

## The aesthetic judgment “This is art” in Stanley Cavell and Thierry de Duve

Pioter Shmugliakov<sup>a</sup> and Alma Itzhaky<sup>b</sup>

<sup>a</sup>Institut Für Philosophie, Freie Universität Berlin, Berlin, Germany; <sup>b</sup>School of Philosophy, Linguistics and Science Studies, Tel Aviv University, Tel Aviv, Israel

### ABSTRACT

Stanley Cavell and Thierry de Duve have independently proposed that judgments of the type “This is art” are aesthetic judgments, to be understood along the lines of Kant’s analysis of the judgment of taste. Contrary to the common philosophical strategy of pursuing a definition of art that could be applied to controversial cases, Cavell and de Duve reinterpret the art-judgment as a reflective aesthetic judgment that claims universal agreement on non-conceptual grounds. Accordingly, judging something to be a genuine artwork is not a preliminary step but an inherent part of our aesthetic engagement with art. Furthermore, the transcendental grounding of such judgments implies that some universal and necessary conditions of human experience are revealed in the domain of art. Yet, our analysis shows that the two positions disagree on (1) the role of distinct artistic media as being essential (Cavell) or inessential (de Duve) to the art-judgment; and (2) the relation of criticism to judgment in the experience of art. Both points are related to the philosophers’ differences regarding the material aspect of artistic experience, as well as to some further moments in their respective appropriations of Kantian aesthetics. We propose that combining the complementing insights of the two positions contributes to defining the common framework of our experience of art in its characteristic contemporary diversity. Specifically, it serves to negotiate the still much relevant tension between the high modernist position represented by Cavell and the post-conceptual position represented by de Duve.

### KEYWORDS

Stanley Cavell; Thierry de Duve; aesthetic judgment; modernism; art criticism; Immanuel Kant

### Introduction

Before the rise of the avant-garde movements of the 20<sup>th</sup> century, the principal question vis-à-vis an artwork was the evaluative one: “Is it a good work of art?” or, in a manner in which it was most commonly posed, “Is this piece of art beautiful?” The fact that this is *art* that is being judged, on the other hand, was trivially given—neither argued for, nor disputed. The classification of certain objects as works of art, if it gave pause for philosophical queries at all, was considered an empirical question, preliminary to the aesthetic appreciation of such works. In the 20<sup>th</sup> century, however, the cultural situation in the arts became increasingly defined by the fact that the very belonging of certain objects to the category of art turned to be a matter of controversy. Confusion and dismay became the stereotypical responses of art spectators faced with certain objects that claimed to be art, and were treated as art by certain people and institutions, but which by the traditional standards shared by most of the population appeared as no more than a hoax or a provocation (viz. Malevich’s *Black Square* [1915], Duchamp’s *Fountain* [1917/1963], Manzoni’s *Artist’s Shit* [1961]). Since the

1960s, clarifying the status of these objects also became a central issue for philosophical aesthetics.

A major philosophical strategy of addressing the problem is to pursue a definition of art that could be applied to the controversial object. As much philosophical value as there is to this endeavor, it does not prove to be very helpful for the confused museum goer. If the definition is to be descriptive, aspiring to capture the common ground of all objects called art, it must include the disputable objects as well, and thus the application of such a definition will be begging the question. If, on the other hand, the definition is to be normative, it may be challenged by an alternative definition, presupposed by the controversial objects. The trouble is that even if a satisfactory argument can be made for one definition at the exclusion of others, the dispute has already surpassed the descriptive role which the definition of art played in traditional aesthetics. An alternative philosophical strategy, which we set to explore in this paper, consists in making the controversy itself a key to the understanding of art by dwelling on its particular *form*. According to this view, the dispute occasioned by avant-garde works involves the fundamental claims and convictions that constitute the aesthetic and critical engage-

ment with art. The decision as to whether or not a certain object is a genuine work is in itself a matter for aesthetic judgment and critical elucidation. The attempt to settle the question in advance with a definition amounts therefore to curtailing the issue.

The paper is dedicated to a comparative analysis of two versions of the latter strategy—in Stanley Cavell (1976, 1979) and Thierry de Duve (1996, 2010, 2019), both of whom draw on Kant's *Critique of the Power of Judgment* to establish their respective theories of modern and contemporary art. Their accounts share the following similarities: both (1) view the judgment "This is art" (the *art-judgment*) as an essential feature of the experience of art, and (2) model this judgment on Kant's account of the judgment "This is beautiful." In Kantian terms, they reinterpret it as a *reflective aesthetic* judgment, rather than a determinative judgment that would classify a given object under a pre-given concept or definition.<sup>1</sup> (3) For both thinkers the primary meaning of this reinterpretation is derived from the second moment of the *Analytic of the Beautiful*: the judgment "This is art" claims universal agreement on non-conceptual grounds (Kant, [1790] 2000, 5: 211, 96). De Duve states this position explicitly, since, as he repeatedly claims, the theory of art he is advocating for three decades now amounts to a reading of the third *Critique* while replacing the word "beautiful" by the word "art" (1996, 304, 322; 2019, 6). The attribution to Cavell of this view requires some interpretative work—called for, among other things, by his remark that the *Analytic of the Beautiful* is "determining the grounds on which anything is to count as art" (1976, 181).

