

LEGISLATING TASTE

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My aesthetic judgements seem to make claims on you. While some popular accounts of aesthetic normativity say that the force of these claims is third-personal, I argue that it is actually second-personal. This point may sound like a bland technicality, but it points to a novel idea about what aesthetic judgements ultimately are and what they do. It suggests, in particular, that aesthetic judgements are motions in the collective legislation of the nature of aesthetic activity. This conception is recommended by its ability to explain some important but otherwise recondite features of aesthetic practice and, more importantly, by allowing us to ground the normativity of aesthetic judgement in the familiar normativity of practice. It also offers a more systematic way of understanding the rivalry between the ideals of aesthetic universality and diversity.

Keywords: aesthetic judgement, aesthetic normativity, aesthetic universality, aesthetic diversity.

‘Forqueray’s *Jupiter* is beautiful.’ I say this to you, and it means something to you; it makes a claim on you; it has force for you; it carries significance for you. It is hard to explain this force without begging the question against one or another account of its content. Maybe it’s a demand for agreement. Maybe it’s an invitation to share my experience. Maybe it’s advice about how to attend to an object. Maybe it’s a challenge to prove me wrong. However we ultimately characterize this *interpersonal normativity*, aesthetic judgement definitely seems to have it.¹

It’s not the only kind of judgement to work like this, of course. Opinions about the boiling point of mercury, the life cycle of frogs, and the wrongs of high seas piracy share the same force. What is puzzling is how aesthetic judgements come by it. I do not reach my judgement about Forqueray’s duet by applying an objective standard the way a herpetologist applies the principles of her field to a novel specimen or the casuist applies the moral law to a difficult case. Judgements of taste seem quite independent of any enduring

¹ Kant, *Critique of the Power Judgment (KU)* 5:212–3, Cavell (1976), Mothersill (1984: 135–44), and Budd (2007).

rules or standards. (Though perhaps they can be guided by heuristics.) They rely on our experience of an object. And for this reason, the normative force of my judgement could not be inherited from the authority of anything like an objective standard. This suggests two further properties of aesthetic judgement. It is *subjective* because it must be based on the character of a subject's experience, and it is (fixed, objective) *standards-independent* because it is not the result of applying anything like a set rule, standard, or principle.²

The combination of interpersonal normative force, standards-independence, and subjectivity creates a puzzle. (An antinomy if we're feeling frisky.) My judgements about tadpoles and piracy depend on an objective standard, and it is in virtue of that standard that those judgements earn their interpersonal force. But how does this work for aesthetic judgements? How can they have interpersonal normative force without borrowing that force from an objective standard?

I. KINDS OF FORCE

One influential answer to these questions has it that our aesthetic judgements issue from a 'Common Sense'. We are justified in supposing that this sense operates uniformly across different subjects, and that fact is the source of aesthetic judgement's interpersonal force. Kant's deduction of taste can be read along these lines.

1. A person will judge that a thing X is beautiful just in case X produces a particular mental state S under favorable conditions (for Kant, S = pleasure in the free play of the imagination and understanding).³
2. I am entitled to 'presuppose' that the 'subjective element' responsible for aesthetic judgments is similarly constituted for all subjects. In other words, I am entitled to believe that all subjects possess a 'common sense' that produces similar aesthetic responses under appropriate conditions.⁴
3. Therefore, if an object X produces S in me, then I am entitled to infer that, under favorable conditions, it will also produce S in you.
4. Therefore, I am entitled to expect agreement from you when I judge that X is beautiful.

The essence of this argument is that we are entitled to believe a certain class of mental event arises uniformly across subjects, and this permits each of us to take our own experiences as evidence about whether an object will arouse

² *KU* 5:213–6, Moore (1994, sec. 121), Prall (1929), Dewey (1934, ch. 13), Mothersill (1984, 164ff), and Sibley (2001).

³ *KU* 5:217 and 5:256.

⁴ *KU* 5:238 and 5:290.

the same event in other subjects. The interpersonal normativity of aesthetic judgement rests on this entitlement.⁵

There are many objections to this argument—too many to canvass here. Instead, I want to address a weakness that I think is both important and slightly neglected.⁶ The point is best made with a distinction from Stephen Darwall. I step on your foot, and you shout, ‘ouch, get off!’ There are two ways we can understand the force of your exclamation. We can think that the utterance is good evidence that you are in pain, and that is an objectively bad state of affairs. I am causing pain unnecessarily, and I have a good reason to stop. On this gloss, I have a *third-personal* reason to get off your foot. My reason is grounded in the objective badness of a state of affairs, and your utterance has normative force insofar as it provides me with evidence of such a state. The other way to understand the force of your exclamation locates its ground in *you*, a sovereign individual. You have the authority to demand I get off your foot, and the normative force of your exclamation is that of a valid claim. You have this authority not because you are a reliable guide to the existence of an objectively good or bad situation but because you have a right to control what’s going on atop your foot. In this instance, the reason I have to get off your foot is second-personal: It arises not from a state of affairs but from your authority.⁷

Many rainy afternoons can be blissfully passed sorting *normativia* into Darwall’s categories. Let’s give it a try with aesthetic judgement. I think the Common Sense argument suggests that the normative force of aesthetic judgement is third-personal. Compare: in the foot-stomping case, the normative force of my exclamation derives from the evidence it offers for an objective fact—the badness of foot pain. Meanwhile, in the Common Sense argument, the normative force of, say, ‘*Le Nozze di Figaro* is a great opera’ is derived from the evidence it offers for a different objective fact—that the opera elicits the right sort of response—an *aesthetic* response—from our Common Sense. The analyses run in parallel, and that suggests a common normative structure.

But the normative force of aesthetic judgement is not third-personal. Suppose it were. This would mean that its force would vanish upon discovery that a certain state of affairs didn’t obtain. If we stipulate that the only reason I have to get off your foot is that foot-stomping causes pain only to learn that your foot is insensate, then we should conclude that my apparent reason doesn’t actually exist. But I don’t think we can imagine an analogous discovery in the aesthetic case. You and I are having a long conversation about *Le Nozze di*

⁵ The argument is summarized in *KU* §38. Also compare Kant’s analogy with view a water droplet at *KU* 5:191. Naturally, this is just one reading of an argument amenable to many interpretations.

⁶ The issue is implicated, if dimly, in debates over whether Kant’s argument generates an entitlement to expect agreement or to demand it. See Guyer (1979: 139–47).

⁷ Darwall (2006).

Figaro. You tell me how much you enjoy the subtle irony in one aria and how moving you find another. I tell you how much I think the drama is heightened by the ensemble sections. We talk about the acrobatic counterpoint in the finale and the interesting political themes. I find your opinions challenging and well-formed. You certainly seem like a sensitive and competent judge. So when you say to me that (say) Salieri's *Tarare* is an equally great opera, I may be surprised, but I will regard it as a normatively forceful claim.

