

On Tolerance: Working through Kant

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Tolerance is other than a merely personal disposition.¹ As a consequence it cannot be understood in terms of its being a mere attitude. Such an approach would reduce tolerance to no more than a state of mind, and thus it would be no more than a peculiarity of one individual rather than another. In contrast to the emphasis on belief and therefore on the subject of belief—the one who believes—tolerance, it will be argued, needs to be understood as a site which stands in opposition to mere subjectivity and thus in opposition to arguments deriving from the posited centrality of the subject. If this were not the case then arguments for tolerance would address individuals and, as a consequence, tolerance would be descriptive of individual benevolence and no more. Tolerance, if the word is to have more than mere subjective force, and have extension greater than a mere predicate, has to be understood as existing in an opening in which the private world of individuals, and thus the realm of individual feeling and belief, gives way to the public world.

The relationship between the public and the private plays a specific role in Kant's arguments within the *Critique of Judgment*. The position advanced by Kant involves arguing that the private stands in contradistinction to the possibilities opened up by "subjective universality." In order to trace the way this opposition works concentration will be focused on elements of two specific sections; i.e. sections §7 and §21. In regards to section §7 interest lies in the closing formulation in which the agreement that exists in relation to the "agreeable" is linked to rules that are general and not universal and that, as a consequence

such a judgment of taste about the agreeable refers to sociality as far as that rests on empirical rules.

"Sociality" (*die Geselligkeit*) stands opposed therefore to universality and the public sphere. In more general terms—though this needs to be argued—what this suggests

is that mere empirical rules are not sufficient to establish universality and thus if it is necessary to argue for—or from—the presence of universality then what is essential is an ontology of the social. In other words, the move to the public sphere becomes the move to the philosophical. Even though a further philosophical problem would be the ontology in question, it remains the case that the ontological arises in the move away from “sociality” and thus away from the presence of empirical rules as that which is able to provide a ground for the universal. If this divides the philosophical from the sociological it also generates the question—and it is a question that may stem from either side—of how a connection between the societal and the empirical on the one hand and the ontological and thus the philosophical on the other, is to be established. It should not be thought that such relationships can be simply posited.

Section §7 opens with an identification by Kant of private feeling with the person and thus with the individual. In regards to the private what matters is individuality. Hence the locus of the private is the individualized subject. In regards to pure individuality, claims concerning like and dislike only ever pertain to their being held by the individual. “Dispute” is ruled out because of the principle—and it is a principle that will reemerge within the antinomy of taste—that “everyone has their own taste (of sense)” (*eigenen Geschmack [der Sinne]*). The implicit question Kant is addressing here is that if it were possible to universalize on the basis of individual feeling how would that move be justified? What would be the ground for such a universalization? It is, of course, in §21 that “feeling” comes to be reworked such that it becomes possible to establish a distinction, and in the context it is a fundamental distinction, between a feeling proper to sense on the one hand, and, on the other, a feeling which pertains to the attunement of the faculties.

At this stage it is essential to note how the distinction between the private and the public opens up in §7. Why is there something “absurd” (*lächerlich*) in the claim that an object is “beautiful for me”? The answer to this question is straightforward; the claim that something is beautiful is a judgement. More than that, it is a judgement within a specific relationship—that which is judged is the “form of the object.” As the “form of the object” is the object’s general conditions of intuitability, to argue that it is intuitable just “for me” would entail that these conditions were not just singular but were unique to—and thus different in—every individual. As such not only would the judgement not be communicable it would exist in a private language. The judgement of taste in virtue of being the type of judgement it is breaks with the “for me.”² As Kant argues, “he judges not merely for himself but for everyone.” While this means that such an a judgement will necessitate the agreement of others, it is not the case that the judgement is an act of will if will is understood as the intentional application of a law or the following of a rule. A judgement of taste—at the moment of its being made—is not intentional. Immediacy in the context of a judgement of taste involves a temporal dimension as well as that which marks the absence of the concept’s mediating presence.

