

THE NATURE OF THE SUBJECT:
“JUDGMENT” AND THE LAW OF SPECIFICATION
IN KANT’S *Critique of Judgment*

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KANT’S *Critique of Judgment* is not about objects—beautiful or otherwise—but about the judging subject. I would like to make two points about the reflexive relation between nature and the subject—that is, the judging subject—based on paragraphs six and seven of Section V from the Introduction to the *Critique of Judgment*. The first point concerns Kant’s use of the term “*Urteil*,” or “judgment,” and related terms. The second point concerns the law of specification, and what Kant calls the “*glücklicher Zufall*,” or “fortunate coincidence,” between nature and the subject.

One way to investigate the relation between nature and the subject is to look closely at the term “judgment,” since judgment is the activity that brings nature and the subject together. As someone from one of the philological disciplines, I tend to answer the question, “What is judgment?” by asking, “What does the word ‘judgment’ mean?”—more precisely, what might we learn by examining the German word “*Urteilskraft*”?

I’m not suggesting that German words have a mystical quality that makes Kant’s meaning clear to anyone who reads the German original. But there does seem to me to be a danger in the increasingly common practice of reading texts only in translation, or in summaries of translations. The word “*Urteilskraft*,” or judgment, is itself very important. It marks the transition between Kant’s first two *Critiques* of the human faculties, namely the *Critique of Pure Reason* and the *Critique of Practical Reason*, and the third *Critique*, that of *Judgment*. It is important to understand all we can about the difference between reason and judgment—beginning with the words themselves. The philological inquiry that follows examines how Kant’s words are bound up with Kant’s argument; and for such a project, we must briefly return to the German.

The word “*Urteil*” has the same legal connotations as the English word “judgment”; and I am not the first to remark that an entire juridical vocabulary is here employed by Kant: words like “law,” “domain,”

“legitimate,” and so on. Close reading bears out that the choice of the word “judgment” is bound up with a textual disposition to construe such activity as lawful and binding.

But I’d like to caution against a possible misreading of the word “*Urteil*.” “*Teil*” means “part”; but the prefix “*ur-*” is problematic. “*Ur-teil*” is not a construction along the lines of German words such as “*Ursprache*” or “*Ursprung*” that have become familiar to speakers of English. “*Ursprache*” means “original language,” and “*Ursprung*” means “origin”; in both of these cases the prefix “*ur-*” means “original.” However, the philosophical and judicial term “*Urteil*” has a very different history; the prefix is actually not the same “*ur-*,” and the word does not mean “original part.” That is, it would be a mistake, both philologically and philosophically, to think that the word “*Urteil*” suggests a pristine and legitimating origin for judgment.

“*Urteil*” comes from “*er-teilen*,” which is comparable to the modern “*ver-teilen*,” meaning “to divide into parts” — much like our Greek-derived English word “analyze.” “*Erteilen*” is Middle High German. There are older forms of the word. It is noteworthy that before Kant, the term “*urteilen*” was widespread not only in German legal discourse, but in the writings of German mystics. The prefix “*er-*” means “*heraus . . . aus*,” roughly “forth out of,” and like the modern prefix “*ver-*,” implies a movement of some kind. Both the German “*Urteil*” and the English “ordeal” come from Common Teutonic words for the kind of trial by physical test common to the Teutonic peoples (*OED*). More generally, the modern German word “*Teil*,” meaning “part,” shares a history with the English word “deal.” We can see the relation in such expressions as “a good deal of the time,” meaning “a large part of the time,” or in “Let’s make a deal,” which nicely combines the senses of “dividing into parts,” and “adjudicating.” These two senses taken together remind me of the great judge Solomon, and the case of the disputed baby. In a renowned “*Urteil*,” Solomon “adjudicated” the case by offering to “divide the baby into parts.”

“*Urteilskraft*,” or the faculty of judgment, contrasts with the faculty of reason, or “*Vernunft*.” “*Vernunft*” comes from the same etymological line as “*vernehmen*,” which means “grasp.” One can grasp a thing, and presumably one thing; but the activity of dealing out parts is rather different. Another word for “grasp” is “*fassen*,” and in the passage at hand, “*Fassungskraft*,” or the ability to grasp something, occurs toward the end of the first paragraph, at a point when the discussion reaches what Kant sees to be the pos-

sible limits of understanding. “*Urteilstkraft*,” or the ability to divide into parts, begins paragraph two: it is close by, but somewhat different. Once again, judgment has to do not with a thing, but with dividing into parts; and the transition is from grasping to dealing.

This contrast is also borne out by close consideration of Kant’s differential use of neighboring terms in these two paragraphs. In writing about reason, “*Vernunft*,” Kant uses other formulations related to the etymological sense of “*Vernunft*” as “grasping.” Notably, in connection with “*Vernunft*,” Kant uses the verbs “*greifen*” and “*begreifen*,” which also mean “grasp.” By contrast, Kant’s discussion of judgment, “*Urteilstkraft*,” is conducted in terms of “division,” with words like “*Verschiedenheit*,” and even “*einteilen*,” where we hear again “*Teil*,” or “part,” and the family resemblance to “*verteilen*.” Pluhar’s translation of that paragraph, which is one long sentence, reads:

For it is quite conceivable that, regardless of all the uniformity of natural things in terms of the universal laws, without which the form of an empirical cognition in general would not occur at all, the specific differences in the empirical laws of nature, along with their effects, might still be so great that it would be impossible for our understanding to discover in nature an order it could grasp (*fassen*)— i.e., impossible for it to divide nature’s products into genera and species, so as to use the principles by which we explain and understand one product in order to explain and grasp (*begreifen*) another as well, thereby making coherent experience out of material that to us is so full of confusion (though actually it is only infinitely diverse and beyond our ability to grasp [it]).” (25, German verbs supplied by Pluhar)

Now, it seems to me that in discussing Kant’s focus on “division” into species, one would want to consider not only the eighteenth-century propensity to categorize nature, or the possibility of that just being the way the world is, but also to remember the meaning of “*Urteil*”: to divide into parts. Such a choice of word does not simply express a pre-existing concept, but does much of the work to establish Kant’s concept of judgment as “division.”

Variations on the word “division” occur several times in the immediately following paragraph, including three times in Pluhar’s third sentence:

It is a law that judgment does not cognize a priori in nature, but that, in *dividing* nature’s universal laws, it assumes a priori when it seeks to subordinate to them a *diversity* of particular laws, so that the *division* will have an order that our understanding can cognize. (25, italics mine)

In other words: the subject judges, or *divides* nature, into an order cognizable by the subject. Significantly, “*einteilen*,” translated above as the verb “divide,” also means “categorize.”

What is this law? Let us return to the beginning of this paragraph:

Hence judgment also possesses an a priori principle for the possibility of nature, but one that holds only for the subject, a principle by which judgment prescribes, not to nature (which would be autonomy) but to itself (which is heautonomy), a law for its reflection on nature. This law could be called the *law of the specification of nature* in terms of its empirical laws. (25)

It is according to the “*law of the specification of nature*” that the subject judges. But note, this is not a law prescribed to nature, but a law that the subject prescribes to itself: a law for the subject’s own reflection on nature. There is in fact a law called the “law of specification.” It is a Roman law — and unlike American law, German law is based on Roman law — designating “[t]he formation of a new species of property out of material belonging to another by converting it into different form” (*OED*).

This applies to the case at hand. Reflecting on nature, the judging subject divides and subordinates nature’s laws into an order cognizable by the subject. In doing so, the subject appropriates nature. According to the law of specification, the subject may thereby have taken material belonging to nature, converted it to a different form, and created a new species of property, now belonging at least in part to the subject.

Such an appropriation of reformulated nature by the judging subject is expressed in my title, “The Nature *of* the Subject.” That is, in one sense,

we're talking about nature as it belongs to the subject, or nature as it exists for the subject. But another construction is equally possible: that what is at stake is not nature as such, but rather the subject itself: what is the nature of the subject? The shifting genitive in the title is meant to recall the reflexivity of the Kantian relation between nature and the subject. The "*law of the specification of nature*" is, as Kant writes, "a law for the subject's reflection on nature." The law establishes a reflexive relation between nature and the subject. That is, the law for thinking about nature is a law that turns back, or reflects, upon the thinking subject itself. The last two sentences of this paragraph confirm the peculiar mediating function of this law:

. . . we are neither ascribing a law *to* nature, nor learning one *from* it by observation (although observation can confirm the mentioned principle). For it is not a principle of determinative but merely of *reflective* judgment. (25, italics mine)

There is here not only a reflexive relation between nature and the subject, but also between the subject and itself. The subject prescribes this rule to itself. This "law for the subject's reflection on nature" is presented in a kind of macroscopic and microscopic doubling: once between nature and the subject, and again between the subject and itself.

But does Kant ever really explain how we put two and two together? "Observation can confirm the mentioned principle," he remarks. In Kant's thinking, the principle must hold, for without such "harmony" of the subject's own faculties in the *Critique of Judgment*, and the "harmony" between nature and the judging subject, we cannot proceed. This seems to me however much like the "harmony" of two parts of an analogy.

Kant says about this harmony that it is a "*glücklicher Zufall*," a "fortunate coincidence." I was struck by the phrase, and also by the crucial position of this "fortunate coincidence" between two large and rival domains that are presented in the Introduction. As Kant writes, "It is judgment that . . . provides us with the concept that mediates between the concepts of nature and the concept of freedom" (36). Much depends upon this "fortunate coincidence"—one might say, the entire structure of the *Critique of Judgment*.

All of this seems comparable to another crucial moment, not in philos-

ophy, but in theology: the moment of the “fortunate fall.” The language is similar; these two moments give rise to similar questions about the relations between determination and free will, or in Kant’s thinking, “between the concept of nature and the concept of freedom”; and in both cases, everything that follows depends upon this “fortunate coincidence.”

In the *Critique of Judgment*, this coincidence is not seen as an absolute necessity but as a contingent matter—an eerie moment in the work of a philosopher who tries to account rationally for everything. In its language, in its appeal to law, in the invocation of observable harmony, and in the gap opened by analogy, the nature of the subject is the mystical heart of a rational philosophy.

NOTE

Several dictionaries were useful to me in writing this essay, notably *Deutsches Wörterbuch* by Jacob and Wilhelm Grimm, *Deutsches Wörterbuch* by Hermann Paul, *Duden: Das grosse Wörterbuch der deutschen Sprache*, by Günter Drosdowski, and *Deutsches Wörterbuch*, by Gerhard Wahrig.