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Reflections of Reason: Kant on Practical Judgement

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Abstract

My aim in this article is to provide an account of practical judgement, for Kant, that situates it within his theory of judgement as a whole – particularly, with regards to the distinction between the determining and reflecting use of judgement. I argue that practical judgement is a kind of determining judgement, but also one in which reflecting judgement plays a significant role. More specifically, I claim that practical judgement arises from the cooperation of the reflecting power of judgement with the faculty of reason – the former assisting the latter in the application of its principle. I conclude by considering a possible role for feeling in practical judgement.

Keywords: Kant; practical judgement; reflection; determination; O'Neill

1. Introduction

While judgement is undoubtedly a central notion in Kant's critical philosophy, it receives far less attention in his practical philosophy than it does in both his theoretical philosophy and aesthetics. Indeed, Kant devotes only a few pages to the topic of judgement in the *Critique of Practical Reason* – in a section entitled the Typic of Pure Practical Judgement (CPrR, 5: 67–71).¹ Unfortunately, the notion of a practical judgement, for Kant, remains underexplored in the literature in a way that mirrors his own seeming neglect of the topic. Commentators who discuss Kant's theory of judgement overwhelmingly (and often, exclusively) deal with his account of judgement in either the first or third *Critique* – which is to say, the theoretical or the aesthetic contexts.²

Those who *do* discuss practical judgement tend to focus on the 'practical' aspects of it – e.g. moral dilemmas, conflicts of duties and hard cases (e.g. Herman 1993) – without raising the question of the nature of practical judgement itself.³ To make matters worse, practical judgement seems to resist being easily understood as an instance of judgement in general: namely, the thinking of a particular under a universal. For unlike theoretical judgement, which seeks to subsume a given object under a concept (which may or may not be given), practical judgement starts only with a given universal (e.g. a moral principle or rule) and seeks to bring about an object that is not given and does not even yet exist. In other words, the productive

dimension of practical judgement poses a challenge for thinking of it in terms of relating particulars and universals. For this reason, most commentators have shied away from trying to explain practical judgement in terms of the distinction between the ‘determining’ (*bestimmend*) and ‘reflecting’ (*reflectirend*) use of the ‘power of judgement’ (*Urteilkraft*). In what follows, I show that there is a way of making sense of practical judgement in relation to what I take to be this central feature of Kant’s overall account of judgement.

My aim in this article is to articulate the general structure of the activity of practical judgement by situating it within Kant’s theory of judgement as a whole. I argue that practical judgement is a kind of determining judgement, but also one in which reflecting judgement plays a significant role. I begin by providing a general overview of Kant’s conception of judgement (section 2). I then discuss some of the problems posed by trying to make sense of practical judgement (section 3). To motivate the problem further, I consider a reading of Kant on practical judgement from Onora O’Neill, who suggests that it is neither determining nor reflecting (section 4). After this, I put forward a way of thinking about practical judgement that is rooted in an appreciation of the role that the power of judgement – understood as an essentially reflective faculty – plays in bringing about any judgement at all (section 5). More specifically, I claim that practical judgement arises from the cooperation of the reflecting power of judgement with the faculty of reason – the former assisting the latter in the application of its a priori principle. I show how this also makes it an instance of determining judgement, and discuss the implications of this for how we think about both determination and subsumption. I conclude by considering a possible role for feeling in practical judgement (section 6).

2. Kant on the power of judgement in general

Our starting point for trying to understand what a practical judgement *is*, for Kant, must be the faculty of the mind that he calls the ‘power of judgement’ (*Urteilkraft*), which is responsible for producing the different kinds of judgements we find throughout the three critiques.⁴ In the first *Critique*, Kant defines the power of judgement ‘in general’ (*überhaupt*) as ‘the faculty of subsuming under rules, i.e., of determining whether something stands under a given rule or not’ (A133/B172). Kant recognizes the need to distinguish faculties that generate rules or principles from a faculty that is capable of applying those rules. Insofar as rules are inherently general, which is to say, can be applied to more than one case, there must be a separate faculty responsible for recognizing when a rule applies in a given case. For a gap always remains between the generality of a rule and the particularity of a case, one that can never be closed by rules themselves. One might grasp a rule, but fail to apply it correctly. Kant uses the example of doctors and lawyers who possess relevant theoretical knowledge (say, of anatomy or a legal code), but are unable to apply it to actual cases. For example, a doctor may possess the concept ‘typhoid’, but be incapable of diagnosing a patient who has it; a lawyer may grasp the difference between ‘homicide’ and ‘manslaughter’, but be unable to discern which of these applies to the defendant before him. Moreover, the task of distinguishing whether something stands under a certain rule or not cannot be governed by a rule, on pain of regress: this rule would require another rule *ad infinitum*. Something must stop the

regress to secure the possibility of making any judgement whatsoever. Kant claims that the power of judgement does this, calling it ‘a special talent that cannot be taught but only practiced’; a ‘sharpened’ power of judgement is a skill that can only be acquired through experience (A133/B172). No amount of concepts or depth of understanding of rules can make up for an inability to determine when to apply them.

Kant provides a similar definition of the power of judgement in the third *Critique*: ‘the faculty for thinking of the particular as contained under the universal’ (CPJ, 5: 179). This time, however, Kant makes a distinction between two uses of this faculty, which he refers to as ‘determining’ (*bestimmend*) and ‘reflecting’ (*reflectirend*). The distinction hinges on whether a universal (a rule, principle, law or concept) is given (FI, 20: 211). When it is, the task of the power of judgement is to subsume a particular under it. For example, I might say of an object in front of me that it is a tree; I make a determining judgement insofar as I apply the concept ‘tree’ to it. Yet sometimes there is no universal at hand under which a particular could be subsumed. For example, the first time that I saw a tree, I did not possess the relevant concept. When only the particular is given, one must search for a universal under which it could be placed. Only after reflecting on the particular as such (and presumably, other trees) does one arrive at the concept ‘tree’ (which, notably, can then be used to make determining judgements in the future).⁵

To further complicate matters, in addition to the *dichotomy* between determining and reflecting judgement, Kant also puts forward a *trichotomy*: ‘The judgements that arise in this way from *a priori* principles peculiar to each of the fundamental faculties of the mind are theoretical, aesthetic, and practical’ (FI, 20: 246; cf. CPJ, 5: 197n.). This threefold distinction corresponds to the three critiques, rather than two different exercises or uses of the power of judgement. We will have occasion to consider the intricacies of Kant’s faculty psychology shortly, but for now we can note that Kant takes there to be three fundamental faculties (*Grundvermögen*): cognition (*Erkenntnisvermögen*), the feeling of pleasure and displeasure (*Gefühl der Lust und Unlust*) and the faculty of desire (*Begehrungsvermögen*) (CPJ, 5: 176).⁶ What makes them fundamental is precisely the fact that they cannot be reduced to a single faculty (contra the Leibnizian-Wolffian tradition, for whom all of the faculties are reducible to the cognitive faculty). Kant claims that this can be seen by the ‘great difference’ between the kinds of representations they yield (FI, 20: 206). His threefold division of the fundamental faculties thus corresponds to three distinct kinds of judgements, each governed by a unique normative principle (CPJ, 5: 196; FI, 20: 245–6). It is important to highlight that Kant does not individuate judgements based on their content, but rather in terms of the faculties and principles that yield them. For example, what makes the judgement ‘Murder is evil’ moral and ‘The painting is beautiful’ aesthetic has less to do with the fact that these are *about* badness and beauty, respectively, and more to do with the faculty from which they originate and the norm governing it.