But now further imagine that I discover something that undermines the assumption of psychological concordance on which the Common Sense argument depends. Maybe I learn that you lack a certain layer of neural tissue or that you suffer from a potassium deficiency. Maybe I find that your aesthetic machinery operates in a substantively different way from my own because you are from Canada or raised in a Skinner box. Even if these scenarios are impossible—because our psychological similarity is a necessary truth—my entitlement can still be undermined if I don't know that it is. If the Common Sense argument explained the normativity of aesthetic judgement, then we should expect these discoveries to negate the force of your opinion. Common Sense, it seems, is not common to you. But this is not what happens. If I learned these things, then I might be deeply puzzled, and I might ask you lots of questions, but the revelation would not instantly sap your opinion of its force.

I think it's clear why not: Your manifest competence for aesthetic discourse has earned you a certain standing within my aesthetic consideration, and that standing cannot be taken away by the kind of matter-of-fact discovery we are imagining. You can squander it by talking nonsense, but facts about your psychology are not reasons to divest you of it.⁸ This isn't to say that your psychology is irrelevant, of course. If I know that we have significant psychological differences, then I may be sceptical of your judgements, and I may be surprised if we have a successful conversation about opera. But these observations suggest that facts about your psychology are defeasible evidence concerning your aptness for aesthetic discourse, not that they ground the force of judgements made within that discourse.

This example suggests a rather different picture of aesthetic normativity. A person's standing to make forceful aesthetic judgements is not premised on a further state of affairs, as the Common Sense argument says. It is premised on their successfully taking part in the activity of aesthetic discourse—on their *playing the game* of aesthetic discourse so to speak.⁹ This hypothesis is corroborated, if indirectly, by the obvious bonds between aesthetic judgement

⁸ Much the same point can be made about the normativity of theoretical judgements. This normativity is not, *contra* Kant, grounded in a fact about cognitive concordance, but in a normative power that persons have to 'stand behind' their testimony. This point is well beyond the present discussion, but see Moran (2018).

⁹ On the game-like structure of aesthetic engagement, see Nguyen (2019).

and community. I wouldn't be missing out on an important aspect of geology if I refused to talk about rocks, but I would be missing out on something vital if I opted out of all aesthetic communities. Indeed, we might hypothesize that part of the point of aesthetic activity is to engage in certain kinds of shared appreciation.¹⁰ If this is true, then your aesthetic judgements have normative force for me for just this reason—because you are a constituent of a cooperative activity that is constitutively connected to my aesthetic judgement. And that makes the force of aesthetic judgement second-personal.

These points do not add up to an irresistible case that the normative force of aesthetic judgement is second-personal. But I think they are enough to justify us in working out a conception of aesthetic judgement that supports that suspicion. This is what I shall attempt now.

II. LEGISLATING AESTHETIC EXPERIENCE

How would aesthetic judgement have to work to have second-personal force? I approach this question by way of analogy. One of the members of our club has been breeding marmots in the cloakroom despite the club by-laws explicitly prohibiting 'the propagation of waterfowl, ungulates, and lesser varments'. Now we, his comrades, must decide on a suitable punishment. We seek a punishment that realizes the special ethos of our club—a quality we call *club-justice*. What club-justice is, however, is partly determined by our own punitive decisions. Amidst our deliberations about how to punish our naughty colleague, we make proposals. I might offer that barring him from the Cardinal Newman Day Muffin Worry would be club-just or that raising his dues by 10 cents would be club-unjust. I am not making up these claims out of thin air, but neither am I supposing that they are the result of applying a fixed set of standards about club-justice. (My judgement is, in that sense, standards-independent.) What I am doing is trying to *legislate* a standard of club-justice that is responsive to precedent, the relevant facts, and my own convictions.

It should be obvious that any judgement about justice in this context has second-personal force. It is a motion—'let's agree to punish him thus'—that creates a coordinate obligation on other club members to respond. Many kinds of response are possible. Affirmation, demurral, objection, interrogation, counterproposal, suspension, and so forth. And naturally, the obligation to respond may be rather weak, and so if I have good reason to ignore your proposal, I may be blameless for doing so.

¹⁰ There is a wealth of recent work on this theme. See for example Wolterstorff (2015), Lopes (2018), Polite (2019), Kubala (2021), and Riggle (2022).

If we are tempted by the idea that aesthetic judgement is second-personal, then the most straightforward proposal for capturing this would simply mimic club-justice. For example:

(A) To judge that x is beautiful is to propose, in the context of an on-going legislation, that all aesthetic subjects agree that x is beautiful.¹¹

On this conception, an aesthetic judgement has a second-personal normative force. If I say ‘Forqueray’s duet is beautiful’, then I am making a suggestion or, more formally, a motion. I am trying to legislate the beauty of the duet for all aesthetic subjects—trying to get them to agree to it. My proposal has force for you not because there is any special reason to believe I am right but because we are members of a common legislature trying to reach a common resolution.

I want to defend a claim in the spirit of this one, but there are a few quirks of aesthetic judgement that make (A) unsatisfactory. Chief among these is the subjectivity of aesthetic judgement. We say things are beautiful based on how we experience them, but (A) makes no room for this. It has us legislating the beauty of objects quite independently of our experiences. Fortunately, this problem is easily fixed. We simply posit a constitutive connection between aesthetic judgement and a particular kind of experience. Something like this:

(B) To judge that x is beautiful is to claim that the state that x produces under favorable conditions is an aesthetic experience.

I trust that this is a familiar conception of aesthetic judgement. Obviously, the ‘under favourable conditions’ clause is delicate, but I want to leave it aside while considering the more important question of what an ‘aesthetic experience’ is.

Many philosophers pair (B) with a fixed conception of aesthetic experience. They say that it is a particular kind of mental state. Kant seems to do this:

(C) A is an aesthetic experience just in case A is an instance of the free play of the imagination and understanding.¹²

But we don’t have to take this path. We can formulate a different, more open-ended complement to (B). Taking inspiration from our club analogy, we can understand the ‘claim’ made in (B) not as an assertion but as a motion, and we can likewise understand ‘aesthetic experience’ not as a particular state but as the object of that motion.¹³

¹¹ This suggestion is about aesthetic judgement not the semantics of aesthetic predicates, but the two subjects are obviously closely related. And what I am suggesting here has an obvious affinity for expressivist or prescriptivist semantics, especially those holding that aesthetic predicates involve a kind of recommendation. See e.g. Milić & Salas (2018).

¹² *KU* 5:217–8.

¹³ Compare Wollheim (1980, sec. 41–3) on a ‘particular’ conception of aesthetic experience.

(D) To claim that a state *A* is an aesthetic experience is to propose that all aesthetic subjects agree that *A* is an aesthetic experience.

Here, ‘agree’ does not denote a mere identity of mental states, as when two people agree on a subject by having the same beliefs. It means ‘agree’ in the sense of *coming to an agreement*. Thus, according to (D) what I am proposing is that we agree to *count A* as an aesthetic experience.