In the final part of §7 Kant seems to allow for a form of universality on the level of the agreeable. Before indicating how this is set up, it is essential to see what type

of move this would be. In the first place, universalizing the “for me” would involve the move from the “for me” to the “for us” in such a way that the former was a simple particular of the whole. The individual would have become an instance of the whole. Moreover, the move from one to the other would be the simple oscillation between whole and part. As such the particular is constrained to evidence the whole and the whole would be understood as the totality of its constituent parts. And yet, the entire mechanism in being arbitrary runs the risk of collapse. Kant’s own description is relevant at this point. The concern is agreement of taste in regards to which

the universality is only comparative so that the rules are only general not universal...such a judgment about the agreeable refers to sociality as far as that rests on empirical rules.

The “for me” would generate—precisely because of the arbitrary nature of agreement and the lack of a transcendental universality—a community based on constraint. Even though Kant will contrast this arbitrary set up to the claim that the aesthetic judgement “demands” agreement, this demand enjoins a certain freedom. It is a freedom that is necessarily absent from the need of constraint built into a conception of community based on the individual, and thus a conception of community that is based in what could be described as a making public of the private. The division between public and private is far more radical than a simple opposition. In fact the first question that arises from the recognition of this aspect of the divide concerns the possible presence, or not, of a ground for the common where that ground is necessarily other than an opening up of the public. This is of course a reiteration of the subtitle given to §21: “Whether we have a ground for presupposing a common sense (*einen Gemeinsinn*).” It is to this question that it is essential to turn.

Kant’s opening response is to invoke the problem of skepticism. Again, what is important here is what is being staged by this consideration. It should be noted that §22 begins with a formulation of the distinction between the private and the public advanced in terms of the difference between a private and public feeling. The same point would have to stand, namely that what is important here is what this distinction is itself staging. Skepticism is the province of the “for me.” Consequently, the only viable response to this form of skepticism necessitates the opening up of the “for me.” This is linked to the “communicable.” The move from the “for me” to the “for us” has to be understood as one that takes place from the domain of isolated individuals to another, which rather than being a mere universalization of the individual is provided by the ground of universality and therefore the ground of the “for us” itself. Universality is provided by that which allows for cognition. The “for us” as a description of the public world is inextricably bound up with what for Kant defines the being of being human; i.e. the “supersensible substrate of humanity.” This needs to be understood as involving a move from the private world of individuals to the public world of judgement. Within this opening it will be possible to develop the site of judgement.

Consistent with this move it will be suggested that the public realm is that which is given in the oscillation between commonality and sociality. As such, and as has been intimated, it mirrors the distinction drawn by Kant between “particularity” and “commonality.”³ In order, then, to develop this particular formulation of the site of tolerance a beginning can be made by pursuing the emergence of the distinction, in the *Critique of Judgment*, between the subjective and that which pertains to the public. Guiding this explication is the need to redefine tolerance beyond the realm of the private, such that tolerance and intolerance become more than the province of given individuals. Demanded by this formulation is a repositioning of tolerance in which the subject is present and yet it is not a repositioning that maintains the subject as central. As a consequence subject positions are effects. They are given by a particular set up that yields agency. Repositioning tolerance as such a state of affairs, and therefore as a structure having effects, will take place here in terms established by a particular conception of the relationship between judgement, the public and what will be developed as a reconciliation to irreconcilability. The force of this form of reconciliation is found in its providing the basis for an understanding of democratic and cosmopolitan space.

Linking tolerance to the emergence of a democratic space, such that a defence of tolerance becomes a defence of that space, is to be developed by working through Kant. Developing both the initial position—the emergence of an ineliminable spacing as fundamental to the aesthetic judgement—and the defence of that space necessitates two areas of investigation. After an opening consideration of certain elements of the formulation of the reflective judgement in the earlier parts of the text, the second will consist of a more detailed treatment of §56-§57. The importance of the latter is that it is in the resolution of the “antinomy of taste” that it becomes possible to identify a conjoining of a nascent theory of a democratic public space to a reconciliation to irreconcilability. This apparently paradoxical set up is at work in the way in which Kant distinguishes between “dispute” (*Disputieren*) and “conflict” (*Streiten*) and is reinforced by the general concession that the appearance of antinomies is both natural and “unavoidable” (*unvermeidlich*).