3. Kant on practical judgement

We can now zero in on practical judgement. From what we have seen so far, several questions arise. Concerning the dichotomy: is practical judgement determining or reflecting? both? neither? Additionally, does the fact that practical judgement deals

with possible (i.e. non-existing) action pose a problem for thinking about it in terms of *applying* a rule to a case, or, relatedly, *subsuming* a particular under a universal? Concerning the trichotomy: how, if at all, does the dichotomy between determining and reflecting map onto it? Looming behind these questions is Kant's definition of judgement 'in general' – the thinking of a particular under a universal. Most broadly, then: can we think of practical judgement in terms of universal–particular relations? Indeed, what would be the relevant universal and the relevant particular?

We should note that the term 'practical' means something specific, for Kant. It is the domain where the higher cognitive faculty of reason is considered in relation to the fundamental faculty of desire (*CPJ*, 5: 197–8, *FI*, 20: 245–6). He defines 'desire' as 'a being's faculty to be by means of its representations the cause of the reality of the objects of these representations' (*CPrR*, 5: 9n.). It is within the faculty of desire that Kant locates the will: 'a faculty either of producing objects corresponding to representations or of determining itself to effect such objects ... that is, of determining its causality' (*CPrR*, 5: 15). To have a will is to be able to bring about an object that one desires by representing it to oneself prior to its existing (*MM*, 6: 213).

Additionally, Kant distinguishes between the 'technically' and 'morally' practical, deeming only the latter to be truly practical (*CPJ*, 5: 171–3; cf. *FI*, 20: 195–201). The former includes what Kant calls 'rules of skill' and 'counsels of prudence' – imperatives whose 'ought'-ness is grounded in the fact that '[w]hoever wills the end also wills ... [the] means' (*G*, 4: 416–17). The technically practical merely says what actions are required in order to bring about a certain effect (*CPrR*, 5: 26n.). When I set certain ends for myself, the specific actions that I ought to do to achieve these ends are entirely derivable from theoretical philosophy (by way of empirical knowledge, facts about the world). What separates the technically and morally practical is nothing less than the determining ground of the will; in the former, it is a concept of nature, rather than a concept of freedom. This distinction maps onto the better-known distinction between hypothetical and categorical imperatives. While certain judgements might appear practical by being about action, what matters is whether their principle is a law of nature or a law of freedom. This is why it is important to observe the proper way to individuate judgements, according to Kant: by their principles. Thus, only moral judgement is genuinely practical.

It is also important, before moving forward, to distinguish practical judgement from practical reason. The notion of practical reason tends to get used as the umbrella term for all matters related to moral agency and deliberation, as well as instrumental (means-ends) reasoning. Insofar as practical reason is construed generally as reasoning about what we ought to do, one might think that practical judgement is simply an 'aspect' of practical reason (O'Neill 2018: 81, 84). Still, we should appreciate the essential role that it plays in the exercise of practical reason, without which we would be stuck at the level of general representations. Kant famously identifies the will with practical reason '[because] reason is required for the derivation of actions from laws' (*G*, 4: 412). Yet there is an ambiguity concerning the term 'action'. I suggest that we can understand the distinction between practical reason and practical judgement in terms of the distinction between an act-type and an act-token. Practical reason tells us that a certain type or kind of action is good, by moving from the moral law (the concept of duty as such) to a maxim (a principle of duty) – while practical judgement tells us which act-token would instantiate this type, by moving from a

maxim to a concrete action.⁷ Kant points to a division of labour between reason and judgement when he says that ‘the law can prescribe only the maxim of actions, not actions themselves; this is a sign that it leaves a playroom (*latitudo*) for free choice in following (complying with) the law, that is, that the law cannot specify precisely in what way one is to act and how much one is to do’ (*MM*, 6: 390). He then connects this latitude with the need for judgement: ‘Ethics . . . unavoidably leads to questions that call upon judgement to decide how a maxim is to be applied in particular cases’ (*MM*, 6: 411). In other words, reason alone cannot tell us which act-token to perform. This is the task of practical judgement – without which, we can even say, pure reason could not be practical.

The ambiguity in the notion of an action extends to the sense in which the relevant particular in a practical judgement is merely possible, rather than given or actual. Kant opens the *Typic* by describing practical judgement as regarding ‘an action possible for us in sensibility’ and goes on to describe ‘the subsumption of an action possible . . . in the sensible world’ (*CPrR*, 5: 67–8). Here it seems that Kant is concerned with act-tokens. He then suggests that we ‘appraise actions as morally good or evil’ by asking whether ‘the action [we] propose . . . could indeed [be] regard[ed] as possible’ (*CPrR*, 5: 69). Such a process, he says, is a matter of testing ‘the maxim of the action’ to see whether it is ‘morally [possible or] impossible’ (*CPrR*, 5: 69–70). Here Kant seems to be concerned with act-types. Insofar as these are general kinds of representations, they are not capable of serving as a particular in a judgement. Moreover, possible act-types cannot be actualized in human behaviour except through the act-tokens that instantiate them. By contrast, possible act-tokens are particular and capable of being actual. In what follows, when I speak of possible actions, it is possible *act-tokens* that I focus on.⁸

4. Practical judgement: determining or reflecting?

Few commentators have discussed the notion of practical judgement as much as Onora O’Neill. Indeed, the topic of practical judgement pervades her recent collection of essays, *From Principles to Practice: Normativity and Judgement in Ethics and Politics* (2018).⁹ A central aim of O’Neill’s work has been to defend an ethics of principles against particularists, who deny that abstract and indeterminate rules can be action-guiding. Such an account naturally affords a central role to judgement. Since principles are inherently general, they do not spell out exactly what we are to do in every situation. Rather than assuming that principles must be able to provide us with specific answers in all cases if they are to be efficacious, we should instead recognize the ineliminable function of judgement in moral agency. In this, O’Neill is deeply indebted to Kant – and on this, we are entirely agreed.

O’Neill helpfully draws attention to the fact that practical judgement is forward-looking – concerned with ‘enacting’ or ‘instantiating’ norms or principles, rather than describing the way the world is (2018: 5, 133, 215).¹⁰ It is ‘deployed in producing or shaping a particular or pattern of action that is yet to be done’ (p. 89). Practical judgement thus deals with actions that are not yet actual or existing: ‘[it] cannot presuppose that the particular act that is to be done is there to be judged’ (2018: 89). Or, in Kant’s terminology: no particular is given. From this, she concludes that the determining–reflecting distinction does not bear on the matter of practical

judgement: ‘Neither is relevant to practical judgement’; ‘they have no role when no particular is (yet) given’ (pp. 82, 111). Instead, she claims, practical judgement is a third kind of judgement, for Kant – neither determining nor reflecting:

Practical judging . . . is neither determinant nor reflective. . . . [For] here no particular is ‘given.’ Practical judging must be undertaken *before* the relevant particular exists: we cannot pick out future act-tokens. It can therefore be *neither* a matter of applying concepts (i.e., subsuming particular cases under them) *nor* a matter of finding or devising (what are taken to be) useful, interesting, or revealing concepts or descriptions for particular cases. (pp. 123–4; her emphasis)¹¹

O’Neill thus rejects as irrelevant the notions of application (for there is nothing to apply the principle to), subsumption (nothing to subsume under the principle) and reflection (nothing to reflect on): ‘[I]t does not even make sense to speak of the task of judgement as that of “subsumption under principles” or “application of principles,” or even as that of finding the relevant (salient) description or principle: all of these notions presuppose that a particular is given’ (p. 91).¹²

To be clear on where my disagreement with O’Neill lies: the issue is not with the idea that in practical judgement ‘a particular which is to exemplify the principle, description, rule, law (or maxim) does not (yet) exist (and may never come to exist)’ (2018: 91). On the contrary, this unique feature of practical judgement is important to highlight. I depart from O’Neill only with regards to the conclusions we draw from this, namely, whether we can reconcile it with Kant’s own way of speaking about both judgement ‘in general’ and practical judgement in particular.

