deducing particular empirical laws from universal transcendental principles of nature, empirical cognitions from universal concepts, heterogeneity from homogeneity. “It is quite conceivable,”⁴⁶ Kant contends, that we could be fully cognizant of the world of nature in general in its universal laws and still have no clue as to how to provide an explanation of the specific differences we encounter in our experience of nature. A meaningful experience would be, in this case, properly impossible. We would feel trapped in nature’s labyrinth with no sense of a way out. If we could not appeal to the principle of reflection, i.e., to the principle of purposiveness, we would face a world in which the specific differences among natural things would be so numerous as to be utterly ungraspable; no order would be discernible and hence no comprehension possible; heterogeneity would be infinite and hence irreducible to a finite number of rules so that any attempt at subordination of genera and species would necessarily fail. In this world, *despite the retained and recognized validity of nature’s universal laws*, everything would appear in a state of confusion and chaos. Nature would be indeed a chaotic labyrinth. It follows that in order for empirical heterogeneity to be conceivable, systematicity must be assumed. And systematicity implies the principle of “purposiveness” (*Zweckmäßigkeit*).

In the footnote to section five of the First Introduction, Kant presents the relation between the heterogeneity of nature’s forms and their interconnection into a systematic unity as a fundamental presupposition of science:

One may wonder whether Linnaeus could ever have hoped to design a system of nature if he had had to worry that a stone that he found and that he called granite might differ in its inner character from any other stone even if it looked the same, so that all he could ever hope to find would be single things—isolated, as it were, for the understanding—but never a class of them that could be brought under concepts of genera and species.⁴⁷

46. *Id.* at 185, at 25.

47. *Id.* 215’-16’ n.24, at 403 (citation omitted).

The empirical sciences do not aim only at providing analytical classifications of objects on the basis of their homogeneity. The empirical sciences also need to establish laws that allow one to unify classes of objects according to their specific differences. The predicament that Kant faces in the deduction of the principle of reflective judgment can be compared, in one respect, to the one that leads to the transcendental deduction of the categories in the first *Critique*. Herein Kant argues that since “the categories of the understanding . . . do not represent the conditions under which objects are given in intuition,” the world represented by the conditions of sensibility could very well be thought as completely disconnected from the world of the understanding. In this case, “objects would still appear to us without their having to be necessarily related to the functions of the understanding.”⁴⁸ Hence the need for a transcendental deduction of the categories that is not required for the forms of intuition:

[A]pppearances might very well be so constituted that the understanding should not find them to be in accordance with the conditions of its unity. *Everything might be in such confusion* that, for instance, in the series of appearances nothing presented itself that might yield a rule of synthesis and so answer to the concept of cause and effect. This concept would then be altogether empty, null, and meaningless. But since intuition stands in no need whatsoever of the functions of thought, appearances would nonetheless present objects to our intuition.⁴⁹

No experience would be possible in this “confusion” but only a rhapsody of perceptions. The predicament outlined in section five is somehow parallel to the one just examined. It is, however, placed on a different level of experience. If we did not assume the possible unity of a system of experience (or the synthetic unity of nature’s manifold particular forms), every given particular would subsist separately from all others and we would have no possibility of connecting them in a meaningful way. In this world, Linnaeus would never have been able to recognize and construct an ordered system of nature—but in this world natural beauty would also not be connected with the meaningful experience that produces a peculiar aesthetic pleasure in us. And yet, significantly, in the *Critique of Judgment* the possibility that the empirical manifold of nature’s forms were

48. KANT, PURE REASON, *supra* note 7, at A89/B122, at 222.

49. *Id.* at A90/B123, at 223 (emphasis added).

disconnected from the world ruled by the understanding's legislation is not raised as the basis for a deduction. Insofar as the principle of formal purposiveness is concerned, the still persisting possibility of facing a chaotic world restates the validity of a principle that is only regulative, heuristic, and subjectively necessary, employed for reflection and not for the determination of objects.

To conclude, following the principle of the reflective faculty of judgment, we can assume that "nature specifies its universal laws according to the principle of purposiveness for our cognitive faculty,"⁵⁰ and that the heterogeneity of nature's forms responds to an order fully comprehensible to the human mind. Thereby it becomes possible to *find* the universal for a particular case empirically given in perception—a problem that neither the understanding nor the determinant faculty of judgment could solve. Furthermore, it becomes possible to establish connections among a manifold of different empirical cases, and hence to arrange our empirical cognitions in the coherent unity of a system. This arranging is the work of the *reflective* faculty of judgment. Its principle defines the limits of our searching endeavors with regard to nature's empirical laws and is the transcendental ground common to our aesthetic and teleological experience of nature in its manifold particular forms.

50. KANT, JUDGMENT, *supra* note 1, at 186, at 25.