The first aim of this comparison is to bring out Cavell's and de Duve's common commitment to what we shall call—in a somewhat free usage of the Kantian term—the transcendental grounding of art. In both accounts, the aesthetic interpretation of the judgment "This is art" is related to the view of art as a domain where some universal and necessary conditions of human experience are being revealed. This commitment puts both theories in opposition to contextual and relativist views of art—the "disavowals and betrayals of postmodernism" (2019, 59 n), to use de Duve's words.<sup>2</sup>

Yet, as our analysis shows, the two positions disagree on two major issues: (1) the concept of the medium in relation to the generic category of art; and (2) the relation of criticism to judgment in the experience of art. Both points, we argue, are related to the philosophers' differences regarding the material aspect of artistic experience, as well as to some further moments in their respective appropriations of Kantian aesthetics. The second aim of our comparative analysis is to use the common Kantian denominator of Cavell's and de Duve's positions to negotiate the still much relevant tension between the high modernist (or today, neo-modernist) and the

post-conceptual outlooks of art, of which they may be taken as representative speakers. Our claim is that combining the complementing insights of the two positions contributes to defining the common framework of our experience of art in its characteristic contemporary diversity: from the 20<sup>th</sup> century avant-garde to classical music, and from conceptual installations to Hollywood films.

In our interpretation of Cavell and in some points of criticism of de Duve, we follow Jay M. Bernstein's *Against Voluptuous Bodies* (2006)—a seminal exposition of the neo-modernist position—suggesting further arguments in the wake of the book's general program

### De Duve: judging art by dint of feeling

We begin with Thierry de Duve, whose re-appropriation of Kant is by far the more explicit and systematic of the two. Writing in the 1990's, de Duve looks back at the characteristic modern confusion concerning the art-status of controversial works—a confusion institutionalized, rather than alleviated, by contemporary art. In de Duve's account, this century-long perplexity amounts to the inability to provide a definition of art that would exhaustively cover the corpus of entities "empirically defined by the rubric: all that is called art by humans" (1996, 4). For de Duve, the principal instances raising the conceptual difficulty are those of generic art (or art-in-general, in his more recent terminology): the variety of seemingly ordinary objects or mundane gestures, claiming the status of art without a claim to be either paintings, or sculptures, or films, or any other type of object conventional of *an* art. Not surprisingly, de Duve champions the work of Marcel Duchamp, and specifically his *Fountain* (1917/1964)—the notorious urinal, submitted to- and rejected from the exhibition of the Society of Independent Artists in 1917, and which, finding its way to the museum in 1964, has been definitive of the situation of art since. The inclusion of this work in the empirical category "all that is called art," de Duve argues, forces the conclusion that this phrase defines the common denominator of this set of objects in a non-tautological way. The circularity of the definition "art is everything that is called art" ... "far from being a sophism, constitutes the ontological specificity of works of art" (1996, 12). The insight here, which de Duve rightly ascribes to Duchamp, is that what is common to all that people call art is not any content or empirical property, but the formal specificity of the "calling," by the means of which the subsumption was made. "Calling an object by the name 'art' is exercising one's aesthetic judgment about it," whereas the latter should be understood following Kant (Duve 2019, 16).

De Duve's aesthetic interpretation of the art-judgment may be briefly presented as following. By

calling something a work of art, I am placing it in the idiosyncratic category of all the entities I have called art so far. In such a procedure, I am predicating no concept to the entity at stake; rather, I baptize it with a proper name “art,” which has no other meaning than a reference to all that I have baptizes so before Duve (1996, 32, 52, 59). This peculiar kind of “baptism” takes place on the grounds of conceptually unmediated liking, the feeling I have for the pieces I love as art and which constitute my collection. And, in line with Kant’s analysis, pronouncing it, I “demand the agreement of others” (35) and regard my “personal collection as though it was everyone’s treasure” (86). Hence, “baptizing the examples of your taste with the name *art*, you are thus making an aesthetic judgment” (32).

This claim to general agreement is grounded in the presupposition of a *sensus communis*, a subjective condition of judgment to be universally presupposed in every human being Duve (1996, 310). De Duve emphasizes in this context that Kant’s *sensus communis* must be read as a transcendental idea of reason (Kant, [1790] 2000, 5: 216, 101), the reality of which cannot be demonstrated, but which is nonetheless necessary as a regulative principle of judgment. He takes this argument one step further by arguing that in the wake of Duchamp, *art* itself must be recognized as a transcendental idea. Seeing that “art” (art as a proper name) has no content other than the transcendental conditions of its “application”, the idea of art and the condition of judgment articulated in the *sensus communis* become one and the same. Accordingly, *sensus communis* “after Duchamp” should read: “*a faculty of judging art by dint of feeling common to all men and women*” (Duve 1996, 312, emphasis in original), and this, according to de Duve, is the idea of art. This idea constitutes the field of experience in which the art-judgment acquires this validity. It is implicitly evoked in every art-judgment, which is to say that in making such judgments we are assuming that everyone is equally capable of making them.