Putting (B) and (D) together yields the conception of aesthetic judgement I am ultimately interested in. I call it the *legislative* account of aesthetic judgement:

(LEG) To judge that *x* is beautiful is to propose, in the context of ongoing legislation, that all aesthetic subjects agree that the state that *x* produces under favourable conditions is an aesthetic experience.

III. DIFFERENTIATION

Before coming to an evaluation of (LEG) it may be worth distinguishing it from a few similar proposals. The first comes from Hume, who famously claims that the ‘true standard of taste and beauty’ is the ‘joint verdict’ of certain critics.¹⁴ This sounds, at first blush, like a legislative proposal. Whether it really is depends on how Hume would answer a Euthyphro question. Why does the joint verdict of true critics constitute the standard of taste? Is it because these critics have *de jure* authority over all aesthetic subjects and their verdict constitutes a correct standard? Or is it because these critics have an ability to track aesthetic properties that enjoy some independent existence? (LEG) plumps for the first option: It says that legislation is the process of *constituting* a conception of aesthetic experience. But I read Hume as endorsing the second option. For him, true critics are distinguished by their ‘delicacy’, and this is a power to detect things—real, objective things like iron keys in wine jugs—that other subjects cannot. This suggests that at least some of their special authority derives from their capacity to track qualities whose aesthetic relevance is similarly independent of our aesthetic discourse. And that suggests a different answer to our Euthyphro question and a fundamental difference from the legislative account.¹⁵

The second proposal is from Kant. Aesthetic judgement, Kant says, depends on what he calls a *sensus communis*—

[a] communal sense, i.e., a faculty for judging that in its reflection takes account (*a priori*) of everyone else’s way of representing in thought, in order as it were to hold its judgment

¹⁴ Hume (2022, paragraph 23).

¹⁵ Hume (2022, paragraphs 14–6). Compare the reading of Railton (2003). The alternative reading, that the true critic places a constitutive role in taste, does have its defenders, including Cavell (1976) and Guyer (2005). On this reading, in Guyer’s words, the critic ‘does not just discover good taste but is part of the means whereby a community of taste can constitute itself’.

up to human reason as a whole and thereby avoid the illusion which, from subjective private conditions that could easily be held to be objective, would have a detrimental influence on the judgment. Now this happens by one holding his judgment up *not so much to the actual as to the merely possible judgments of others*, and putting himself into the position of everyone else, merely by abstracting from the limitations that contingently attach to our own judging.¹⁶

(LEG) has it that our actual aesthetic judgements are part of a legislative process, but in this passage, Kant is saying something else. He is recommending we incorporate something like a simulation of that legislative process into our aesthetic deliberations—that we ‘take account (a priori)’ of ‘merely possible judgments of others’. We do this to help us avoid mistaking the peculiarities of our own experience for universal fixtures. Kant is onto something important in this passage, but what he is offering is ultimately an elaboration of, not an alternative to, the Common Sense argument. He is not proposing that we legislate taste, as (LEG) does. Instead, he thinks that subjects’ aesthetic judgements are more apt to naturally converge *because* they are regulated by this kind of simulation.¹⁷

I think the legislative account’s closest historical antecedent is actually not an aesthetic theory, but a general theory of the passions. It is Adam Smith’s theory of the ‘propriety’ of sentiment. According to Smith, every person wants to sympathize with their fellows and to be sympathized with in return. But the great variety of sentiments we find in response to similar circumstances and stimuli makes this kind of concordance difficult, not least of all because the person experiencing an event will have much stronger feelings than the person imagining it. Smith thinks we overcome this discord of feeling through something rather like a negotiation: Each of us tries to bring our sentiments nearer to what is experienced by our neighbours in hope of ultimately reaching accord. The virtues, for Smith, are those qualities of character that assist us in this endeavour. We are successful in it to the extent that we ‘agree’ about the proper sentimental response to a given stimulus. Very roughly speaking, then, Smith imagines a legislation of sentiment. My view differs in several respects, of course. Nonetheless, (LEG) shares with Smith’s picture the idea

¹⁶ *KU* 5:293. My emphasis.

¹⁷ As usual with Kant, there are resources for a more subtle reading. For example, according to Matherne (2019: 17), ‘for Kant, the principle or norm of common sense demands that our judgments of taste be grounded in the universally communicable form of disinterested pleasure that results from free play. As I see it, on Kant’s view, this principle is just what we legislate to ourselves: it is the standard we hold ourselves accountable to when we make a judgment of taste’. On this reading, Kant does think there is bona fide aesthetic legislation. But even here a crucial difference remains: What he thinks is legislated are not individual aesthetic judgements, but the authority of Common Sense as a general principle of taste. The idea that Kantian autonomy involves the legislation of a standard is also proposed by Cohen (2014).

of explaining the dynamics of a discourse by understanding it as part of the collective construction of its own subject matter.¹⁸

IV. NUTS AND BOLTS OF AESTHETIC LEGISLATION

According to the principle I am interested in, to judge that x is beautiful is to propose that all aesthetic subjects agree that the state that x produces under favourable conditions is an aesthetic experience. This proposal will raise a lot of questions. Some of these are about the ground of (LEG). Why should aesthetic judgement work like this? How am I bound to this legislature? I will turn to these questions in the next section. For now, I want to address some simpler questions about how aesthetic judgement and aesthetic discourse operate according to (LEG). For the sake of clarity, I will try to organize the discussion as a series of questions and answers.

IV.1. What sort of states can be an aesthetic experience?

Not only does (LEG) not specify a particular idea of aesthetic experience, it also doesn't impose principled limits on the kind of activities that could qualify as aesthetic. (Which is not to say that it precludes the possibility of such limits being introduced from elsewhere—like the structure of human psychology.) Thus, there is no strict prohibition, as far as (LEG) is concerned, on our insisting that an aesthetic experience always involves making an enthusiastic gesture with one's thumbs, as asinine as that might be. And there is certainly no prohibition on our insisting that certain modes of appreciation are not merely common adjuncts of aesthetic experience but partly constitutive of it. Indeed, the word 'experience' may not do justice to all this capaciousness, and so it may be better to link our aesthetic judgements to a distinctive kind of *activity*.

All that said, as a matter of fact, most communities identify aesthetic responses with activities that are largely interior to our minds—with activities in the same neighbourhood as Kant's free and harmonious play of the faculties. There are obvious reasons for interiorization, both practical and historical. But it does create an important challenge for aesthetic legislation involving our ability to refer to those states. And this brings us to another question.

IV.2. How do we refer to candidate aesthetic states for the purposes of legislation?

If we wanted to reach the agreement envisioned by (LEG) most efficiently, then we would talk about mental states directly and ask which of them we could agree are suitably aesthetic. But it is notoriously difficult to talk about

¹⁸ I.I.3–5 in Smith (2002).

our inner mental states directly, at least beyond a handful that we have names for. Our conceptual poverty makes it practically impossible to refer to these states with any subtlety or precision. Instead, any discussion of these states will tend to advert to ‘outer’ criteria for them—to the objects that produce them and the responses that they seem to call for. If I want to describe my experience of Forqueray’s duet, I talk about the music itself.