First, Kant’s distinction between determining and reflecting judgement certainly seems to be an exhaustive disjunction, which is to say, it is presented in a way that suggests all judgements are either determining or reflecting (or both). Recall that it immediately follows his definition of judgement ‘in general’ as the act of thinking a particular under universal. As we have seen, this act can proceed in two ways: either both a particular and a universal are given (in which case judgement determines how to subsume the former under the latter) or only a particular is given (for which judgement must find a universal). Since O’Neill sees practical judgement as a case where *only the universal* is given, she concludes that it cannot be construed as either of these two acts of judgement. As I will argue in what follows, practical judgement is an instance where both the particular and the universal are given; however, as will become clear, the sense in which a particular is ‘given’ in the practical case is importantly different from that of theoretical judgement (precisely because of the forward-looking character of practical judgement that O’Neill highlights).

We can put the point another way by considering how Kant’s twofold division between the *uses* of judgement (reflecting/determining) maps onto his threefold division between *kinds* of judgements (theoretical, practical, aesthetic). O’Neill claims the distinction between determining and reflecting only exists within ‘theoretical’ judgement, which she defines as one that ‘focuses on a particular situation that is already present to be judged’; both determining and reflecting judgement, she says, operate on the assumption that ‘a particular aspect of the world is there to be judged’ (2018: 81–2, 89–90, 110–11).¹³ Accordingly, she holds that practical judgement is

neither determining or reflecting. Yet there are reasons to see practical judgement as determining as well, insofar as Kant sees both the theoretical and the practical as domains of philosophy in which there are constitutive principles a priori (i.e. universals under which particulars can be subsumed).¹⁴ We can recognize, with O'Neill, a distinction between determining and reflecting judgement within theoretical reason so long as we do not limit it to this domain. Moreover, as I show below, Kant sees the activity of reflection as involved in all acts of judgement (most notably, of course, those of 'mere' reflection), which gives us reason to think that he associates the reflecting use of judgement with all three types of judgement – not only the theoretical and the aesthetic.¹⁵

In the Typic section of the second *Critique*, Kant describes 'practical judgement' (*praktische Urteilskraft*) as a matter of determining 'whether an action possible for us in sensibility is or is not a case that stands under [a practical rule of reason]', and thus the act 'by which what is said in the rule universally (*in abstracto*) is applied to an action *in concreto*' (CPrR, 5: 67; emphasis mine).¹⁶ In addition, he describes practical judgement as the '[s]ubsumption of an action possible to me in the sensible world under a pure practical law' (CPrR, 5: 68; emphasis mine). Kant's language here suggests that practical judgement involves: (i) possible actions as particulars, (ii) the application of general rules to concrete cases and (iii) the subsumption of particulars under universals.¹⁷ We should not take this to be a merely terminological point, nor should we interpret it to mean that practical judgement is the same as theoretical judgement just because it shares some common features.

There are two ways of responding to the above passages and aspects of Kant's overall theory of judgement. First, with O'Neill, one could claim that a possible and non-existent action is not a particular (i.e. not something that could be subsumed under a universal or to which a rule could be applied). One might think that there are good philosophical grounds for this position. But it would also involve claiming that Kant does not have the resources to account for practical judgement. In doing so, one would be opting for an account that would seem to better accommodate the peculiarities of practical judgement, even if it meant being less faithful to the text. Alternatively, one might see this as an occasion to think further about what it means for a particular to be given – whether a representation of a possible action can count as a particular, or whether it needs to exist, or be actual. There is no doubt that whatever it might mean for a particular to be given in the case of practical judgement, which is productive of its object, would look entirely different than the case of theoretical judgement, where an object is given in actuality (via sensible intuition). But we should not take for granted that 'given' just means 'exists in actuality', as O'Neill seems to think. Nor should we be too quick to dismiss the idea that practical judgement might still be understood in terms of universal-particular relations and thereby situated within Kant's conception of judgement in general. In what remains, I aim to do just this.

5. Reason and reflecting judgement

Kant's trichotomy of judgements (theoretical, practical, aesthetic) corresponds to what he calls the three 'fundamental' faculties (*Grundvermögen*): cognition, desire and feeling. We now must draw on further elements of Kant's faculty psychology to

provide an account of practical judgement – specifically, his introduction of an even further trichotomy within one of the fundamental faculties themselves. Kant distinguishes between ‘higher’ and ‘lower’ sub-faculties of cognition, and adheres to a tripartite division of the former: ‘General logic is constructed on a plan that corresponds quite precisely with the division of the higher faculties of cognition. These are: understanding, the power of judgement, and reason. In its analytic that doctrine accordingly deals with concepts, judgements, and inferences’ (A130–1/B169).

So, there are three fundamental faculties and three higher cognitive faculties. What is important for our purposes is that Kant associates each of the fundamental faculties with a higher cognitive faculty in a fruitful way – namely, each of the former has a unique a priori legislative principle, given by the latter. This is the ‘something systematic’ of which Kant refers in his famous letter to Reinhold (Corr, 10: 513–16). The clearest exposition of this comes at the end of the third *Critique’s* introductory material. It appears in the form of a chart, which correlates the three fundamental faculties with their respective higher cognitive faculties, along with noting their guiding principles and application (CPJ, 5: 196–8; cf. FI, 20: 245–6; MM, 6: 211–14).

All faculties of the mind	Faculty of cognition	A priori principles	Application to
Faculty of Cognition	Understanding	Lawfulness	Nature
Feeling of Pleasure and Displeasure	Power of Judgement	Purposiveness	Art
Faculty of Desire	Reason	Purposiveness that is at the same time law (Obligation)	Freedom

Kant lists the three fundamental faculties in the first column, and the higher cognitive faculties in the second. Note that while one of the fundamental faculties is the faculty of cognition, there is also a sub-faculty of cognition corresponding to each fundamental faculty. The first column refers to the faculty of cognition in general, while the second refers to its three sub-faculties. Each of these ‘take their place’ next to a fundamental faculty (FI, 20: 245). The key to understanding the relationship between the first and second column lies in the third column, where Kant lists the a priori principle that arises from the legislation of the latter for the former. It is the specific relation of the higher cognitive faculty of reason to the fundamental faculty of desire that concerns us here.

Higher cognitive faculties, for Kant, have their own a priori principle (CPJ, 5: 345). Accordingly, he calls them ‘autonomous’ – for they give themselves their own law, rather than being given a law from without (CPJ, 5: 196; FI, 20: 225).¹⁸ As Deleuze puts it, in his extended essay on Kant’s faculty psychology, something is a ‘higher’ faculty of the mind ‘when it finds *in itself* the law of its own exercise’ (1984: 40). Thus, reason finds within itself the moral law, and legislates this for desire, i.e. the will (CPJ, 5: 178, 198). Yet reason cannot apply its law on its own. For this the power of judgement is needed. In the *Typic*, Kant invokes the power of judgement to explain how it is that

human beings can apply the moral law to specific situations. What sets it apart from reason (as well as understanding) is its unique ability to bring general representations to bear on particular ones. Reason is capable of bringing forth a universal, but it is not able to specify how it relates to specific cases. There can be no principles for the application of principles.

In what remains, I demonstrate that practical judgement is a matter of the power of judgement cooperating with the faculty of reason – the former assisting the latter in the application of its a priori principle. What this reveals, I argue, is that practical judgement is: (i) a kind of determining judgement, but also (ii) one in which reflecting judgement plays a significant role.