It ought to be emphasized that the unmediated “feeling” that sanctions the art-judgment is not, as in Kant’s judgment of taste, the pleasing sensation of beauty (Duve 1996, 304). Although de Duve insists on the fact that the judgment “This is art” is made “by dint of feeling,” he equally insists that the “quality” or “content” of the feeling in question remains entirely unspecified (75). We return to this question about the nature of the “art-feeling” in what follows.

### Cavell: the art-judgment and the medium-judgment

A generation before de Duve, Cavell writes from the midst, as it were, of the modernist crisis. The starting

point of his aesthetic theory is the acknowledgment of the modern confusion as regards art—stated apropos the contemporary musical avant-garde—in terms of a crisis of trust:

The possibility of fraudulence, and the experience of fraudulence, is endemic in the experience of contemporary music; that its full impact, even its immediate relevance, depends upon a willingness to trust the object, knowing that the time spent with its difficulties may be betrayed. I do not see how anyone who has experienced modern art can have avoided such experiences, and not just in the case of music. Is Pop Art art? Are canvasses with few stripes of chevron on them art? Are the novels of Raymond Roussel or Alain Robbe-Grillet? (1976, 188)

For Cavell as much as for de Duve, the modern spectator’s confusion is not a contingent problem that could be cured by providing a valid definition of art, but rather an historical manifestation of an inherent feature of this phenomenon. “Modernism only makes explicit and bare what has always been true to art” Cavell argues, and hence “the experiences of fraudulence and trust are essential to the experience of art” (1976, 189). The recognition of an object as a genuine article of art is an irreducible feature of what an engagement with an art-object is and not a pre-aesthetic preamble setting the stage for such an engagement. Arguing against Monroe Beardsley and Joseph Margolis, who wish to maintain the classification/evaluation distinction of the traditional model, Cavell claims that “to classify a modern work as art is already to have staked value, more starkly than the (later) decision concerning its goodness or badness” (216).<sup>3</sup> The very grounding of our acceptance of the controversial piece as art hence “becomes an issue for aesthetics” (220), for while being a normative claim, such an acceptance is not based on an application of a pre-given concept, constituted by a “definite set of features” (190); rather, in it “feeling functions as a touchstone” (192).

For Cavell, *contra* de Duve but in conformity with the average spectator, artistic activity and critical engagement in the generic realm of art are necessarily mediated by distinct artistic media, institutionalized in the West as the system of the arts. To “accept something as a work of art” is in the first place to accept it as a painting, a poem, a film, etc. The judgment “This is art” (the art-judgment) on this account, necessarily comes about in the form of what can be called a *medium-judgment* (“This is painting”, “This is poetry”, etc.). The crucial point, however, is that for Cavell such judgments are just as contested—just as open—as the judgment “This is art”. Modernism is characterized by the systematic questioning by each of the arts of its own defining conventions and criteria. For Cavell, this challenging amounts to showing that “we do not know” what

a painting (for instance) is or can be: “we do not know *a priori* what painting has to do or remain faithful to in order to remain a painting” (1979, 106, Cf. 219). In other words, we cannot define painting any more than we can art in general. Moreover, as Bernstein clearly makes the point, once we realize that there is no *a priori* definition of what painting is, we must conclude that there has never been one (Bernstein 2006, 92). The aesthetic indeterminacy of the concept of the medium, hence, is definitive of the fundamental aesthetic nature of art, which modernism only makes explicit (Cavell 1976, 189). It follows that the concept of an artistic medium cannot be ascertained apart from the encounter with the individual work of art that must compel conviction as a genuine instance of a medium. Moreover, such a genuine instance must also be an *exemplary* one, whose task—being itself a peculiar kind of speaking in a universal voice—is “to declare, from itself, the art as a whole for which it speaks. . . . One might say that the task is no longer to produce another instance of an art but a new medium within it” (Cavell 1979, 103).

Cavell has famously exemplified this “production of a new medium” (we shall hereafter use *medium-creation* as a technical term for the phenomenon) in his discussion of Anthony Caro’s steel sculptures (Cavell 1976, 216). Whether or not Cavell has actually come to encounter Caro as unprepared as his account suggests, let us grant the point that for a person, whose concept of sculpture is defined by Canova, Rodin, or even Henry Moore, a piece such as Caro’s *Month of May* (1963), entails a radical redefinition of this common conception. Among the points of such revision Cavell mentions the mere *placing* of steel rods, beams, and sheets rather than *working* them; the discontinuous, discrete existence of the works as opposed to the “coherence of a natural object,” commonly assumed to be characteristic of sculpture; as well as the peculiar relation to color, which—to the contrary—more resembles that of a natural object of a certain color (as grass) than of a painted artifact (1976, 218). For our matter, as much as for Cavell’s argument, what is important is not the particular content of these observations, but their status as formulations of the “reinvented” medium of sculpture. It will also be important for our further discussion that coming up with these formulations while following the work is at the core of Cavell’s notion of criticism—an activity continuous with the essential experience of the work and providing, as it were, non-conclusive support for the judgment.