This makes much of our discussion of candidate aesthetic states indirect. We talk about these states by talking about the objects that produce them, so aesthetic judgements about particular objects end up functioning as a kind of *indirect legislation* of aesthetic responses. Thus, in saying ‘Forqueray’s duet is beautiful’, I am holding up the music as an *exemplar* of the sort of object that produces an experience that I *herby* propose to be aesthetic.¹⁹

Much of the peculiarity we find in aesthetic judgement emerges from the gap opened by this indirectness. For instance, it is often impossible to know whether my interlocutor and I are talking about the same thing when referring to ‘the’ state produced under favourable circumstances by an aesthetic object. Suppose my nephew doesn’t know how to listen to baroque music, and so when he listens to Forqueray, he is not able to reach the experiential state that a connoisseur like I can. (He’s only three—as if that’s an excuse.) Then our disagreement about the beauty of the music may lie in the fact that I am talking about one state and my nephew about another. It is also possible, at least in principle, that two people experience the same state in response to an object, but because their introspective access to this state is imperfect, they end up disagreeing about whether it matches their conception of aesthetic experience.

These phenomena partly explain why so much criticism is, as Arnold Isenberg says, “‘filled in”, “rounded out”, or “completed” by the act of perception’.²⁰ Aesthetic discourse often involves instruction in how a person might enter the experiential state that grounds another’s judgement. I will try to get you to *see* or *hear* or *grasp* something in the same way I do. This work will be crucial to our aesthetic discourse because we must get clear about the contents of our experiences if they are going to be the objects of legislation.

We can similarly explain why aesthetic disagreements may appear both faultless and pressing. A says, ‘*x* is beautiful’ and B says, ‘no, *x* is not beautiful’. In many cases, we might think that neither A nor B has made a mistake; nothing has gone wrong for them in coming to their judgement. Yet the disagreement

¹⁹ Kant also says that aesthetic judgements are exemplary. When I make an aesthetic judgement, I am offering it as ‘as an example’ of common sense and ‘ascrib[ing] exemplary validity to it’ (*KU* 5:239). This feature is especially important for the reading proposed by Ginsborg (2015). There is an important ambiguity in Kant’s claim. I can exemplify Forqueray’s style by writing a short composition. I can also exemplify my own nascent style by writing a short composition. In the former case, the exemplification is a way of referring to something that already exists, while in the latter, the standard is *created through* the exemplification.

²⁰ Isenberg (1988; 156).

is substantive insofar as the parties have some reason to resolve it. Simple objective theories of aesthetic judgement ('*x* is beautiful' is like '*x* weighs three pounds') have difficulty capturing the faultiness of the disagreement, while simple subjective theories ('*x* is beautiful' is like 'I like *x*') have trouble capturing its normativity. (LEG) has no such difficulty. Both parties to a disagreement can be faultless in their aesthetic judgements insofar as their opinions represent well-founded proposals. But those parties are still under normative pressure to converge because their shared enterprise is one that seeks consensus.²¹

IV.3. What is the role of the aesthetic object in our aesthetic discourse?

What I have so far described could fairly invite the accusation that I am misconstruing our interest in aesthetic objects. By my lights, it appears that these objects are nothing more than useful props for enacting hidden activities. But when you and I talk about Forqueray or *Figaro*, our interest in these works is more than instrumental. We care about them and their beauty—not just whether they have the power to arouse a response that falls under one folk psychological concept or another.

I agree that this is a problem for (LEG) as I have presented it so far. But there is a simple remedy. We should understand the relationship between aesthetic objects and our responses to them as one of partial constitution. Nicholas Stang puts the idea thus: The 'experience a work affords is essentially an experience of *that very work*. Consequently, the work is not merely a particularly effective way of obtaining that experience. The work is an essential constituent of the experience'²² On this view, Forqueray's music doesn't just cause a certain, independently specifiable response in me. It is a component of that response, and so when I make a proposal to the effect that my response to that music is an aesthetic one, I am, in the same breath, making a proposal *about the music*. Thus, if we adopt this conception of our interaction with aesthetic objects, then we needn't decide whether we are *really* interested in an opera or in our response to it, since these things are, for our purposes, inseparable.

IV.4. How do aesthetic legislators formulate and evaluate aesthetic proposals?

Legislation is an ongoing, historically situated process regulated by but not enslaved to precedent. One of the principal motivations for the legislative account is the fact that precedent can substantively regulate and guide this kind of activity without determining it in the way a rule determines a standards-dependent judgement. It does this in familiar ways. I am a member of many aesthetic

²¹ Here, my approach resembles 'metalinguistic negotiation' accounts of aesthetic disagreement. See Sundell (2017) and Cantalamessa (2020).

²² Stang (2012). My emphasis.

communities, all of which have more or less well-entrenched conventional wisdom about aesthetic questions. My initiation into these communities involves mastering the right sort of lore, internalizing the right sort of standards, acquiring the right sort of skills, and learning the right sort of vocabulary. (Here, it is worth mentioning that even if a community lacks the word ‘aesthetic’, their discourse can proceed with its kin.) But because these things will provide nothing like necessary and sufficient conditions for aesthetic experience and because aesthetic activities are by their nature inclined to the subversion and reconfiguration of tradition, these forces will be neither rigid, exacting, nor permanently fixed. Thus when I make an aesthetic motion or respond to one of yours, I will be guided by this precedent without being controlled by it.

This historical element allows us to explain some important facts about the temporal dimensions of taste. One is familiar. That a work of art has passed the ‘test of time’ is a reason to expect to find it beautiful.²³ Whether I regard a given state as an aesthetic one will be due, in large part, to the conception of aesthetic experience that has been inculcated in me by my aesthetic community. If a work has indeed stood the test of time, then it is likely a paradigm for my community—something we turn to as exemplary of our conception of what aesthetic experience is. And this function rigs the deck in favour of our finding the work beautiful. Any well-trained member of the community who comes to judge it will likely agree that it is beautiful simply because they have been brought up in the right ways.

But this feature of taste has a less famous pendant, the fact that evidence from the ‘test of time’ is far from dispositive. *Orlando Furioso* stood the test of time until it didn’t. That *Pilgrim’s Progress* is still clinging to the brink of the canon is a reason to expect that I will enjoy it, but this reason has the weight of a feather. Theories that explain the test of time by casting our forebears’ appreciation as inductive evidence of objective merit will have difficulty making sense of this fact. Because fashion is not part of their story, they must attribute any change in opinion to error, either ours or our ancestors’. But the legislative account has no such trouble. The test of time gives us important information about an object’s interaction with precedent, but those reasons cannot wholly determine the course of our aesthetic legislation. Our conception of an aesthetic response will change over the centuries, and old verdicts about *Orlando Furioso* may eventually be overturned.