The Spacing of Judgement

Tolerance as involving the opening of a site of contestation brings with it determining elements from Kant’s conception of the reflective judgement. In a passage of fundamental importance in §8 Kant formulates the universality in relation to the judgement of taste in the following terms,

The judgment of taste does not postulate everyone’s agreement (since only a logically universal judgment can do that, because it can adduce reasons) it

merely requires this agreement from everyone (*es sinnet nur jedermann diese Einstimmung an*), as an instance of the rule, an instance regarding which it expects (*erwartet*) confirmation not from concepts but from the agreement of others. Hence the universal voice is only an idea.

Universality can be identified in this passage in the opening staged by the interconnection of “requirement” and “expectation.” The question arising with this interconnection concerns what is brought into consideration by the set up staged by it. What demands are made by ‘requiring’ and ‘expecting’? An answer is provided by a more deliberate, yet more demanding, formulation of the same structure of expectation. Later in the text, in section §19, in the famous passage in which Kant introduces the “ought” (*Das Sollen*) into the realm of aesthetic judgement, he states the following;

Man wirbt um jedes andern Bestimmung, weil man dazu einen Grund hat, der allen gemein ist.

(The standard English translation is “We solicit everyone else’s assent because we have a basis for it that is common to all.” As will become clear this translation is, from the very start, problematic; not for reasons of accuracy as such but because of the positioning of agency within it.)

After making this claim Kant then goes on to clarify how assent—being in accord—(*Bestimmung*) is ensured. However, how is the initial claim to be understood? While this is a philosophical question it cannot be separated from the question of translation. The opening words “*Man wirbt*” do not comprise a straightforwardly passive formulation. And yet the formulation’s impersonal nature rids it of an automatic identification with an active form. Hence, there is the problem of how it is to be translated. Initially, the answer is relatively unequivocal. “*Man wirbt*” is an impersonal construction yielding the translation, “one seeks.” And yet there is a question here; who or what is the subject? This is not simply a grammatical question concerning the subject of the sentence but the philosophical question of the subject of solicitation. In the context of this formulation who or what is doing the soliciting? The problem of determining the nature of the subject and with it the activity of the subject, is the ostensible philosophical problem. And yet it cannot be divorced from the problem of translating “*Man wirbt*.”

However, rather than attributing the central position to an intending subject such that seeking is an activity of a subject, the agent, that which solicits, is “the judgment of taste” (*Das Geschmacksurteile*). (This position can be argued for in detail by reference to the immediate nature of the aesthetic judgement. Immediacy signals both the absence of a determinate concept as well as volition. A judgement of taste is not willed.) While it is possible to argue that the judgement is that for which “one seeks” agreement, such a position makes the seeking an activity of the subject. However, to be consistent with the argument developed thus far it is more plausible to suggest either that agreement is being sought for the judgement where the activity—the seeking—pertains to the

judgement itself, or that the judgement itself, in virtue of being a judgement of taste, seeks the other's agreement with it. The latter point would refer to the nature of what is involved in being a judgement of taste rather than the attribution of volition to the judgement. In the end, both positions articulate the same position since both attribute centrality to the judgement. In other words, the position would be that it is the nature of the judgement that it seeks agreement. As such the opening line allows for the translation:⁴

Everyone's assent is solicited because there is (*man....hat*) a basis for it (i.e. that solicitation) in that which is common to all.

Here a division needs to be made. In the first place there is the question of the site of solicitation and potential agreement. In the second there is the general question of the common and thus of the wider problem of how commonality is to be understood within the argumentative structure of the *Critique of Judgment*. The point that needs to be made here is that the common cannot be identified as resulting from an abstraction from particulars. Not only would such a set up repeat the structure of a determinative judgement insofar as the particular would be subsumed by the universal—a subsumption occasioning a move between one and the itself positioned by a founding continuity—, it would also ignore that nature if the discontinuity between the public and the private that has already been noted. The problem of the “common” remains.

In order to address the site of solicitation, and then to introduce the complex problem of commonality, further attention needs to be given to the opening words, “*Man wirbt.*” If the translation “Everyone's assent is solicited...” can be accepted then the question that has to be asked concerns what it is that is opened by this act? In more direct terms the question to be addressed pertains to the temporality inherent in the formulation itself. In sketching an answer to this question it becomes possible to take up the issues central to the general argument for the resolution of the “antinomy of taste.”