At this point we must say a few words about Cavell’s conception of the medium involved in the notion of medium-creation. For Cavell, as well as in the common use, the term “medium” comprises two distinct dimensions: the material basis of an art (viz,

marble, paint, sound etc.) and the tradition of its meaningful deployment, which constitutes it as an art (viz. sculpture, painting, music etc.). For many respected aestheticians—from Fried (1982) to Costello (2008) and including de Duve (1996, 210, 2010, 66)—it is the second, conventional meaning that should be given priority, with the emphasis put on the tradition constituting the medium as a normative field: for example, setting Bernini and Rodin as a standard of quality for Caro’s innovations. By contrast, Bernstein’s interpretation of Cavell underscores the interconnectedness of these two dimensions, captured in the term *material meaning*. In this reading, the conventions of an art spring from the discovery—or rather, the acknowledgment—of the potentialities of meaning contained in some form of matter or another (Bernstein 2006, 95–96). Rather than setting the standards to such a discovery, an artistic tradition is seen to follow from it. This is one sense in which Cavell uses the word “automatism” so as to point to the fact that when “a medium is discovered, it generates new instances: not merely makes them possible, but calls for them, as if to attest that what has been discovered is indeed something more than a single work could convey” (Cavell 1979, 107). The creation of a medium is therefore the inauguration of a new space of material meaning or “an alternative material logic” in Bernstein’s words (2006, 215).

Accordingly, in the given account of Caro, the emphasis should be on the fact of establishing the placement of unworked pieces of colored steel as a medium of sense-making (that is, launching an automatism), rather than on its being a medium of *sculpture*—that is, the relation of these achievements to the tradition of the practices called sculpture before. Finally, this materialist reading of Cavell’s medium, allows for an important specification of his position. Cavell’s formula, “If this is music [sculpture, painting etc.], then (analytically) this is art” (1976, 219), should be read: “If it creates a medium, then this is art.” For as Cavell himself suggests in the same passages, to be an artwork is to be “an artifact . . . which defines no known craft” (218).

### Cavell and de Duve: transcendental significance of art and material meaning

Let us begin the comparative analysis of the two accounts by schematically mapping the salient points of agreement and disagreement between them.

As far as agreement is concerned, the following general agenda should be spelled out. At stake in both accounts is the belief in a transcendental significance of the experience of art, to which the art-judgment inherently belongs. De Duve’s assertion that art is

a transcendental idea of reason underwrites this common belief with formal Kantian terms—used, to be sure, in an unorthodox way. This status is already suggested by the Duchampian insight that the “art” of the art-judgment does not denote any empirical property and is therefore not a determinate concept. Rather, art defines the framework that allows anything at all to be experienced *as art*—be it a *Mona Lisa* or the *Fountain*. A further implication of this identification of art as an idea in the Kantian sense is its necessity: the fact that we *can't help having this idea*, and that it possesses a binding normative force. This necessity accounts for the fact that “everyone is an art lover to some extent” (Duve 1996, 31) and the insight that the importance of art is part to its concept (Cavell 1979, 4). It captures the intuition shared by the two philosophers that we are *obliged*—albeit not in the moral sense—to engage with the claims of what claims to be art, whatever are the particular judgments we pronounce.

The reason for this obligation is that the importance of whether or not Duchamp's *Fountain* or Caro's *Month of May*, or any other contender is a genuine work of art, bears on the most fundamental and universal conditions of human experience, with a clear accent, in both philosophers, on its communal dimension. For Cavell, it is a matter of “a world we share, or could” (1976, 192) or, in Bernstein's words, the “possibility of there being a (meaningful) world” (2006, 99). The transcendental significance of art, Bernstein explains, amounts to revealing “some necessary conditions of the possibility of there being objective significance, or meaning, at all” (79). Specifically, it concerns the possibility of the subjective aspects of our experience (sensing, feeling) carrying a public or general significance (83). For de Duve, the aesthetic judgment is nothing less than the “transcendental ground for democracy” (2019, 91), and the role of art is to “carry *hic et nunc* the empirical testimony of democracy's transcendental foundation in *sensus communis*” (104). The idea of art as a universal faculty amounts to the postulation of Humanity as a “transcendental aesthetic community” (76), where each member is equally capable of judging (and, as we shall immediately see, of producing) art by a dint of feeling. Every art-judgment evokes this community and asserts this *a priori* equality as an indispensable democratic principle. At the same time, Cavell and de Duve both emphasize that an access to this potential communality is achieved only in the most personal way, through judgment's sincerity to one's own feelings (Duve 1996, 31–33.), which also means that art is art on our own responsibility, so to say. In Cavell's words, “it is up to me (and, of course, up to you) whether an object does or does not ... count as art at all” (1976, 216). For both philosophers, taking such a responsibility, the art-judgment

postulates the possibility of agreement—the possibility of shared meaningfulness—that cannot be reduced to a sociological or institutional consensus.