We can use this same framework to give historical accounts of other vexed questions about aesthetic judgement, for instance, its connection to pleasure. According to the standard history, aesthetic judgement once bore a very strong, even essential connection to pleasure. Judging something as beautiful required enjoying it. But nowadays this connection seems much weaker, and most philosophers recognize objects that are aesthetically good but not particularly

²³ Hume (2022, paragraph 11).

apt to please.²⁴ (LEG) can say that both opinions are right in their fashion. Once upon a time, aesthetic legislators accepted a much stronger connection between aesthetic experience and pleasure. But this precedent was slowly eroded by aesthetic innovation, and now the connection is more complicated. It's not hard to imagine why history would proceed in this way. Human beings first became interested in certain mental activities because of the pleasure they afforded. But the cultivation and extension of these powers naturally led to similar activities that did not enjoy the same connection to pleasure. Members of the *avant-garde* insisted that these activities were, in fact, aesthetic despite the absence of pleasure, and we live in the aesthetic world they created.

IV.5. What are the aims of aesthetic legislation?

(LEG) gives an explicit answer to this question: We aim for agreement. But we might cavil at this assumption and wonder why such an aim should be constitutive of aesthetic discourse. Why not suppose that aesthetic discourse aims at self-expression or mutual appreciation of difference or something else entirely?²⁵

We can take this question in one of two ways. The first is to ask why an aesthetic legislature should be trying to reach agreement. The answer to this, I think, is that legislatures, by their nature, strive for agreement. A legislature is a collective that seeks, through diverse forms of deliberation, to speak with one voice. True enough, actual legislatures frequently fall short of this goal, and we are often obliged to make do with substantially less than agreement. But this is plainly a deviation from the ideal. The second way to take the question is as asking why aesthetic judgement should be tied to the institution of legislation at all. This is an important question, but it can only be answered by considering the normative ground of aesthetic judgement, an issue I will come to in the next section.

IV.6. What are the responsibilities of aesthetic legislators?

The legislation envisioned by (LEG) involves not only powers but also responsibilities. Dereliction of these responsibilities can result in something like a suspension. For example, to suggest that a wayward club member be drawn and quartered would reflect such a profound misunderstanding of club-justice that it is literally impossible to propose it. No one would take the idea seriously. Likewise, presenting a dung heap as a paradigm of beauty will prove defective for the same reasons. We cannot believe that a competent legislator would sincerely hold such a view.

²⁴ van der Berg (2020).

²⁵ Riggle (2015).

This dynamic may also create more general responsibilities for aesthetic legislators. For example, it seems plausible that we have a responsibility to seek a minimal course of aesthetic exposure before expecting our aesthetic opinions to be received with more than nominal recognition.²⁶ The same goes for the norms of aesthetic ‘autonomy’—the fact that the appropriate response to many aesthetic disagreements is to stand fast in one’s sincere opinions, and that it is certainly inappropriate for me to change my mind just for the sake of agreement.²⁷

I want to suggest that these norms are instances of a more general principle specifying our responsibilities to collective endeavours. Suppose our club members decide to plant a garden together. To be part of this enterprise, you must do your share, and so anyone who falls asleep or wanders off is participating defectively (or not at all). Likewise, if our club is deciding how to punish a wayward member, then each other member has both the authority and the responsibility to contribute to that process. This is not just a point about fairness: The verdict of our club is expressed in the collective voice—‘this is what *we* have decided’—and this collective can only be properly constituted by appropriate contributions from each member. These same points apply to aesthetic judgement. The legislation of aesthetic experience requires each of us to make a judgement based on our own best understanding of the relevant aesthetic categories. Without these sincere judgements, there could *be* no genuine aesthetic proposals, just echoes of echoes.²⁸ And this, I am suggesting, is one source of the demands of aesthetic autonomy: It reflects our responsibility to *do our part* in the collective activity of aesthetic legislation.

IV.7. Who are the members of my aesthetic legislature?

The proposal I have laid out describes a very abstract kind of aesthetic legislation. In practice, of course, my legislative activities will be structured according to the norms of particular aesthetic practices and communities. These communities will be historically situated, and they will often be closely related to particular social groups. They may be very large or very small. They may have a relatively loose normative structure or be quite formal. They may be embedded inside of each other like nesting dolls. They may crisscross and overlap each other. The particulars of these various communities will lend the abstract conception of aesthetic legislation some concreteness by specifying, for example, what kinds of justification I might offer for my judgement, what kinds of response I am to expect, and how disagreements are to be adjudicated.

²⁶ Hume (2022, paragraph 19).

²⁷ See e.g. *KU* 5:282.

²⁸ Mightn’t I do my part in other ways—by cheering on my co-legislators in their efforts? I can no more do my part in aesthetic legislation by cheering on my colleagues than I can do my part on a jury by making everybody omelettes.

This specification will frequently involve what amount to aesthetic conventions. The second movement of a symphony is slow. Silent comedies have pratfalls. Confessional poetry deals with taboo subjects. Parallel fifths are to be avoided. The colour red is associated with lust. These are hardly ironclad rules, much less ones anchored in the essential character of art. But they can be useful in the way conventions usually are. They can solve basic coordination problems and offer a kind of normative guidance on elementary questions that makes possible a fuller attention to more advanced ones. (Are Buster Keaton's pratfalls better than Charlie Chaplin's?) These conventions amount to only a kind of semi-fixed point in our legislation though, since, for reasons that will emerge momentarily, aesthetic agents will have incentives to challenge and subvert them.

I will be a member of many local communities like these, naturally, and sometimes it will be hard to tell where one begins and the other ends. But this leaves open the question of whether there is a universal legislature that includes all persons. If there is, then my aesthetic judgements have correspondingly catholic force. These judgements may make a very particular sort of claim on individuals who are members of my particular communities, but they will also make some claim, even if an amorphous and weak one, on the most distant and disconnected stranger. I believe that there is a universal legislature, but my argument for this proposition lies with my account of the legislative account's normative ground. And that is what I turn to now.

V. THE NORMATIVITY OF AESTHETIC ACTIVITY

We have set aside some especially foundational questions about the legislative account of aesthetic judgement. Why should aesthetic judgement work like this? Why does it bind me to a legislature? These are questions about the normative ground of (LEG)—about what obliges a subject to participate in the legislature that (LEG) envisions. In this section, I want to offer an action-theoretic account of this ground. It consists in a pair of claims. First, our ordinary activities are legislative because they make proposals about the nature of action. Secondly, aesthetic experience is enough like ordinary activity to inherit this feature. It follows that aesthetic experience is legislative, and reports of these experiences have the force that my legislative account claims for them.

Let's take the first premise first. I am suggesting that all activity has an illocutionary element: It involves a kind of suggesting or proposing.²⁹ We can appreciate this force best by observing attempts to cancel it. If you observe me digging around in the cupboard looking for something to eat only to grab rat poison, not only do I put it back, I say, 'oops, wouldn't want to eat rat poison!'