The act of soliciting, of seeking agreement, that act with which an offering is made, an offer demanding support, support which is governed by an “ought,” brings with it an opening. What is opened up is the space of the offer which equally is the space in which the solicitation is made. In other words, solicitation brings with it the presence of an ineliminable spacing. Spacing positions both the subject and the judgement in the world because this ineliminable spacing is the creation—thus continual recreation—of the public. The move from the private to the public occurs through the interarticulation of the latter with the presence of the space in which the search for agreement is to take place. However, because the response is not given immediately and, thus, because the time of solicitation is not the time of assent—even if that assent is determined by an ought—, what arises is a spacing that inscribes time within it. Time, therefore, is integral to the constitution of this space. Time, in this context, is that which maintains the spacing in order that the agreement that is sought be realized. This is, of course, a formal claim a consequence of which is that agreement becomes linked to the pragmatic

where the pragmatic is an effect of the sustained continuity of this spacing. As will be suggested the possibility of the pragmatic, and thus of the decision, resides in the retained presence of this spacing. Its inscribed presence becomes the infinite (its sustained continuity as the infinite) on which the necessary finitude of the decision depends. At work here, therefore, is a reworking of the pragmatic occurring because of an insistence on the infinite as its condition of possibility.

At an earlier stage in §8 the claim that judgements about the beautiful are those having “general validity” (“*Gemeingültigkeit*”), the word “public” appears in brackets immediately afterwards. What this means is that the generality announced in the formulation “*gemeingültig*” is a generality that is commensurate with being public and thus as necessitating a public sphere. Care, here, is essential since a complex interplay is at work. The aesthetic judgement has a twofold determination. It both presupposes and yet opens a public sphere and to that extent it mirrors the general structure of the aesthetic judgement since the latter both presupposes and seeks agreement. The copresence of presupposing and seeking work to maintain the public sphere as open. The questions that have to be answered concern, firstly, how that openness is understood, and thus secondly what would count as a threat to openness. Answering these questions allows for the emergence of tolerance as that which maintains the openness. Note that tolerance does not pertain to the right to make judgements but to maintaining the space necessitated and presupposed by, and in, the practice of judging. It is in terms of this distinction that certain acts which are deemed to be merely private, and which take place within what would be thought to be the private—e.g. the domestic house—, become public precisely because they demand judgement. On first reading what this means is a contraction of the realm of the private and an expansion of the public. A direct consequence of this move taking place is that it marks a reworking of how the opposition between the public and the private is thought and practiced.

Formulations describing the aesthetic judgement and which use terms such as “expect,” “solicit” and “seek”—admitting again the translation problems posed by terms such as “*ansinnen*,” “*zumuten*” and “*erwarten*”—bring the presence of spacing into play. The real significance of this spacing is the way that it is the consequence of a split between, in the first place, the private and thus that which pertains to the subject and therefore which cannot be universalized beyond mere liking and, in the second, the public realm. The public realm cannot be reduced to the space of agreement if that is understood as one which is simply given. (Hence the need for its continual recreation.) Rather, the public realm is the space in which engagement is possible and thus agreement is to be sought. While it would be easy to emphasize the agreement—thus demanding a certain teleology of agreement—the important consequence of insisting on the presence of an ineliminable spacing lies in the difference between the singular claim that remains singular precisely because it is private, and the universal claim which while singular enjoins singular universality and as such maintains that spacing as the locus of potential agreement. Disagreements on the level of the private are without philosophical import precisely because there cannot be an argument against personal taste. However,

claims that seek assent—especially claims both of which seek such assent and which may, nonetheless, involve a sustained disagreement—enjoin judgement and thus necessitate a public sphere.⁵

The Space of Conflict

The arguments of §56-§57 are central to any understanding of the consequences of the difference between the private and the public. While the solution to the antinomy is of fundamental importance, the nature of the distinction between “conflict” and “dispute” provides the way in. It is possible to interpret the concerns of §56 in terms of an argument against the centrality of the subject and thus an argument in favor of the public sphere. What are repeated, therefore, are the preoccupations of the earlier sections. The difference here, however, concerns “dispute.” Again it is essential to note that it is not a question of a dispute that allows itself to be resolved by recourse either to proof or demonstration. (In a historical sense what is reiterated here is Aristotle’s distinction drawn in the *Nicomachean Ethics* and elsewhere between “episteme” and “phronesis.” The importance of the distinction is not just to do with knowledge in the broad sense but between the use of “logos” in realm of science and epistemology and its role in the domain of “ethos.”⁶) What Kant is holding open is a domain of judgement that falls beyond the hold of the concept. It is not just that this opening allows for an aesthetic judgement, it is also that allowing for the judgement necessitates maintaining the space of its possibility.