The most salient difference between the positions of the two thinkers concerns their agendas of criticism, namely, the kind of art each champions and takes as a starting point for theoretical construction. De Duve's theory takes the readymade as its point of departure, and accounts for the post-Duchampian paradigm thriving today, for which art-in-general defines both a legitimate genre and an overarching idiom (2019, 39–40). Cavell's account was modelled on the achievements of high modernism within the traditional arts, and was an ally—although too sophisticated to be an exceedingly vehement one—in the war waged by Clement Greenberg and Michael Fried against the rise of art-in-general in the form of Pop-art, “literalism” etc. From our historical vantage point, it could hardly be denied that the art-in-general camp has won, at least at the institutional battlefields of high culture. From de Duve's perspective, Cavell's account may be as well correct as far as high modernism is concerned, but the latter, as he claims, was no more than a transitory stage, “a latency period between the moments the fine arts system crumbled and the Art-in-General system came into full effect” (2019, 35). Yet, once we have entered the new paradigm, we must understand retroactively the past situation in terms of the post-Duchampian account (that is, what made Caro art was the judgment relying on one's art-feeling, even if at the moment this feeling was sutured to its relation to the art of sculpture).

The reason that we don't take this argument to suffice for preferring de Duve to Cavell as the more up-to-date version of their common Kantian model, is that these different allegiances in the historical rivalry between medium-specific and generic art point at a deeper controversy regarding the ontological problematic of material meaning—inherent to this very model in Cavell's account, while being largely eschewed in de Duve's. Our belief in the constitutive relevance of this problematic to the post-Duchampian art as well dictates the task of accommodating the Cavellian position to this artistic material—which we shall tackle at the last part of the paper. But before that, we shall say more about this principle disagreement between the two positions.

Dismissing the necessary role of the medium-judgments operative in the system of arts, de Duve by the same gesture detaches the art-judgment from the “material motive” implied in Cavell's account (Bernstein 2006, 205). De Duve's specification that after Duchamp the judgment “This is art,” while being indeed an aesthetic judgment, is “not necessarily any longer a judgment of taste” (1996, 304) is meant to dematerialize it, divorcing it from an

embodied experience of a sensuous particular. De Duve cites in this context Duchamp's statement that his choice of the readymade "was based on a reaction of visual indifference ... in fact a complete anesthesia" (1996, 356). This view makes perfect sense with the curious circumstance that for de Duve and his readers, the paradigmatic *Fountain* is available in the form of a 1964 replica, physically different from the original as far as plastic-sculptural sensitivities are involved (there are, for example, three additional drain holes in the replica). Yet, from the Cavellian perspective, de Duve's account appears to be reductive in this regard, and—as we shall further claim—phenomenologically inadequate for the experience of Duchamp and post-Duchampian art as well. For although the aesthetic judgment "This is art" (taking personal responsibility for the art-being of art) does indeed play the constitutive role in the experience of art de Duve ascribes to it, the great bulk of this experience consists in embodied sense-making, which defines for Cavell both the activity of the artist and that of the viewer/critic. In this respect, while both authors agree that the art-judgment is grounded in a feeling aroused by a work, the interpretation they give to this feeling is quite different. For Cavell (1976, 191–192), it is "knowing in sensing": the material experience of the artwork as giving rise to a particular mode of knowing. In de Duve (1996, 31–35), the art-feeling has much more to do with an existential commitment, which he models on the experience of love. Cavell will be the last to deny such analogy, but then—if we may stretch the metaphor as far—the claim will be that we need the concept of something like "knowing in sensing" for what would be analogous here to lovemaking.

To these different interpretations of the non-conceptual experience at the basis of the art-judgment correspond different views of art criticism. For Cavell, the critic's task is to further develop the material meaning embodied in the work by reflectively accounting for her aesthetic experience. Criticism in this sense is congruent with the procedure of judgment itself, providing non-conclusive support of the assessment it expresses, while—most importantly—pointing at what should be experienced in the object for it to be so assessed (as we have briefly demonstrated above with regard to Caro). And since, again, this procedure is constitutive for any experience of art whatsoever, *critic* is Cavell's term for the artwork's essential audience. For de Duve (1996, 36–37), criticism consists in the practice of making public one's art-judgments; the critic's role is to exhibit her collection—such as any art-lover has—to the "tribunal of history". Criticism in this sense has an important place, but it remains external to the transcendental core of the art-judgment, inasmuch as it does not penetrate the feeling on which this

judgment is based. De Duve maintains that while the art-judgment is "born out of feeling", it "neither states nor communicates the quality or 'content' of this feeling" (75). This is so because feelings are "ineffable" and "do not get communicated by talking about them" (214). For Cavell, on the other hand, criticism is precisely a concentrated effort to make sense of one's feeling about an artwork and to methodically unfold the "content" of this feeling. The underlying assumption that such a communication is possible is closely related to the assertion that works of art make articulate a dimension of our experience that otherwise would indeed remain ineffable; hence the idea of "knowing in sensing".

### Taste, genius, and the idea of art

We have pinpointed the conflict between Cavell's and de Duve's respective interpretations of the art-judgment at the problem of material meaning. This conclusion can be reinforced if we turn to examine some further parallels between their accounts with regard to some other moments in Kant's aesthetic theory.