²⁹ On illocution generally, see Austin (1962: 99–131).

If I smack you in the head with my umbrella, then I will apologize but also explain that it was an accident. I offer these clarifications to preempt a certain interpretation of my behaviour. If someone observed me smack you with an umbrella or take out rat poison for lunch, then they might infer that I am endorsing a principle like: ‘if you want a tasty snack, consider rat poison’ or ‘if someone is in your way, beat them with an umbrella’. I don’t want to endorse these principles, so I am at pains to undermine these interpretations.

There is a simple reason that action has this force. Acting—or at least full-blooded intentional action—involves introducing certain behaviour into the world and designating it as action. Thus, in acting, I am implicitly advancing a motion about *the nature of action*. I am saying that whatever action is, it should encompass my doing *this thing* in *these circumstances*.³⁰ Everyone who is interested in acting is a party to this legislation because action is a single thing. It is a unified kind in the way that *reptilia* and *sodium nitrate* are unified kinds, not distinct categories for you, me, and my nephew the philistine. But unlike *reptilia* and *sodium nitrate*, the nature of this kind, and so what counts as action and what doesn’t, is determined, at least in part, by those who fall under it—by actors. It is determined by the aggregate of individual actions and the principles those actions exemplify. Every time I act, I am both responding to my best conception of what we collectively take action to be and attempting to change, refine, or reinforce that conception. This is why when I hit you with an umbrella, I am quick to cancel the impression that I am proposing the umbrella abuse principle. And it is why, more generally, the proposals implicit in my actions have unconditional normative force for you: They are proposals about the nature of a kind—action—that you depend on for everything you wish to do, a kind that we constitute together.

We can see this dynamic play out in the boundaries of specific act-types. Nearly everything we do is a particular type of action: a ball-throwing, a dinner-cooking, a baby-entertaining, a getting-married. For this reason, most of my actions involve two kinds of ‘legislation’: the suggestion that a certain piece of behaviour qualifies as a given act-type (‘this is a ball-throwing’) and the suggestion that that act-type is appropriate in the present circumstances (‘in circumstances *x*, *y*, and *z*, ball-throwing is appropriate’).

Of course, in most instances, all this escapes our notice. While playing catch with my nephew, I throw the ball. Here, nobody takes me as *proposing* anything because it is so obviously an appropriate thing to do. We are frequently unaware of the legislative force of our actions because most of what we do is a pro forma affirmation of the standard convention. This force only becomes obvious when our proposals are revolutionary. If my community takes getting married to be an act possible only for a man and a woman, then two women undertaking all the activities associated with marriage will be understood as a radical

³⁰ Compare the conception of ‘action as participation’ described in Schapiro (2001).

proposal—as attempting to enact a more liberal conception of the act of getting married.³¹

I said that action is a kind, but it is a very special kind. *Reptilia* is a kind because reptiles share a common nature; the class consisting of glass bottles and dead cockroaches is not a kind because it lacks that unity. Action is special because its kind-supporting unity is not a *given thing*. It is not, as it were, inscribed by nature. It depends on what we do, on agreement between aspiring actors about what kind of thing action is. This arrangement makes convergence on the principles of action an ideal for all would-be agents. (Indeed, I think that, properly understood, this ideal is none other than Kant's Realm of Ends.³²) If everyone has their own personal conception of what it means to cook dinner, then there's no such thing as cooking dinner. If there are two distinct conceptions of action separated by geography and culture, then there may not be a single kind of action but multiple. Insofar as these are inhospitable environments for would-be actors, every agent has reason to strive for something more unified. The most perfect kind of unity would be found in a state of systematic agreement about the principles of action—about what is worth doing in which circumstances. And so this kind of unity is an ideal of agency itself.

This story about what might call action's intrinsic normativity is the first part of my attempt ground (LEG). The second part is the claim that all these points about action apply to aesthetic experience as well. If I call an object beautiful, then I am thereby suggesting that my experience of it is an aesthetic experience. In doing so, I am putting forward my particular way of engaging with that object as a particular type of activity—an aesthetic activity—and claiming that this kind of activity is merited. (The 'merit' here is nothing special: It is the same merit I attribute to my throwing the ball while playing catch.) This proposal then has the force of legislation. It is a proposal to other creatures who are capable of aesthetic activity, and it makes a claim on them for just that reason—because they are parties to the determination of the category of the aesthetic. In this picture, aesthetic judgement is a way of making explicit the legislation of a particular conception of aesthetic activity. It is our indirect, slightly obscure way of proposing *this is a merited aesthetic response to this object*—in the same way that performing a particular movement may be a way of proposing *this is a merited baby-entertaining*. The interpersonal normativity of aesthetic judgement—and the ideal of agreement it suggests—is a constituent part of the much broader ideal of unity. It is part of the creation of a Realm of Ends.

³¹ A natural corollary of the connection I am drawing between activity and aesthetic judgement is the possibility of what Neufeld (2015) calls 'aesthetic disobedience'—that we can protest aesthetic convention with heterodox reactions to aesthetic objects just as we can protest social norms by proposing revolutionary act-types.

³² Walden (2012).

This story raises some natural questions. What, on the view I am offering here, makes a form of activity distinctively aesthetic? In one sense, my view simply rejects this question. Aesthetic activity has no more of an essence than the act of getting married. This doesn't mean that anything could count as aesthetic activity, of course. But it does mean that the integrity of aesthetic activity as a category, like the integrity of action writ large, is not something given to us by nature. (Certainly not an a priori category.) Instead, this unity is a problem for us—something that we aspire to create. The character of the aesthetic at a given moment, like the character of other social categories, is a reflection of that work. On this view, the demarcation of the aesthetic as a category and the normative force of aesthetic judgement are two aspects of the same problem. The claims that my aesthetic judgements make on other people are claims in service of the constitution—and so demarcation—of the category of the aesthetic. This force is universal because this constitution project has open borders: Anyone capable of participating is a viable partner.

A second question is really an objection. It concerns the idea that aesthetic experience is enough like 'ordinary activity'—like cooking dinner, throwing a ball, or entertaining the baby—for my argument to succeed. Why should we think anything like this? After all, our paradigms of aesthetic experience don't *seem* like actions.

First of all, observe that aesthetic experience seems to be distinguished by being active and free. Among a handful of 'symptoms' of aesthetic experience, for example, Monroe Beardsley includes 'felt freedom' and a sense of 'active discovery'. By the latter, he means 'a sense of actively exercising constructive powers of mind, of being challenged by a variety of potentially conflicting stimuli to try to make them cohere'. By the former, he means 'a sense of freedom, of release from the dominance of some antecedent concerns about past and future, a relaxation and sense of harmony with what is presented or semantically involved by it or implicitly promised by it, so that what comes has an air of having been freely chosen'.³³ Likewise, Richard Moran notes that

the beautiful not only beckons but also charms, enralls, and otherwise captivates its beholder. The tradition of describing something beautiful in such grammatically active aesthetic verbs as compelling, enticing, or appealing is both part of ordinary speech and a way of depicting the encounter with the beautiful object as somehow two-sided, involving an active element on the side of the object itself to which the beholder actively responds.³⁴

³³ Beardsley (1982: 288–9).