5.1 The (he)autonomy of reflection

The idea that practical judgement arises from the cooperation of the power of judgement and reason is suggested by Kant's reference to 'the judgements of practical reason' (CPrR, 5: 16) along with 'the judgement(s) of reason' (*im Urteil(e) der Vernunft*) more generally (5: 75, 78) – to 'reason in judging merely about the practical' (*blos über das Praktische urtheilenden Vernunft*) (5: 159) and 'practical reason (in its judgement (*im Urteil*) of what [one] ought to do)' (5: 93). What is more, Kant explicitly invokes the role of *Urteilkraft*, describing '[the power of] judgement under laws of pure practical reason' and 'the rule of [the power of] judgement under laws of pure practical reason' (5: 68–9; translation mine).¹⁹ He even refers, in the third *Critique*, to 'the practical power of reflecting judgement' (*die praktische reflectirende Urteilkraft*) (CPJ, 5: 456). Such language suggests that the power of judgement is present and active in practical judgement, both applying the laws given to it by reason and in its reflecting capacity. In order to understand what a practical judgement is, as a product of these two faculties working together, we must know something about the nature of both of these faculties. I will take them in turn.

The position I argue for proceeds from the following claim (which I defend in detail elsewhere): that the power of judgement is reflecting judgement.²⁰ A correlate of this is the notion that determining judgement takes place when *this* capacity works with either the understanding or reason. What this means for the relationship between determining and reflecting judgement is that the two are not, as it were, 'on par' with each other as two co-equal uses of a singular power. Rather, reflecting judgement lays exclusive claim to being the power of judgement, while determining judgement is not a faculty at all – but rather something that arises from the exercise of the *reflecting* power of judgement with one of the two other higher cognitive faculties. To appreciate this claim, we must attend to Kant's conception of reflection, including his identification of it with the autonomous higher cognitive faculty that he calls the 'power of judgement'.

Shortly after distinguishing determining and reflecting judgement, Kant defines 'reflection' as follows: 'To reflect ... is to compare and to hold together given representations either with others or with one's faculty of cognition' (FI, 20: 211). The notion of reflection appears in a variety of contexts across Kant's critical philosophy.²¹ Commentators generally distinguish between two main species of reflection, following from Kant's own definition: logical and transcendental. The most well-known account of the first kind of reflection is in the Jäsche logic, where Kant

describes the threefold activity of comparison/reflection/abstraction by which one forms empirical concepts. A concept, Kant says, is a 'reflected representation' because its universal form originates in (and owes itself to) the logical act of reflection (JL, 9: 91, 94). Kant's main discussion of transcendental reflection appears in the Amphiboly chapter of the first *Critique* (A260–3/B316–19). Rather than comparing representations to each other, we compare them with their corresponding cognitive faculty (i.e. sensibility or understanding). Transcendental reflection is necessary for ensuring that we do not make erroneous judgements – e.g. by failing to treat an appearance as rooted in sensibility.

We should want to know how these various types of reflection relate to the reflecting power of judgement. Most commentators use 'reflection' and 'reflecting judgement' interchangeably. For example, Longuenesse describes the activity that generates empirical concepts as 'a progress from sensible representations to discursive thought: the formation of concepts through comparison/reflection/abstraction, *which is just what reflective judgement is: finding the universal for the particular*' (1998: 164–5; emphasis mine). In other words, she sees logical and transcendental reflection as ultimately involving the same activity, namely, the seeking out of a universal for a particular.²²

All of this is complicated by the fact that Kant refers to a further kind of reflection in which no concept is found: aesthetic judgement. Not only that, but he seems to take it to be the paradigmatic exercise of reflecting judgement.²³ Kant refers to this activity in a variety of ways, including: 'mere reflection', 'merely reflecting' judgement and a 'judgement of mere reflection' (FI, 20: 220–1). In addition to the fact that Kant defines 'reflection' immediately after 'reflecting judgement', this suggests that the two terms are not mutually exclusive.

While I cannot take up the precise relation between the two here, I operate on the assumption that reflection is an activity of the power of judgement. In this way, I opt for a broad and inclusive account according to which logical, transcendental and aesthetic reflection are nothing but various exercises of the reflecting power of judgement. This is not to say, however, that all acts of reflection result in reflecting judgements. In other words, we must distinguish the *activity* of reflection, as something that I claim is common to all judgements, from *judgements* of reflection, a specific type of judgement that arise when the power of judgement is not assisting another faculty in applying its determining principles (i.e. aesthetic and teleological). The latter is what Kant calls 'mere reflection', as it is a judgement in which the activity of reflection persists. In claiming that practical judgement is reflecting, I am not claiming that practical judgements are judgements of reflection, but rather that practical judgement is a kind of determining judgement that involves the activity of the reflecting power of judgement.²⁴

The structure of the activity of reflection, as we see from Kant's definition, is a matter of holding up and comparing various representations to one another or our faculty of cognition. Insofar as aesthetic judgement is paradigmatic of reflection, this is exhibited in what Kant calls 'free play', in which I hold my imagination and understanding up to each other, perceiving their agreement even in the absence of any determinate concept from the latter (CJ, 5: 217). In the absence of a universal, these two faculties attempt to harmonize freely; the imagination attempts to connect what it combines in intuition with the understanding's demand for lawfulness, or

conceptualization. In other words, since the understanding is not instructing the imagination on how to synthesize what is given, the latter faculty strives to take up the world in such a way that it could agree with the former's desire to 'advance from intuition to concepts' (*CPJ*, 5: 287). While the activity of 'mere' reflection is characterized by holding up and comparing various representations in the absence of a universal, reflection also occurs in the holding up and comparing of representations of both particulars and universals. That is, even when a universal is given, the activity of reflection is still required to determine whether the particular belongs under it.

Notably, it is reflection – and not determination – that Kant considers autonomous. For only it is based 'in a rule of the higher faculty of cognition, in this case, namely, in the rule of the power of judgement, which is thus legislative with regard to the conditions of reflection *a priori*, and demonstrates autonomy' (FI, 20: 225). Kant distinguishes the autonomy of reflecting judgement from the autonomy of the other two higher cognitive faculties – even introducing a special term to mark the distinctive self-legislation of the power of judgement: *heautonomy*. Though Kant only uses this term twice in the third *Critique*, his remarks on it are instructive. The power of judgement 'prescribes a law, not to nature (as autonomy), but [solely] to itself (as heautonomy)' (*CPJ*, 5: 185–6; FI, 20: 225).²⁵ Unlike understanding and reason, the power of judgement 'can claim no field of objects as its domain' (*CPJ*, 5: 177). Thus, the idea of purposiveness 'serves as a principle, merely for the subject' (FI, 20: 205). The principle of purposiveness is not a principle for judging about objects, but instead only governs the subject's own activity of judging. As Floyd observes, what is distinctive about the autonomy of reflecting judgement is that it 'can only be exercised relative to itself and its own activities' (1998: 205).

Accordingly, Kant holds that it is only the *reflecting* power of judgement that is fit to undergo critique and generate a transcendental principle: 'a critique of the power of judgement . . . must be grounded on the distinction that it is not the determining but only the reflecting power of judgement that has its own principles *a priori*' (FI, 20: 248). Reflecting judgement 'cannot derive [its principle] from anywhere else (for then it would be the determining power of judgement)' (*CPJ*, 5: 180). By contrast, determining judgement always requires the contribution of another faculty; it is always a matter of a law being given from elsewhere. For this reason, Kant calls the power of judgement in determining judgement 'heteronomous': it 'operates only . . . under laws of another faculty' (FI, 20: 248; cf. *CPJ*, 5: 183, 389).²⁶ Lacking its own principle, it has 'no autonomy' and '[does] not in fact properly belong to the power of judgement at all' (*CPJ*, 5: 385, 361). In sum, determining judgement fails to meet the criteria for being a higher cognitive faculty. By contrast, reflecting judgement is autonomous, giving itself its own law. Hence, it alone can lay claim to being the higher cognitive faculty that Kant calls the 'power of judgement'.