The distinction drawn by Kant between “dispute” and “conflict” is linked to determination by a concept. Dispute gives rise to the possibility of an agreement that would be based on either the use of concepts or a proof. In order to resolve the antinomy Kant has recourse to a third proposition. The first two determine the antinomy. They are: “Everyone has his own taste,” and “There is no disputing over taste.” The third proposition is: “One can quarrel about taste.” Of this proposition Kant writes the following in §56,

if it is granted that we can quarrel about something, then there must be some *hope for us to arrive at agreement* about it, so we must be able to count on the judgment’s having bases that do not have merely private validity and hence are not merely subjective. (my emphasis)

Before tracing the way in which the resolution allows for the introduction of a reconciliation to irreconcilability it is essential to stay with this particular formulation. The major point of interest within it concerns the move from the presence of a quarrel—again it has to be remembered that a quarrel cannot be resolved on the level of the concept—to that presence generating a possible agreement. Kant connects the two by deploying

“hope.” Hope is not futural in any straightforward sense. Hope envisages a possible agreement. However, central to hope is not the agreement but holding to the possibility of agreement. Once emphasis is given to hope rather than the agreement—and thus precluding the possibility that the agreement function as a *telos*—then allowing for the continuity of hope is to defer continually the end. Hope in the context comes to define the present. Not the present as *nunc stans*, but the present as the locus of hope.⁷

As has already been indicated there are, at least, two different philosophical possibilities that arise in this context. In the first place emphasis could be given to the agreement, and thus to the insistence on the presence of that agreement, as the end point in an inexorable teleological march. As such, time would have to be understood as the progression toward that end. There is, however, the other possibility. Part of its difference concerns the relationship between time and space. Hope is another term that could be used in order to mark the ineliminable spacing demanded by the aesthetic judgement. Moreover, hope can be used as the term that marks the continuity of that spacing. What has to be maintained, indeed it could be argued that what the philosophical and political struggle would be, amounts to having to continue to sustain the present. As such maintaining it becomes an activity. Hope has to be sustained by not being closed down. Hope is held in play by it allowing the spacing and thus the continual interplay of judgements to continue. Allowing for hope is to allow for the continuance of the already identified spacing. What is the activity of allowing? What type of action is involved in holding in play the present as the locus of hope? Answering these questions will allow for a definition of tolerance in terms of a reconciliation to irreconcilability. However, this can only take place after tracing part of the argument used by Kant in resolving the antinomy of taste. What has still to be pursued is the nature of the argument, deployed in this content, for subjective universality.

Key to the resolution is the argument that the two theses that found the antinomy—“Everyone has his own taste,” and “There is no disputing over taste”—are only antinomies on the level of appearance. The antinomy occurs because the first thesis assumes that a judgement of taste takes place without concepts, while the second maintains the position that since there is a possible agreement there must be concepts. The third thesis in allowing for a distinction between “dispute” and “conflict” allows for a distinction between determinate and indeterminate concepts to be introduced. It is in terms of that distinction that the antinomy is resolved because, as Kant argues, the term “concept” is used in a different sense in each of the two theses.

Now, the actual detail of Kant’s own argument is not central to what is at work in the resolution. The starting point is that judgements of taste refer to a concept but are not determined by a concept. It is in virtue of referring that subjective universality is actually possible. The question however is what are the concepts to which such judgements refer? Before producing an answer to the question, it is essential to note that the concepts at work in any answer are such that they neither govern, control nor even allow for cognition. There are a number of formulations that would enable a detailed response to be given to questions concerning the nature and role of concepts in judgements of taste

and thus as involved in the resolution concerning the antinomy. Governing each passage has to be the recognition that the indeterminate concepts in question concern what Kant describes as “the supersensible (*Übersinnliche*) substrate of humanity.” Despite their length the two of the most important passages from these sections are the following.