³⁴ Moran (2017: 64).

Beardsley and Moran's observations suggest that aesthetic experience is not the passive reception of certain visual, auditory, or tactile qualities, but something active, something that we *do*.

For some works of art, this activity is intellectual: Aesthetic appreciation comes from attempting to understand the work. For other objects, it is perceptual: The aesthetic experience of a large painting may consist in an extended viewing. For still others, it is affective: We ponder the events of the novel as a way exploring emotional resonances. These activities are creative, not mechanical. When I engage with an object aesthetically, I am not just experiencing a reflex or following a rule. I am playing with ideas, exploring possibilities, posing questions, making connections, and searching for understanding.³⁵ In all these respects, aesthetic experience has the same open-ended structure as 'ordinary' actions like cooking dinner and entertaining the baby. Indeed, it is arguably more active and freer than these activities because it is under rather fewer constraints.

Against this proposition, one might protest that even if our aesthetic responses are action-like in some respects, they are not in others. In particular, they are not under voluntary control. We cannot decide to experience an opera as thrilling or a painting as mysterious in the way we decide to cook dinner or entertain the baby. And this difference matters, the protest continues, because voluntary control is a condition of our actions having legislative force.³⁶

I have two replies. First, our ability to control our aesthetic experiences is actually a mixed bag. It's true that I cannot decide to be moved or challenged or confused by an aesthetic object; these effects come to me unbidden. But I can decide to attend to certain aspects of a musical performance, conjure up certain imagery when reading a poem, approach a novel with a particular interpretive frame, or drop acid before going into the gallery. Some aspects of aesthetic experience do exhibit voluntary control.

Secondly, and more importantly, I don't think such control is a necessary condition on an activity's having the exemplary force I described above. Consider activities of skill. I can intentionally control some aspects of my cello playing, my Edward G. Robinson impression, my Mario Kart driving, my knuckleball, and the hernia surgery I am performing. But others depend on my cultivation of dispositions, reflexes, and sensitivities that operate beyond conscious control.³⁷ And yet, when I do these things, they carry the same default legislative force as other actions. Henrietta performs her 600th hernia surgery without comment or qualification. The operation depends on relatively automatic and unconscious skills. Nonetheless, if Henrietta does this

³⁵ Carroll (2014).

³⁶ On the variety of activity that can be aesthetic, see King (2018). For general arguments in favour of aesthetic agency and against the requirement of voluntary control, see Gorodeisky (2021).

³⁷ On the range of activities outside of conscious control, see Custers & Henk (2010).

without comment or qualification, then we can take her as endorsing the claim that her activity *counts* as doing a hernia surgery. We can do this because Henrietta has deliberately honed the skills that enable her performance, and this allows us to say that the surgery is something that she does, something that reflects her considered opinion about hernia surgery. The same point applies to aesthetic experience. It too is a capacity we hone through practice and education.³⁸ It too is something we can take responsibility for and say reflects our considered judgement. And so it too has exemplary normative force.

In this section, I have tried to assemble the normative ground for a legislative account of taste. The proposal goes like this. Aesthetic judgement is normative because it involves proposing that a certain activity is both an apt response to an object and an example of aesthetic experience. In making an aesthetic judgement, I am advancing my response to an object as exemplary of an aesthetic experience in the same way that all my actions advance themselves as exemplars of certain kinds of activity. Other agents feel the second-personal force of this proposal because they are constituents of the collective activity of determining the nature of action generally and aesthetic activity in particular.³⁹

VI. DIVERSITY, COMMUNITY, AND UNIVERSALITY

In explaining the interpersonal normativity of aesthetic judgement, I ended up endorsing an ideal of aesthetic universality. Agreement is something our aesthetic discourse aspires to, at least over the long run. And because every other aesthetic agent, be they from my local community or beyond it, seems a fit partner for this kind of discourse, it would seem to follow that universal agreement is an ideal of aesthetic judgement.

But lately, many philosophers have inveighed against this suggestion. Alexander Nehamas, for example, says that

neither a beautiful object nor a work of art ever engages a catholic community. Beauty creates smaller societies, no less important or serious because they are partial, and, from the point of view of its members, each one is orthodox—orthodox, however, without thinking of all others as heresies.⁴⁰

And a few pages later, he adds, grimly:

³⁸ Osborne (1970).

³⁹ I said before that my view resembles ‘metalinguistic negotiation’ accounts of the semantics of aesthetic terms. The principal difference, of course, is that mine is a view about aesthetic judgement and, ultimately, aesthetic activity, not just the semantics of distinctive vocabulary. This makes my view appreciably broader and rather closer to a general theory of ‘the aesthetic’. This is because so much of our aesthetic lives lack overt use of aesthetic vocabulary. I can interact with an aesthetic object in very meaningful ways without every pronouncing it ‘beautiful’ or ‘ugly’.

⁴⁰ Nehamas (2007: 81).

Imagine, if you can, a world where everyone likes, or loves, the same things, where every disagreement about beauty can be resolved. That would be a desolate, desperate world.⁴¹

There is both wisdom and folly in Nehamas's reluctance about the ideal of universality, and I think the account of aesthetic normativity I have sketched can help us appreciate both.

Let's consider his position by way of comparison. Suppose I am a member of a small religious society characterized by distinctive rites and rituals. One day I am possessed by the spirit of adventure to vary one of these rituals. In the midst of the Sacrament of Z, I do something unorthodox: I zoop the zap instead of zimming the zazz. If my innovation is not too outré and it is understood as deliberate, then it will constitute a proposal about how to carry out the Sacrament of Z. Something like: one need not zim the zazz at this moment, but may instead zoop the zap. Who is the audience of this proposal—my little sect or a much broader community? I think the answer is both. How to perform the Sacrament of Z is, of course, a particularly urgent concern for my religious fellows. But, at the same time, we Z-ists rightly see the Sacrament of Z *as a ritual*, and so we rightly understand it as falling under quite general principles about the nature of ritual activity. For this reason, my proposal is also, ultimately, about the nature of ritual action *as such*, and it has a correspondingly broad range of normative force. To be sure, the force of a proposal about the Sacrament of Z may be very weak for a Baptist or a Hindu, but it will not go to zero for the simple reason that these individuals are members of the community of ritual performers.