Kant describes the power of judgement as an 'intermediary' between the two other higher cognitive faculties, the understanding and reason (*CPJ*, 5: 168, 177). Both can enlist the power of judgement to bring about determining judgements (either theoretical or practical, respectively). Like schemata, which must be 'homogeneous' with both intuitions and concepts, the power of judgement *itself* can be 'annexed' by either the theoretical or practical domains (A137/B176; *CPJ*, 5: 168). In practical judgement, reason provides a universal under which a particular can be subsumed; the power of judgement facilitates this subsumption. Of course, we have not yet said

anything about the relevant universal and particular in this instance. But first we will turn to the nature of reason.

5.2 Reason and the practical syllogism

The faculty of 'reason' (*Vernunft*) receives a variety of definitions throughout the critical philosophy – most notably, as 'the faculty of principles' (A299/B356). It is also 'the faculty for the determination of the particular through the general (for the derivation from principles)' (FI, 20: 201), and, similarly, 'the faculty of deriving the particular from the universal and thus of representing it according to principles' (*Anth*, 7: 199; cf. L-Log, 24: 703–4). Because it allows us to say something new about a particular case based on a general rule, or to arrive at something unknown on the basis of what is known, Kant conceives of reason as the faculty of inference (L-Log, 24: 693). He thus associates it closely with the syllogism, defining it as 'the faculty of inferring' and so as:

judging mediately (through the subsumption of a condition of a possible judgement under the condition of something given). The given judgement is the universal rule (major premise). The subsumption of the condition of another possible judgement under the condition of the rule is the minor premise. The actual judgement that expresses the assertion of the rule in the subsumed case is the conclusion. The rule says something universal under a certain condition. Now in a case that comes before us the condition of the rule obtains. Thus what is valid universally under that condition is also to be regarded as valid in the case before us (which carries this condition with it). (A330/B387; cf. FS, 2: 59)

Kant's most extensive discussion of syllogism comes in the first *Critique's* Transcendental Dialectic, particularly, in a section concerning what is referred to as the 'logical' use of reason, in contrast with its 'real' use (A299/B355). Here Kant considers the exercise of reason in abstraction from the content of this or that cognition, focusing on its inherently inferential function. What is most notable about Kant's remarks on syllogism in this section is that each of the three parts of a syllogism are associated with one of the three higher cognitive faculties, the latter being chiefly responsible for that part. First, the understanding provides the major premise, which Kant also calls the 'rule' (e.g. 'All human beings are mortal'). Second, the power of judgement provides the minor premise, in which a particular cognition is subsumed under the condition of the rule (e.g. 'Socrates is a human being'). Finally, reason draws a conclusion about the particular on the basis of the general rule (e.g. 'Socrates is mortal') (A304/B360; cf. *Refl*, 16: 99).

We can thus see the contribution that the power of judgement makes to a syllogism – and, more generally, appreciate the way in which it assists reason. One could not deduce anything from a general rule alone, nor from a single premise. Using the above example: one could not simply state that all human beings are mortal and then immediately conclude that Socrates is mortal. This is because one has not subsumed 'Socrates' under the concept 'human being' (the condition of the rule) – the task performed by the power of judgement (cf. JL, 9: 120). Only following this

subsumption can reason make use of the general rule in order to make the inference that 'Socrates' also goes with 'mortal'. Similarly, one could not merely posit a categorical imperative (or some abstract moral principle) and then, merely on the basis of this, conclude what one ought to do in one's present situation. Simply possessing the adequate rule or maxim does not allow one to deduce what one ought to do in any given case. Here we need only to remember Kant's famous remark in the first *Critique* about those who grasp a rule but are unable to apply it. Merely supplying the major premise is insufficient; an act of judgement is needed.

While syllogism enjoys a special closeness to reason, Kant nonetheless conceives of a syllogism itself as a kind of judgement, namely, a mediate, rather than an immediate, one (FS, 2: 59). Hence, we can represent practical judgement syllogistically insofar as it is a kind of determining judgement, that is, one in which a universal is given. Kant gives us a clue as to what this looks like when he describes the structure of the second *Critique's* Analytic (principles, concepts, incentives) as mirroring that of a syllogism: 'proceeding from the universal in the *major premise* (the moral principle), through undertaking in a *minor premise* a subsumption of possible actions (*möglicher Handlungen*) (as good or evil) under the former, to the *conclusion*, namely, the subjective determination of the will (an interest in the practically possible good and in the maxim based on it)' (CPrR, 5: 90; cf. MM, 6: 313). In any syllogism the major premise states a general rule (namely, that a certain predicate applies to anything that meets a certain condition), while the minor premise states that this condition in fact applies to a certain something. In the minor premise of a practical syllogism, a specific action is subsumed under the condition of the moral law (the general rule stated in the major premise).

5.3 Practical judgements as determining

Several conclusions can be drawn from considering practical judgement in relation to the practical syllogism. I have already claimed that practical judgement arises from the power of judgement assisting reason in applying its law. This, I also claim, makes it a kind of determining judgement. We can see what this looks like by attending to the relationship between universals and particulars in practical judgement.

- (i). The major premise is a practical principle. Kant opens the second *Critique* by defining practical principles as 'propositions that contain a general determination of will' (CPrR, 5: 19). There are two main kinds of practical principles: maxims and laws, distinguished in terms of subjectivity and objectivity, respectively. Practical principles are 'subjective, or maxims, when the condition is regarded by the subject as binding only for his will' (CPrR, 5: 19). A 'maxim' is thus a subjective principle of action; it is the rule according to which *I* act.²⁷ Practical principles 'objective, or practical laws, when the condition is cognized as objective, that is, as holding for the will of every rational being' (CPrR, 5: 19). As an objective principle of action, laws specify the rule according to which *I ought* to act – in virtue of being the rule according to which *all* rational beings ought to act. Practical rules, Kant says, are 'always a product of reason' (5: 20). A rule of reason is called an 'imperative' insofar as it contains an 'ought'; it is binding on wills that

are not subjectively necessitated to be determined by this principle alone (cf. *G*, 4: 421n.).

- (ii). The minor premise is the subsumption of a possible action under the concept of good or evil. To have a concept of an object of practical reason is to represent some object as the kind of thing one could bring about through the will (*CPrR*, 5: 57). Kant contends that there are only two concepts of *pure* practical reason: ‘The only objects of a practical reason are therefore those of the good and the evil’ (5: 58). These concepts function as the condition of the rule stated in the major premise (a rule defining what is good ‘in general’). In the minor premise, we say of some object that we could bring about through our will – and thus some action that we could perform – that it is morally good or not.
- (iii). The conclusion states whether I should bring about the action. Having stated a general moral principle (in the major premise) and judged that a specific action is good or evil (in the minor premise), we can then infer that the action is morally required (or not). This concrete imperative should not be confused with the imperative of the major premise. Insofar as a practical principle is a *general* determination of the will, it cannot tell us what to do in a specific situation. As the conclusion of a practical syllogism, it would be quite unhelpful. Rather, we are specifying what we ought to do, as Kant says, ‘in the case at hand’ (*MM*, 6: 313). I take the goodness of the action, judged in the minor premise, as a reason for judging that the action should be performed. Hence, the conclusion of a practical syllogism must be something that could serve as the determining ground of my will.