What is needed to solve an antinomy is only the possibility that two seemingly conflicting propositions are in fact not contradictory but consistent, even though it would surpass our cognitive power to explain how the concept involved...is possible. Showing this [consistency] will allow us to grasp [the fact] that and [the reason] why this illusion is natural and unavoidable for human reason, and why this illusion remains so even though it ceases to deceive us once we have resolved the seeming contradiction.

Eliminating this conflict between the claims and the counterclaims of taste is the best we can do. It is absolutely impossible to provide a determinate, objective principle of taste that would allow us to guide, to test, and to prove its judgments, because then they would not be judgments of taste.

The first passage opens with the claim that it is possible to show that the presence of a contradiction may only ever be true on the level of appearance—since, as has already been stated, there is a concept at work even though it is an indeterminate concept of reason and thus not one for which there is a corresponding intuition. Consequently, the content of the concept is not available. What makes the presence of such antinomies natural and unavoidable is the absence of a rule the following of which would eliminate the structure of the antinomy. All that can be done is to indicate that in any one instance a contradiction can be shown to be contradictory in appearance only. Anything more is simply beyond what Kant refers to as “our cognitive power.” If there is universality then it pertains to the ground of the concept and not to its range of application. It is the limit that is significant. The limits of cognition are given in relation to the ground of universality, i.e. the supersensible (*Übersinnliche*) substrate of humanity.

The second passage is both more stark and more demanding. There is the initial concession that what can be eliminated are the “claims and counterclaims of taste.” What is absent, however, is an “objective principle.” On one level that has to be unequivocally true. Anything other than the indeterminate would render the judgement other than one of taste. And yet, there is more here than a simple reiteration of the position that has become a commonplace by this stage in the *Critique*. The absence cannot be interpreted except in relation to the opening claim that conflicts can be overcome. Both obtain at the same time. What must be recognized is, of course, that the site where both the resolution and the absence of a determining principle are at work is the public; not the private world of individuals but the sphere of public judgement. What this means is that if the public sphere is understood as the site in which judgements are given and to which a response is offered, then while on a strategic level certain contradictions and antinomies can be resolved, what is lacking from the public sphere is a determinate concept governing

judgement itself. (This lack must not be seen as privation but as integral to democratic space.) There is an indeterminate concept which is the supersensible substrate of humanity—and it will be essential to return to this conception of universality—, however, at this stage what is emerging is a conception of the public, and thus of the ineliminable spacing opened up by the judgement, that is defined by two distinct elements. In the first place the public sphere is one in which judgements are given and in which agreement is sought. Holding to this domain as the site of judgement means deferring the implicit teleology inherent in Kant's overall argument. What this entails is that to the extent that the seeking is central, then the public sphere is defined as the site of that specific activity. In sum, democratic space is the site of conflict concerning the call for judgement, the response of judgement, and deliberation—resolving antinomies—concerning judgement.

The second element defining this site is the absence of any rule that can legislate within it in regard to the content of a judgement. Here this absence entails that what has to be maintained is the continuation of this sphere as the place and site of the interplay of conflicting judgements. The absence is productive insofar as it holds the site in place. Absence therefore is not privation. Indeed, this form of production, namely as that which is given initially in terms of absence, becomes the interarticulation of the ontology and temporality of maintaining (a set up demanded by the ineliminable spacing that is itself constitutive of the possibility of judgement). It is in these terms that social universality reiterates the structure of subjective universality. Delimiting the ways this occurs defines the philosophical project as stemming from this founding state of the incomplete. Maintaining the incomplete, however, has to be thought beyond the sway of privation. Moreover, it is in terms of the incomplete that it becomes possible to define tolerance in terms of a reconciliation to irreconcilability.⁸

It is at this point that it is essential to reintroduce universality as given through an indeterminate concept. Throughout the text Kant is continually developing an argument for what, by the text's final sections, is described as "the supersensible (*Übersinnliche*) in us." One of the most important arguments concerns the beautiful. For Kant, as is well known, beauty is not a predicate of the object, rather it pertains to the "form" of the object. As has already been intimated what this means is that beauty is uniquely related to the object's conditions of intuitability. This generates the site of universality. Moreover, it enacts a reasonably rigorous distinction between content and form (where the latter is understood in this precise sense; i.e. in terms of the object's conditions of intuitability.) Once there is a distinction drawn between form and content, then the nature of content is always going to be relative. What is not relative, and thus that which forms the basis of commonality and communicability, is universality on the level of form. This position is argued for in a number of places. Each one locates universality not in the subject qua subject, certainly not in any determination of the object, but in the "mental state" that accompanies judgement.