Interestingly enough, both Cavell and de Duve are led to bridge or even erase the classic opposition between the spectator and the artist, placing them on equal footing in relation to the art-judgment. In Kantian terms (explicit in de Duve, implicit in Cavell) the judgment "This is art" merges the faculties of Taste and Genius. De Duve underscores the fact that the judgment "This is art" is not only an aesthetic judgment but—as an act of baptism—also a performative one, producing a new state of affairs in the world. Duchamp's eventful contribution is to have discovered the possibility of producing a work of art by this performative gesture and nothing more. "In front of a readymade," de Duve argues, "there is no longer any technical difference between making art and appreciating it" (1996, 290), and so "with the readymade ... 'taste' and 'genius' also merge in one and the same faculty" (313).

Without using the Kantian vocabulary, Cavell nevertheless repeatedly aligns the tasks of the artist and the critic (namely, the quintessential viewer) the common core of which is the articulation of the material conditions redefining the medium of an art (1976, 94, 193). "The task of the modernist artist, as of the contemporary critic," Cavell argues, "is to find what it is his art finally depends upon" (219). The spectator's judgment, acknowledging a piece as creating a medium of sculpture—and hence being art—mirrors the productive gesture of the artist herself, or indeed of the artwork itself, whose very art-being is defined by the acknowledgment of its material conditions (1979, 109–110). Which is to say that the work of criticism is

*immanent* to the work of art, as both partake in one and the same inquiry. This is how Cavell phrases the idea, while presenting it as the framework thesis of his exploration of film:

[G]iving significance to and placing significance in specific possibilities and necessities (or call them elements; I sometimes still call them automatisms) of the physical medium of film are the fundamental acts of, respectively, the director of the film and the critic (or audience) of film. (1979, xiii–xiv)

Like the other common features mentioned, the merging of taste and genius has a different accent in each account: de Duve tends to reduce taste to genius, while Cavell tends to reduce genius to taste. While Cavell emphasizes the *receptivity* of both the artist and the spectator to the material meaning of the piece, de Duve maintains that the *productivity* of the judgment is essential to the artistic realm. This difference plays crucial when it comes to the broader, existential implication of the experience of art. For de Duve, what is important is radicalizing the democratic potentiality of taste, already implied in Kant's *sensus communis*. The ingeniousness inherent in the art-judgment, demonstrated by Duchamp, represents in this respect a soberer version of the Romantic utopia of universal creativity, celebrated from Novalis ("everyone should be an artist") to Beuys ("everyone is an artist"). For the Cavellian model—especially in Bernstein's interpretation and as it certainly was for Heidegger—it is precisely the revelation of meaning *beyond* the spontaneity of the subject which is cultivated and claimed in art (Bernstein 1992, 9). The creation of a medium is nothing other than the articulation of such a revelation, whereby a physical medium becomes a domain of sense-making.<sup>4</sup>

Bernstein pushes this last point a step further in saying that "the idea of an artistic medium is perhaps the last idea of material nature as possessing potentialities for meaning" (2006, 75); which is to say, material nature seen as something more than an object of cognition or technical mastery. This formula goes to the heart of the transcendental significance of art in Cavell's account: the possibility of art, and the necessity thereof, ultimately rests on the appearance of meaning within material nature. "Material nature" designates, in this context, the domain of matter in the broadest sense, not excluding industrial materials such as Caro's steel beams or the celluloid and chemicals of film. By speaking of material *nature* (rather than simply "matter") Bernstein emphasizes that what is at stake in the creation of a medium is not simply the meaningful application of some materials or others, but the meaningfulness of materiality as such—of the natural/material dimension of human existence.

By the same token, Bernstein's interpretation brings Cavell's account one step closer to de Duve's claim that art should be regarded as a transcendental idea (although Cavell himself never makes this claim). We have already seen that for Cavell as well as for de Duve, art is an indeterminate yet necessary concept. The intimation that an artistic medium opens to an idea of nature—nature as humanly meaningful—provides some further support to regarding art itself as a transcendental idea. Without overstating this last point, it might be useful for the sake of argument to regard Cavell and de Duve as developing two complementary aspects of this transcendental idea. For de Duve, the content of the idea of art is expressed by the universal postulation of a *sensus communis*, which is tightly linked to the idea of Humanity as an aesthetic community. For Cavell, the core of this idea is the concept of "medium creation", which is tightly linked to an idea of material nature harboring potentialities of meaning. Both aspects, we might add, go back to central leitmotifs of the third *Critique*: de Duve's interpretation builds on Kant's identification of the *sensus communis* as the "supersensible substratum of humanity" (Kant [1790] 2000, 5: 338, 214–215); whereas Cavell's view is related to the problem of the "amenability of nature" to the moral and cognitive ends of reason, and more broadly speaking, to the role of the power of judgment within Kant's projected system as "the mediating concept between the concept of nature and the concept of freedom" (5:196, 81).