The idea that practical judgement is determining has interesting implications for how we think about determination – and, relatedly, subsumption. When commentators invoke the distinction between determining and reflecting judgement, they almost never mention a further distinction within determining judgement, namely, between theoretical and practical.²⁸ Indeed, a theoretical determining judgement is often taken as either the paradigm case of determining judgement or even as exhausting the notion of determining judgement as such – even though Kant recognizes two species of determining judgements. Both nature and freedom, Kant says, ‘have their own special, determining principles *a priori* and therefore constitute the two parts of philosophy (the theoretical and the practical)’ (*FI*, 20: 246). Accordingly, this yields two types of ‘judgement of cognition’ – ‘theoretical’, ‘grounded in the concept of a nature in general through the understanding’ and ‘practical’, ‘grounded in the idea of freedom as given *a priori* by reason’ (*CPJ*, 5: 280). While the former ‘represents what a thing is’, the latter says ‘that I, in order to produce [the thing], ought to perform something’ (*CPJ*, 5: 280). Moreover, in the B-Preface to the first *Critique*, Kant describes two ways that an *a priori* cognition ‘can relate to its object’ – by determining it through a concept (in which case, the object ‘must be given from elsewhere’), or by ‘making the object actual’ (Bx). What is distinctive about the practical determining judgement, then, is that we determine how to produce an object by means of our freedom – rather than determining something about an already existing object in the world (cf. *RefI*, 16: 666).

In a related vein, one might think that subsumption is unique to the kinds of judgements that Kant discusses in the first *Critique*.²⁹ After all, Kant there defines the power of judgement as the faculty of ‘subsuming’ a particular under a universal, whereas the third *Critique* definition shifts to ‘thinking’ one under the other. However, Kant continues to define the power of judgement as a faculty of subsumption in general (FI, 20: 201; L-Log, 24: 693, 703). What is more, he characterizes reflecting judgement itself as an act of subsumption: ‘Now since no concept of the object is here the ground of the judgement, it can consist only in the subsumption of the imagination itself . . . under the condition that the understanding in general advance from intuition to concepts’ (CPJ, 5: 287). Despite there being no universal at hand, a subsumption still occurs – ‘not of intuitions under concepts, but of the faculty of intuitions or presentations (i.e. of the imagination) under the faculty of concepts (i.e. the understanding)’ (CPJ, 5: 287). Kant contrasts the subsumption of reflection – which must ‘subsume under a law that is not yet given’ – with the subsumption of determining judgement, which ‘merely subsumes under given laws or concepts’ (5: 385).

That there are two kinds of subsumption – that of reflecting and determining judgement – and two kinds of determining judgement suggests that there is a kind of subsumption that is unique to practical judgement. Whereas subsumption in the theoretical case brings an intuition of a given object under a concept, practical judgement is given nothing to subsume. As we have seen, Kant describes the thing being subsumed as a ‘possible action’ (CPrR, 5: 68, 90). This makes practical subsumption different from both theoretical determining judgement and merely reflecting judgement, as something that takes place *in* practical judgement’s production of its object.

We can now see that Kant does not limit determining judgement to cases where universals are applied to particulars that are given in actuality, or already existing. Instead, he thinks that, in the practical case, we produce a particular that we can then reflect on, in order to subsume it under a moral rule. While some might resist thinking of practical judgement as determining because it implies that it is mechanical and leaves no leeway for the exercise of judgement, we need not accept this as a conclusion. For the question of leeway is not a question of what one’s duty *is*, but rather of how one is to fulfil one’s duty – not a question of what the major premise *is*, but rather how to apply it in the minor premise. That lying is always wrong does not mean that the specific course of action I must take in order not to lie will always be apparent or uncontroversial in every case. Again, a grasp of the relevant rule is not enough; judgement is needed to apply the rule, that is, determine the concrete action that is to be done. Moreover, as I will now show, it is an act of reflection that makes such a determination possible.

5.4 Practical judgement as reflecting

I have shown that practical judgement arises when the power of judgement assists reason in applying its law. This makes it a kind of determining judgement. But practical judgement also involves an act of the reflecting power of judgement. As early as the first *Critique*’s Amphiboly section, Kant states that all judgements require reflection (A261/B317).³⁰ Most accounts of practical judgement that invoke reflection,

however, see it as a perception of the particularities of a situation. For example, Herman gives a Kantian account of ‘rules of moral salience’, while McDowell provides a more Aristotelian conception of deliberation as ‘a capacity to read the details of situations in the light of a way of valuing actions’ (Herman 1993: 78–98; McDowell 1996: 23, 26). For both, reflection is a matter of reflection on the specific circumstances one finds oneself in, with an eye towards its morally relevant features. When O’Neill says that ‘[a] focus on reflective judging will not reveal whether or how practical judging works’, she presumably has these views in mind (2018: 82). To be sure, understanding one’s context is undoubtedly an important aspect of moral agency that bears on practical judgement; moral reasoning that failed to make reference to this would remain at the level of act-types. Still, it alone cannot explain the precise sense in which practical judgement is reflective for Kant. We cannot subsume the background conditions of an action under a moral rule (though, to be sure, we incorporate aspects of it into our description of an act-token that we consider performing). The relevant particular in practical judgement, upon which we reflect, is the possible action itself.³¹

That practical judgement involves reflection follows from the claim that the power of judgement is an essentially reflective capacity. In other words, practical judgements are reflective because *all* judgements (including determining judgements) have a reflective basis. Recall that, for Kant, reflection in general is a matter of holding up and comparing various representations (to each other or to one’s faculty of cognition). He describes the supplying of a ‘type’ of the moral law as resulting in ‘[the] comparison of the maxim of [one’s] actions with a universal law of nature’ (CPrR, 5: 69; emphasis mine). Moreover, Kant says that in practical judgement, ‘reason . . . always holds the maxim of the will in an action up to the pure will, that is, to itself in as much as it regards itself as *a priori* practical’ (CPrR, 5: 32; emphasis mine; cf. CPJ, 5: 354). We can apply this language to the moment of practical judgement in the practical syllogism: I hold a possible action up against the concept of the morally good in the minor premise. Even though a universal is given in the major premise, this rule alone cannot instruct me on how to subsume in the minor premise. Reason legislates, and the power of judgement, in its cooperation with reason, is guided by the moral law, which it seeks to apply. This is just what it means for judgement to be reflecting even when it is determining.

6. Feeling and practical judgement

In conclusion, I want to note an interesting implication of the account I have given, concerning the role of feeling in practical judgement.³² We saw in the above chart that feeling and judgement bear a close relationship, via the principle of purposiveness – legislated for feeling by the reflecting power of judgement. While I cannot argue for the relationship between judgement and feeling here, I suggest that we understand it in the following way: what we are doing in reflection is affectively responding to various configurations of particulars and universals, that is, of the suitability of one thing for another. In reflecting, the power of judgement holds up and compares representations to each other – determining whether they belong together by *means of feeling*. There are at least three things that make this view attractive. First, it provides a straightforward way of understanding Kant’s solution to the regress

problem generated by discursive rules: it can only be stopped by non-discursive means. Judgement, as a faculty of applying rules that is not itself rule-governed, can only do so insofar as it is guided by feeling.

Second, granting feeling an essential role in reflection provides a degree of continuity between determining and reflecting judgement. These would have otherwise seemed likely markedly different exercises of the power of judgement: one involves applying a given universal to a particular, while the other involves searching for a universal for a particular. In mere reflection, it is easy to see where feeling steps in: in the absence of a universal, I have no other resources at my disposal except the feeling that my response is appropriate. Yet the presence of a rule in determining judgement (theoretical or practical) does not remove the requirement to reflect, namely, on whether a particular belongs under a universal. Indeed, even when one has mediating representations at their disposal (e.g. schemata), there can be no ultimate rule instructing me on how to subsume.³³ Rather, I hold the particular up to the universal and *just see* (or, *feel*) that this intuitive representation belongs with this discursive representation. Again, the power of judgement is reflecting even when it is determining.