This is the general pattern with action. The proposals implicit in my behaviour strike others differently depending on the communities each of us occupy. But the unity of action across all communities ensures that this force is never fully exhausted, no matter how remote we are from the actor. The same, I think, goes for aesthetic judgement. The 'weight' my aesthetic opinions carry will vary depending on our relationship—on whether you are my librettist, my cello teacher, my editor at a *Ring des Nibelungen* fanfiction website, my wizened cellmate from the Château d'If, my goth friend from Bakunin reading group, or one of the chatty old men at Film Forum. But at no point will my opinion's significance disappear entirely. Consider what would happen if it did. If x 's aesthetic opinions meant nothing to y and vice versa, then nothing would justify us in saying that x and y are engaged in the same kind of activity—in aesthetic activity. For the nature of aesthetic experience, I have been arguing, is not given to us as a fact of nature, and so the unity of the phenomena we call 'aesthetic' is not given to us either. It is something we must create through our

⁴¹ Nehamas (2007: 83).

activities. Believing in a ‘catholic community’ of taste is nothing more than a commitment to this project.

This is why I think an outright denial of the ideal of aesthetic universality is a mistake. I am nonetheless sympathetic to a suggestion frequently annexed to anti-universalism. It is the claim that the normative pressure towards aesthetic convergence is counterposed by another force, one that encourages *diversity*. I agree with those who urge us to cultivate aesthetic individuality and intimate communities by trying to develop distinctive aesthetic opinions, orientations, interests, and occupations.⁴²

In fact, one of the merits of the action-theoretic picture I have been sketching is that it can explain the normative authority of principles prescribing both convergence and diversity. My agency, as I argue above, depends on there being such a thing as action, which depends, in turn, on a certain internal unity in the behaviour of agents. But this unity is plainly not sufficient for agency. We can easily imagine a world where lurid forms of discipline create an unbroken uniformity of activity—where everyone plods along in grey jumpsuits doing exactly the same thing lest they have a piano dropped on their head. This is not a world of free agents, and it should remind us that the kind of agency worth having is *autonomous* agency.⁴³ And that sort of agency requires not just that we act under universal principles, but that those principles be *self-given*.

But what does this ideal of ‘self-giveness’ come to? There are some simple and familiar ways to fall short of it. Coercion, deception, and submission to compulsion—these are obvious obstacles to autonomy. But there are more subtle ways as well. If you borrow your favourite movie star’s entire design for living—their tastes, their attitude, their politics, their style—then it is hard to credit you with living autonomously, even if you wholeheartedly endorse these things. No one has forced you into this stance, but the appropriation itself seems to sit uncomfortably with the ideal of self-fashioning. By the same token, there seems to be something stunted about the autonomy of the shrinking violet who meekly accepts all the dogmas and prejudices of their family, the deferential wife who leaves her whole life to the whim of her husband, and the person who lives according to the detailed directives of a self-help guru.⁴⁴

These examples suggest an intriguing possibility, one I can’t argue for properly here, but will record as a hypothesis. Agency requires autonomy, and autonomy requires a kind of *creativity* in how one lives that precludes things like apathy, passive conformity, and excessive reliance on rules. It isn’t enough that we affirm the principles we act under; whether those principles reflect our own ingenuity and craftsmanship also matters to our autonomy.

⁴² In addition to Nehamas, see Riggle (2015) and Strohl (2021).

⁴³ I make no assumptions about the connection between this kind of autonomy and the aesthetic notion described earlier. For my purposes, they are polysemous. There are, of course, many questions about how Kant understands their connection.

⁴⁴ Hill (1991).

If this thesis is true, then autonomy demands quite a bit from us. Sadly, in most parts of our lives, there is relatively little opportunity to meet this demand. I can't be very creative in how I commute to work or eat my lunch—not if I want to keep my friends and stay out of jail. But our aesthetic endeavours are an exception. The material and social snares that make creativity burdensome or dangerous are a little looser in garage bands and reading groups, and this makes them seem an ideal place to pursue the creativity that autonomy demands of us.

We have special reasons to be creative in our aesthetic undertakings. Naturally, these undertakings will include artmaking, and it is easy enough to find a place for creativity there. But I think they will also include the reception and appreciation of aesthetic objects, and here too there is room for creativity. We can be creative in how we fashion our aesthetic selves, and in how we assemble the conglomeration of opinions, preferences, interests, and orientations that constitute our personal style. We can pursue this project in all the usual ways that we might attempt to 'enliven' our aesthetic capacities: by challenging ourselves with new and different kinds of art, by seeking similarities between *prima facie* very different kinds of aesthetic object, by pursuing unusually deep and intensive exercises in appreciation, and by finding new ways to integrate our aesthetic interests into our larger lives.

What do these points about aesthetic creativity have to do with diversity? I think the two concepts are closely related. They are not co-extensive, of course: Even the most creative individuals may serendipitously agree with each other, and some aesthetic diversity reflects empty eccentricity. Nonetheless, there is an obvious connection. A person's aesthetic individuality—the fact that their tastes break from the crowd—is very often explained by their creativity. They have become aesthetically distinctive by avoiding conformity to existing standards and creating something new in the way of aesthetic identity. Diversity is, in other words, evidence for the kind of creativity that matters for autonomy. This suggests a slightly deflationary explanation for the value of aesthetic diversity: It is not something we should pursue for its own sake, but a common symptom of something that is. It is a symptom of the creativity that autonomy demands from us.

This story by no means resolves the rivalry between universality and diversity. It is an account of the roots of that rivalry. The conflict between universality and diversity in aesthetics is part of a more fundamental opposition between two demands of agency. These demands are conveniently inscribed in the word 'autonomy'. Autonomy requires us to act on principles that are laws—general, universal, and unconditional in their application. And this pushes us towards convergence in our chosen principles, so action might be as much like a natural kind as possible. But these laws must also be self-given: not just borrowed and lazily adopted, but reflective of the creative powers of the creature who plans to follow them. This pushes us towards individuality and,

ultimately, difference. I don't think this tension can be resolved. There is no middle ground that happily satisfies the demands of universality and diversity. In that sense, there is no stable aesthetic ideal. But this is a good thing: It is, to borrow a phrase, the *essential tension* in our aesthetic lives. It is through attempts to satisfy both demands—to be radically creative while speaking with the universal voice—that our aesthetic projects are propelled forward.

This brings me to an amendment to my earlier rebuff of questions about what distinguishes the aesthetic as a category. I said that aesthetic activity doesn't have any essence that we can use to offer anything like an analysis of it (as some have tried to do with, e.g. the pursuit of disinterested pleasure). But there is a related question that we might pose as a follow-up. How has the aesthetic domain persisted as a semi-autonomous domain of activity? Why hasn't it evaporated into the background of activity more generally? The answer, I believe, is that we need a domain of activity where this essential tension between universality and individuality can play out unfettered by the persistent and mundane demands of everyday life.⁴⁵ We need, that is, a *pure* form of activity that is not dominated by exogenous normative forces. The aesthetic domain offers us that, and it offers it in part *because* we cannot say that the aesthetic is defined by any characteristic aim. I don't think we can use this thought about creativity and intelligibility to produce anything like a traditional analysis of the aesthetic—anything like the hedonist's view—but we can use it to explain why the aesthetic emerged and endures.⁴⁶

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⁴⁵ Thanks to Alex King for pressing me on this question and helping me better appreciate my own view.

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