### Towards a synthesis of Cavell's and de Duve's positions

Cavell's and de Duve's accounts of the art-judgment are founded in their common commitment to the transcendental grounding of art as a domain of experience—a commitment that, following de Duve's suggestion, we have worded as the view of art as an idea of reason. Hence the proclaimed universality of both theories, which, while motivated by a paradigm shift within the history of 20<sup>th</sup> century art (high modernism in Cavell, post-Duchampian art for de Duve), claim to account for art as a general phenomenon, taken in its broadest possible scope.<sup>5</sup> If we accept the high stakes of such a general analysis, we ought to be able to combine the central moments of each of the two positions, taking them as basic phenomenological parameters of our experience in this domain in all its variety. In this manner, Cavell's conception of the medium as well as the immanent role of criticism should be accepted as necessary elements of the experience of any art whatsoever. De Duve's contribution, reciprocally, is the construal of art as an idea which constitutes the framework of this experience, and his insistence on the primacy of the

art-judgment as the performative act which brings this idea to bear on a particular piece.

To indicate how such a synthesis might work, we shall tackle directly what may appear to be its most problematic point: the applicability of the Cavellian notion of medium creation to generic art of the post-conceptual paradigm, in which—as some maintain—the concept of the medium is no longer relevant. This application requires a certain reinterpretation of Cavell's concept of the medium, along the lines already suggested. We have accepted de Duve's claim that art is an idea, and shifted the focus of such understanding from its being evoked in the art-judgment to its being constitutive of an experiential domain. Adding to this Bernstein's argument that medium—as a stand-in for nature possessing potentialities for meaning—belongs to the transcendental content of this idea, we must regard it not as a particular feature that may be present or absent in an artwork, but rather as a fundamental parameter in terms of which an artwork—inasmuch as it is an artwork—is being conceived. We have earlier rephrased Cavell's "If it is music [i.e. an art], then it is art" to "If it creates a medium, then it is art." But if medium creation belongs to the very idea of art, then the opposite must also be true: "If it is art, then it creates a medium." What must be abandoned is the interpretation of Cavell's medium-creation as a criterion of the art-judgment (analogous to the way medium-purity served a criterion of quality in modernist medium-essentialism). As a matter of fact, medium is not a concept of judgment at all; it is rather a concept of criticism, or—more precisely—a necessary framework of criticism *following* from the art-judgment, but placing no empirical restrictions on what is to be conceived within this framework.

But here our prioritization of the material over the conventional or "consensual" aspect of the medium becomes crucial. The creation of a medium is defined by the articulation of *some* material conditions into a realm of sense-making; just *what* these material conditions may be depends entirely on the work in question. While the material conditions of a work may derive from a preexisting tradition such as music or painting, as was the case for the works Cavell has considered, they might as well derive from other areas—the availability of mass-produced urinals, for instance. Whether or not a work deploys traditional materials, techniques, and conventions, what matters is the act of "giving significance and placing significance in" these materials, understanding what makes them mean something in the first place, and how this meaning comes about in this particular work. The only requirement that Cavell poses on the side of convention is the generation of an "automatism"—namely, the possibility of a *new*

tradition that follows from the work's inaugural gesture.

Put in these terms, it would be prejudiced not to recognize a creation of a medium in such a work as *Fountain*. *Fountain* articulates a new kind of relation between material objects (the urinal, the replica), their photographic documentation (owed to Alfred Stieglitz), and—most importantly—a deed at its most mythical guise (the endlessly recounted story of Duchamp's submission of the urinal to the exhibition etc.). If something deserves to be called "a new material logic"—as Bernstein identifies the produced in medium-creation—it is the articulation of the relation between the material and the immaterial that came to be known as the "readymade". The fruitful automatism of this gesture is similarly beyond doubt, given that much of contemporary art since the 1970's would have been inconceivable without it.

It may be objected that so expanded a notion of the medium becomes pointless, for it loses the emphasis on sensuous particularity crucial to the neo-modernist account. The same objection, however, could be made about Cavell's own analysis of the physical medium of film, which as a photography-based art is characterized by the same "radical distributive unity," to use Peter Osborne's (2013) expression, typical of conceptual art.

Contemporary art has effectively demonstrated that any and all materials and activities—from human excrement to starlight, from knitting to shooting oneself in the arm—can be taken up as artistic media. For those who regard the medium as a normative field representative of a tradition, this new situation seems to render the concept obsolete—forcing us either to give up on the modernist scheme of medium-specificity or to reject the better part of contemporary art. From a Cavellian perspective, on the other hand, the unlimited proliferation of media seems to follow from the very idea of medium-creation. The view of an artwork as an artifact "that defines no known craft" calls for works whose medium bears no comparison to the traditional arts: and in this sense, the development of contemporary art can even be said to realize a theoretical possibility inherent to Cavell's model. The task of criticism with respect to these "unclassifiable" contemporary works is to explicate the particular material conditions being meaningfully articulated by each individual piece—taking them as *sui generis* instances of medium creation.