Third, if I am right, there is a dimension of feeling in Kant's ethics that has not yet been appreciated. Most discussions of feeling in the literature pertain to the issue of moral motivation and the specific feeling of respect for the moral law (see e.g. Ware 2014). However, if feeling is needed to make judgements about whether a representation of a possible action should be subsumed under the concept of moral goodness, then we can locate feeling much earlier in the process of moral agency: it does not just enter at the point where we need the motivation to perform some action that is required, but rather at the moment we begin to determine *what* action is required. The cultivation of moral feeling, then, is not limited to the moment in moral agency where strength of will is called for, but includes the capacity to improve one's ability to discern the goodness of an action that one could perform.

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Notes

1 The situation in the *Groundwork* is hardly better, with judgement being mentioned on only a few occasions (4: 389, 407, 455). I refer to Kant's writings with the following abbreviations, followed by the Academy volume and page numbers: *Anth* = *Anthropology from a Pragmatic Point of View*; *Corr* = Correspondence; *CPrR* = *Critique of Practical Reason*; *CPJ* = *Critique of the Power of Judgement*; *FI* = First Introduction to *CPJ*; *FS* = 'The False Subtlety of the Four Syllogistic Figures'; *G* = *Groundwork of the Metaphysics of Morals*; *JL* = Jäsche *Logic*; *L-Log* = Lectures on Logic; *MM* = *Metaphysics of Morals*; *Refl* = *Reflexionen*. Citations from the *Critique of Pure Reason* will be evident from their conformity to the standard A/B pagination. English translations are from the volumes in the Cambridge edition of Kant's works unless otherwise noted.

2 Consequently, there has been comparatively less discussion of the relationship of the third *Critique* to the second and, by extension, reflecting judgement to practical reason. This article is an attempt to remedy this.

3 Because my aim is to articulate the overall structure of the activity of practical judgement, I do not discuss these accounts in detail. However, I hope to provide an account of what a practical judgement is, for Kant, that both undergirds and is compatible with any of these accounts.

4 The precise nature of the power of judgement is often overlooked (see e.g. Hanna 2017). The brief section in the second *Critique* where Kant discusses practical judgement is titled 'Typik der reinen praktischen Urteilkraft' ('Typic of the pure practical Power of Judgement'; emphasis mine), yet the translator of the most prominent English version renders it 'Of the Typic of Pure Practical Judgement'. Moreover, all instances of *Urteilkraft* in the text are simply rendered 'judgement' – implying *Urteil*. All of this obscures the fact that almost every reference to judgement in this section is specifically a reference to the faculty of the mind at work in bringing about judgements – not the products of these acts (*Urteil(e)*).

5 The precise relationship between determining and reflecting judgement is a complex issue, which I have discussed at length elsewhere (Dunn 2021). While I cannot present the argument here in detail, I provide a brief overview in section 5.

6 Kant also makes a threefold distinction between what he calls the 'higher' cognitive faculties – of which the power of judgement is one, along with the understanding and reason. I consider these in more detail in section 5, especially his association of each of these with a fundamental faculty via an a priori principle. Of particular interest to us will be the relationship between the higher cognitive faculty of reason and the fundamental faculty of desire through the moral law.

7 There is an extensive debate among commentators about what a maxim is. In his comprehensive survey of the literature, Gressis (2010a, 2010b) notes no less than eight views. I cannot take up this question here. For my purposes, what is important to note is that maxims are kinds of practical principles and therefore general in nature (no matter how specifically they are formulated). Insofar as maxims contain act descriptions, such descriptions are of act-types – not act-tokens. Accordingly, while the maxim is the object of moral assessment, the outcome of the universalizability test concerns the moral possibility of certain kinds of actions. What remains for a moral agent to determine is some act-token that instantiates the act-type. This is what I take practical judgement to consist in.

8 There are two further senses of possibility operative here: moral possibility (i.e. logically non-contradictoriness) and possibility in the sensible world, given the laws of nature (what Kant calls 'real' possibility). Here is not the place to discuss the various distinctions between kinds of possibility for Kant. What is important for the purposes of this discussion is that practical judgement concerns actions which are possible as opposed to actual.

9 I focus here on O'Neill's remarks concerning the nature of practical judgement in a handful of essays, originally written over the span of about thirty years. While my aim in this article is not primarily to rebut O'Neill (but rather to give a positive account of practical judgement), I note connections to her larger body of work when directly relevant.

10 O'Neill has written extensively on the relationship between principles and action – in particular, the way in which the descriptions of the latter contained in the former guide action (2014: esp. 10–13, 23, 47, 56–63). This involves both deciding whether the maxim of an action passes the universalizability test and the judgement that an action falls under the maxim (pp. 140–1). As noted, I take the former to pertain to act-types and the latter to pertain to act-tokens. The question of how these two moments of moral agency relate to each other – which is to say, how maxims are connected with practical judgement – is interesting but beyond the scope of this article.

11 Contra O'Neill, some commentators have suggested that practical judgement might be thought of as either determining or reflecting. For example, Longuenesse notes that, while Kant never invokes this distinction in his moral philosophy, it maps on to 'the (determining) application of the moral law in deciding to act, and the (reflecting) evaluation of a given action' (2005: 237–8, n. 3). That is, practical judgements are determining when they are a matter of stating 'what we are supposed to do' and reflecting when they are a concern 'evaluation [of] actions already performed' (p. 236). Alternatively, Beck claims that in the second *Critique*, 'Kant is concerned exclusively with determinative judgement: the principle being given, find the case to which it applies' (1960: 154n.). Similarly, Westra describes practical judgement as solely 'an exercise of the determining power of judgement' (2016: 24; see also 94–5, 161). The view I am defending here is closest to Grandjean, for whom a practical judgement is 'a reflecting judgement whose outcome is determining' (2004: 48–51).

12 O'Neill considers whether we could imagine possible actions, but claims this would be too abstract to guide action: 'what we conceive or imagine cannot be fully determinate', whereas 'act-tokens ... [are]

determinate in all respects' (2018: 89, n. 5, 121). It is unclear why O'Neill thinks that a particular needs to be completely determinate for practical judgement to be action-guiding. For O'Neill, there is only an act-token once the action has been performed, at which point it is too late, so to speak; once it exists, she thinks, the judgement is theoretical (2018: 92, n. 9, 123). Though it is true that an act is fully determinate once it has been performed, it does not seem necessary that every single aspect of the action be specified before it is performed in order to exercise practical judgement. For example, my practical judgement that I ought to keep my promise to my friend to help them move does not specify what colour shirt I should wear while doing so. The relevant question seems only to be whether a possible act-token can have enough determinacy, or the *salient* determinate content. In what follows, I will assume that talk of possible but not-yet-existing actions is not a problem – especially because, as we will see shortly, Kant uses this language himself.

13 Cf. Kant's definition of 'theoretical' as pertaining to 'the nature of things' as they are, as opposed to how they ought to be (FI, 20: 196, 198).

14 Kant defines a 'domain' (*Gebiet*) as a sphere where a cognitive faculty is legislative over objects (*CPJ*, 5: 174). While there are three 'higher' cognitive faculties, only two of them (understanding and reason) have their own domains – which correspond to the theoretical and the practical, respectively. The power of judgement does not have a domain, as it legislates only for itself and not for objects (*CPJ*, 5: 176–7).

15 Reflecting judgement is also operative in the aesthetic domain – which, for Kant, is distinguished from the 'theoretical'. Thus, since the distinction between determining and reflecting is salient in the first and third *Critique*, we can also consider whether it is salient in the second *Critique* (i.e. in the practical domain).