In §9 Kant argues, though in this context directly in relation to the feeling of pleasure, that,

If...we are to think that the judgment about this universal communicability of the presentation has a merely subjective determining basis, i.e. one that does not involve a concept of the object, then this basis can be nothing other than the presentational—powers (imagination and understanding) insofar as they refer a given presentation to cognition in general.

Universality, in this sense, involves the capacity and activity of cognition. The singularity of the presentation “harmonizes” with the basis of universality. The universal, therefore, in not being an object of intuition, in not being available in its totality to experience, is assumed as the supersensible substrate that conditions and thus allows for intuition and experience. When at the end of §56 Kant suggests that it is the presence of antinomies, and it should be remembered that it is their inevitable and natural presence, that “compel us against our will to look beyond the sensible to the supersensible,” then this can be interpreted as moving beyond mere particularity and singularity to that which functions as its condition of possibility. The question is how is the “supersensible” to be understood?

In general terms it is the condition for thinking difference. And yet it is a condition that is not given as a ground but is given in and within difference in the precise sense that it neither unifies particularity nor does it function as the universal of which the particular is the instance. It is therefore the consequence and the result of the insistence both of the particular and the structure of the antinomy. While more needs to be adduced concerning the limit of what can be known, the importance of the supersensible here is that it functions as a universal that both allows for difference but does not make difference an effect or an instance of the universal.

In regard to the judgement of taste what remains as fundamental is the inability of what Kant identifies as reason to define, to the final degree, what the supersensible may in fact be. The significant point for these present concerns is that it allows for an expression of universality that does not necessitate a detailed description of content but of form. What allows for the public sphere therefore is the complex interplay of particulars thought in terms of the interplay of form and content and the conditions of reception—intuitability in the strict sense—that involves the universality of mental states. The indeterminate concept, therefore, as that to which the judgement of taste refers, is not a ground for sameness nor an inevitable ground for the teleology of agreement. On the contrary, the universal can always be interpreted as the condition for communicability and thus for the community of communicability. What then forms the basis of such a community? Once agreement is no longer taken as a *telos* but as a pragmatic necessity, and once the presence of a determinate objective principle is deemed impossible, since its presence would close, by definition, the space opened by the judgement of taste, then Kant’s description of the presence of antinomies as “natural and unavoidable” has to be incorporated into the structure of philosophical thinking. What that means is starting with a redescription of the public sphere.

Once there is a sustained abeyance of teleology and thus of a specific end, then continuity is sustained by maintaining a productive opening. Practically what this entails

is working with a set up that allows for finitude as premised upon the incomplete. This occasions judgement because it sustains a difference between, on the one hand, claims accepting the impossibility of finality though which turn that impossibility around by making it productive—impossibility as a productive negativity—and, on the other hand, that which seek to complete. Allowing for the first of these possibilities is to allow for judgement precisely because the possibility for judgement is the insistence of the need for judgement. The need for judgement and thus for the decision stem from the impossibility of a final reconciliation. A reconciliation to that state of affairs—a reconciliation to that which accepts judgement's necessity—is a reconciliation to the impossibility of a final reconciliation. The question to be addressed therefore is how the impossibility of this finality is to be understood.

The refusal of finality is not to refuse the necessity of ends. What is being denied, however, is an understanding of a final reconciliation as judgement's telos. Allowing this form of finality to figure would have to be presented in terms of the effective presence of that conception of universality in which the universal would determine all particulars. While allowing for the impossibility of this state of affairs provides the formal conditions in which to develop further a reconciliation to irreconcilability, this set up has to become more than an abstract possibility.⁹ This is both a practical as well as a formal ontological position. Moreover, it yields a conception of responsibility that occurs at the intersection of the political and the ontological. Responsibility as stemming from judgement necessitates a site of activity. Maintaining that site is to maintain democratic space, namely the space of judgement, it is, moreover to allow for present hope understood as the continuity of an ineliminable spacing.¹⁰ The name in which these activities are undertaken, and hence that which names such activities, is tolerance.