Yet, the functioning of medium-creation in the post-Duchampian paradigm makes one see clearly that Cavell's account must to a certain extent accept the primacy—or, more precisely, the logical precedence—of judgment over criticism, suggested by de Duve's model. The articulation of the work's material conditions as producing an artistic medium must



follow, rather than precede, the conviction in its being art. In fact, this modification is already suggested by the problem of fraudulence and trust from which Cavell's model sets out. It may be the case that on the level of the critical argument, pointing at the material logic of the Caro (or any other piece) leads to the judgment of the work as sculpture and then as art. But at the level of the lived experience of the work, only the conviction that the work compels—such conviction as expressed in the art judgment—makes one “trust” it enough so as to start following its material logic and sets the critical procedure in motion. This reversal becomes evident in the case of generic art, where there are no medium-specific conventions, not even tentative ones, to guide our reflection of the work. It should be stressed, however, that this relation of judgment to criticism is equally constitutive of our experience of traditional works. Cavell himself attests to this primacy of judgment, when acknowledging that his critical engagement with Hollywood films proceeds from the fact that they “strike as having the force of art” (1979, 165). The constitutive precedence of (art-)judgment, which de Duve's theory enables to articulate, is essential to any work of criticism which aims to account for what matters in our experience of art as art—as does Cavell's work with Shakespeare, Caro, or Hollywood talkies. This sets it apart from various strains of critical theory that take interest in art as a branch of cultural production, and for whose aims criticism without judgment may be fruitful. Taking this approach in the field of art itself, however, would be voiding it from the transcendental importance to which de Duve and Cavell are equally committed. In this respect, de Duve's explication of the priority of judgment, and his construal of art as an idea of reason, provide an important underpinning to the Cavellian procedures of criticism. The art-judgment so understood opens up—each time anew—the access to the field of experience in which critical claims have their purchase.

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### Notes

1. This interpretation is at odds with Kant's own position, according to which the identification of certain objects

as works of art—although not posing an explicit theoretical problem—does seem, at first sight, to consist of a determinative judgment preceding their aesthetic appreciation. Such judgment would subsume a given entity under the empiric category of “beautiful art”, which Kant defines taxonomically by differentiating it from the broader category of art in general (Kant, [1790] 2000). However, the subsequent formulation of fine art as the “art of genius”, and the requirement that it should “appear at the same time to be nature”, complicate this picture by including in the definition of fine art qualities that belong to the reflective nature of aesthetic judgment (5: 306–5: 308, 185–187). De Duve's and Cavell's interpretations can thus be seen to develop an unresolved tension in Kant's theory.

2. In addition to the institutional theory of art promoted by George Dickie and others (Dickie 1974), this position is reinforced by numerous trends in critical theory where the meaning of art, and indeed, the judgment as to what counts as art, depend entirely on the various contexts that frame the aesthetic encounter (Alberro 1999, xvi–xxxvii). De Duve is more directly implicated in this polemic, seeing that post-Duchampian art is often taken to be synonymous with this contextual position (Buchloh 1990, 117–118, 138).
3. Cf. “When faced with a borderline case such as that of the readymades, it is no longer possible to make the distinction between art in the classificatory sense and art in the evaluative sense, to use George Dickie's terminology” (Duve 2019, 42).
4. It is telling that de Duve, but not Cavell, brings John Austin's concept of performativity to bear on the art-judgment, despite of Austin's decisive influence on Cavell's thought at large. The reason for this resides precisely in the major point of our comparison here: the voluntarist aspects of sense-making implied in performativity are the farthest from the general agenda of Cavell's thought, centered—with regard to art and in other aspects—on the acknowledgment of that which does not originate in subject's volition. (See, for example: 1979, 39 n). Cavell's way of relating Austin to Kant—we may want to say—is just the opposite to de Duve's. Rather than incorporating an Austinian performativity into his Kantian theory of art, Cavell interprets the appeal to “what we say”—set by Austin as the paradigm of philosophical claiming—in terms of its structural debt to reflective aesthetic judgment (1979, 86).
5. It is especially worth noting that Cavell's model equally underlies his account of Caro and his engagement with classical Hollywood film, of which he speaks (in 1969) as “the one live traditional art” which has “avoided the fate of modernism” (1979, 14–15). For de Duve too—although he is somewhat more ambiguous on the point—the transition to the “aesthetic regime of *art-in-general*” informed by “the a priori possibility that anything can be art,” is equally determining for “all art practices, including conventional ones (and not just the unclassifiable ones)” (2019, 39–40).

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## Notes on contributors

*Pieter Shmugliakov* is a postdoctoral fellow at the Institute of Philosophy of Freie Universität Berlin. His research is concerned with the Heideggerian methodology in criticism of art and film, the work of Stanley Cavell, and philosophy of love. Shmugliakov is also the author of two published books of poetry in Russian and Hebrew under the pen name Petia Ptah.

*Alma Itzhaky* is a lecturer at the School of Interdisciplinary Art of Shenkar College and the Liberal Arts program of the Tel-Aviv University. She earned her PhD in philosophy from the School of Philosophy, Linguistics and Science Studies of the Tel-Aviv University. Her research areas include practice-based ontology of contemporary art, political philosophy of contemporary art, and Hannah Arendt's philosophy. Itzhaky also works as a visual artist, and has exhibited numerous solo exhibitions. Her work has won prizes and is included in notable public collections.

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