16 The Typic section of the second *Critique* is notoriously difficult. It is beyond the scope of this article to settle the numerous interpretative controversies that surround it. However, I note two issues here that are relevant to my concerns. The first pertains to a worry regarding the *possibility* of practical judgement. Kant notes that practical judgement is subject to 'special difficulties' to which theoretical judgement is not (*CPJR*, 5: 68). There are at least two reasons Kant feels the need to address how practical judgements are possible. First, practical judgement concerns possible rather than actual or given actions – making the question of application dubious. Second, practical judgement concerns bringing together heterogenous elements: a law of reason, which is non-empirical (stemming from our membership in the intelligible world), and an action that is an empirical event (occurring in the sensible world). One might worry that the second reason suggests practical judgement is determining in the same way as theoretical judgement. However, I think we can avoid this conclusion if we keep in mind the first reason. As Nuzzo observes, in the Typic, Kant tries to address the difficulties of practical judgement by 'drawing a parallel between practical and theoretical judgement' – noting also that the two are 'not entirely parallel' (2014: 253). The second issue pertains to what conclusion(s) Kant takes himself to have drawn in the Typic – particularly, whether it is a general point about act-types or a specific point about act-tokens. For example, Nuzzo claims that, in the Typic, 'practical judgement remains at a level of generality that is insufficient to decide the problem of the law's application to particular empirical actions' (2014: 254). In other words, she sees it as only addressing the issue of the moral assessment of maxims, which contain descriptions of act-types. If Nuzzo is correct, then it is hard to see how the Typic is about practical judgement at all. That Kant speaks of actions '*in concreto*', as well as 'cases', suggests that he is also concerned with determining which specific actions we are to perform, that is, which act-tokens instantiate the act-types that have undergone moral appraisal. For an excellent and thorough treatment of the Typic, see Westra (2016). I thank an anonymous referee for this journal for drawing my attention to the first worry.

17 For a similar critique of O'Neill, see Di Maria (2019: 221–4). Kant uses similar language elsewhere: 'a subsumption of possible actions' (*CPJR*, 5: 90); 'the principle of subsumption under the law' (*MM*, 6: 313); '[Moral laws] require a judgement sharpened by experience ... to distinguish in what cases they are applicable' (*G*, 4: 389); 'A judgement is expressed practically if it enunciates a possibly necessary action' (*L-Log*, 24: 278).

18 It is worth noting that Kant uses the term 'autonomy' when speaking of all three higher cognitive faculties, but also refers to the distinct kind of autonomy the power of judgement has as 'heautonomy'. I discuss this shortly.

19 As noted above (n. 4), Gregor simply uses 'judgement' throughout her translation of *CPJR* (including here), despite Kant's use of *Urteilskraft*. For example, 'the judgement of pure practical reason' (*die*

Urteilkraft der reinen praktischen Vernunft) obscures the role that the power of judgement plays in practical judgement (5: 68; cf. 5: 160).

20 For the full defence of this position, see Dunn (2021). Filieri (2021) and Teufel (2012) also defend a similar claim.

21 For a thorough discussion of reflection, see Gorodeisky's recent entry in *The Cambridge Kant Lexicon* (2021: 374–7).

22 By contrast, Makkreel, sharply distinguishes between these activities, denying that they reduce to a 'common procedure', as both Longuenesse and I hold (2006: 225).

23 I follow the trend among commentators in taking aesthetic judgement to be the paradigmatic case of reflecting judgement, as it is a matter of 'merely' reflecting on a particular in the absence of a universal. Kant divides the different kinds of judgements that correspond to the higher cognitive faculties into theoretical, practical and aesthetic (FI, 20: 226, 246). One may wonder what this means for teleological judgement, the subject of which occupies the latter half of the third *Critique*. While Kant also takes teleological judgement to be reflecting rather than determining judgement, he nonetheless says that it is 'not a special faculty' because it involves concepts (CPJ, 5: 194, 270). By contrast, aesthetic judgement is a special faculty precisely because it does not proceed according to concepts. For this reason, Kant describes the part of the third *Critique* that treats aesthetic judgement as 'essential, since *this alone* contains a principle that the power of judgement lays at the basis of its reflection' and, likewise, says that it is 'only in taste . . . [that] the power of judgement reveals itself as a faculty that has its own special principle' (CPJ, 5: 193, 244; emphasis mine). For more on this, see Pollok (2017: 21, 278–85). For a dissenting view, see Bremner (2021: 531–2, 544, n. 4).

24 I thank an anonymous referee for pushing me to clarify this point.

25 *Heauto* (ἐαυτο) is the reflexive version of the Greek *auto*.

26 The term 'heteronomy' is, of course, more well-known in the context of Kant's ethics.

27 McCarty (2006) draws on the Wolffian tradition to argue that maxims, for Kant, are the major premises of practical syllogisms. The conclusion of a practical syllogism would thus be a specific act-token. While there may also be a practical syllogism the conclusion of which is a maxim (act-type), this would be bound up with what I am calling practical reason and thus be prior to practical judgement.

28 For example, Longuenesse notes that if we are to make use of the determining–reflecting distinction here, these terms must 'have a distinctively practical meaning' (2005: 237).

29 Commentators generally refer to subsumption only when discussing the first *Critique* and/or determining judgement, though Kant uses the term in both the second and third *Critique*. For example, the entry on 'subsumption' in *A Kant Dictionary* only cites the first *Critique*, leaving the false impression that it is only a relevant notion for judgement in the theoretical context (Caygill 2000: 381). Some even conflate determination and subsumption (Allison 2001: 5; O'Neill 2018: 106, 110).

30 This is the operative notion of reflection in Merritt's excellent work on moral virtue in Kant. Merritt's focus is on the 'reflective ideal' and the so-called 'requirement to reflect'. Leaving aside the varieties of reflection in Kant, Merritt describes it as 'a kind of stepping back' (2018: 2). While nothing I say here is incompatible with this way of thinking about reflection, my focus here is on the technical sense in which Kant defines it. Having said that, Merritt importantly emphasizes the role of reflection in Kant's practical philosophy, something that, as we have seen, O'Neill downplays. To the extent that practical judgement figures less in Merritt's analysis, I see the account I provide here as filling a gap between her and O'Neill (each of whom emphasize either reflection or practical judgement but not both).

31 There are other commentators who have discussed the role of reflection and reflecting judgement in Kant's ethics, more broadly – not all of which directly deal with practical judgement. For example, both Makkreel (2002) and Munzel (1999) discuss the way reflection and reflecting judgement function in the assessment of virtue and moral character. Nuzzo deals with the problem of the 'application' (*Anwendung*) of moral principles in practical judgement, arguing that Kant's distinction between determining and reflecting judgement in the third *Critique* is key to solving it (2014: 234). Yet she seems to restrict the role of reflecting judgement to the evaluation of past actions (p. 255; cf. Longuenesse 2005, cited in n. 11). For an interesting and recent account of a further way that reflective judging plays a role in practical judgement (including both picking out salient particulars for maxim formation and helping revise moral principles), see Bremner (2022). Relatedly, it seems likely that reflection plays a role in the formation of moral rules – including Herman's 'rules of moral salience', which help us pick out features of a situation that require moral attention. In practical judgement, we might employ moral rules formed through

reflection on particular cases given in experience (guided by the Categorical Imperative). Such a story would be analogous to the case of empirical concept formation (guided by the categories) in the theoretical case. Just as we never apply the pure concepts of the understanding directly to objects, we never apply the moral law directly to actions – but instead do so through mediating representations.

32 For more on this, see Dunn (forthcoming).

33 One might worry that the claim that there can be no rules instructing judgement how to subsume conflicts with Kant's account in the Schematism, where he claims that a schema is a rule for judgement (A135–6/B174–5). Yet Kant's point is not that there can never be rules to guide judgement, but that such rules can never be so exhaustive that they fully eliminate the need for judgement to close the gap between the particular and the universal. Were this possible, one might worry that it would turn judgement into a rather mechanical act. Instead, I think we can read the Schematism section as continuous with the previous section where Kant describes judgement as a 'special talent' that can only be 'practiced'. I thank an anonymous referee for this journal for alerting me to this worry.

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