Tolerance as inextricably bound up with a reconciliation to irreconcilability involves, at the minimum, a twofold acceptance. In the first instance it necessitates accepting that the force of the decision lies in the interconnection between the finite and the infinite. As such the decision emerges as that which stems from the inescapability of negotiation. Secondly, it demands accepting that maintaining a site of activity is to allow for the space of judgement and thus the possibility of a politics of judgement. Within this setting irreconcilability becomes a temporal term marking the impossibility of an end though equally the impossibility of a complete and final determination. Tolerance both names the site while marking the risk entailed by any defence of the locus of democracy

Notes

1. There is an ever increasing literature on the topic of tolerance. For the most part tolerance is defined as a predicate of a given individual. Historically, tolerance is discussed in terms of its limits. In other words, what within a given society may or may not be tolerated. While not

wishing to diminish the importance of these endeavors the approach here differs. In this instance tolerance become a description of maintaining a locus of activity. The activity in question is the contestation of judgements as definitional of the public realm. Of recent discussions of tolerance perhaps the one most germane to this undertaking is Michael Walzer, *On Toleration* (New Haven: Yale UP, 1997).

2. Arendt's discussion of the relationship, in Kant, between thinking and the public realm is relevant here. See in this context her *Lectures on Kant's Political Philosophy*, ed. Ronald Beiner (Chicago: U of Chicago P, 1983) 40.

3. All references are to Immanuel Kant, *Critique of Judgment*, trans. Werner S. Pluhar (Indianapolis: Hackett, 1987), and Immanuel Kant, *Kritik der Urteilskraft*, Werksausgabe, band x (Frankfurt am Main: Suhrkamp, 1996).

4. The claim made with this translation and in the discussion to follow is not that it is accurate in terms of a word by word translation. Moreover, it goes without saying that the passive construction presented here is not used by Kant, and that were Kant to have wanted to have written the German equivalent to the English formulation "Everyone's assent is solicited..." then he could have done so. The point is that the translation presented here attributes agency to the judgement rather than to a subject's intentional state. As such, it will be argued, it captures the force of the position that Kant is making.

5. The public/private distinction is therefore far more fluid than one defined in terms of place. The distinction needs to be defined in terms of the need for judgement. Whether an act or belief is public or private will always be a strategic question.

6. I have tried to develop some of the issues raised by the reference to Aristotle in, "Where Philosophy Begins: The Event of Plurality," *Pli* 9 (1999): 100-119.

7. This argument is first developed in my *Present Hope: Philosophy, Architecture, Judaism* (London: Routledge, 1997).

8. While the detail cannot be pursued here there is an additional argument that arises at this point. If a claim can be made that the interplay between what is identified as the incomplete—a state of affairs that is taken to pertain *ab initio*—and the public realm defines not just democratic space but a thinking of that space within the purview of a theory of modernity, then it is also the case that a preoccupation with loss is incompatible with developing that project. In sum, the preoccupation within melancholia becomes a lament for the classical which, while it may occur within modernity, is itself incompatible with any affirmation of modernity.

9. In order to develop what is intended by the expression 'reconciliation to irreconcilability' use would need to be made by a distinction drawn by Chantal Mouffe between the agonistic and the adversarial. There is a connection between the argument developed here concerning the relationship between the incomplete and irreconcilability and what she identifies as an "agonistic pluralism." See Chantal Mouffe, *The Democratic Paradox* (London: Verso, 2000), in particular chapter 4. I intend to pursue those connections in another context.

10. It should not be thought that there is no need to take up the question of deliberative action. Indeed it could always be the case that a given strategy will involve complications having greater acuity than that which would be accounted for simply in terms of tolerance. For an important account of the move from tolerance to solidarity see Zygmunt Bauman, *Modernity and Ambivalence* (Oxford: Blackwell, 1993) 231-279.

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