

# WHY THERE IS NO FACT OF REASON IN THE *GROUNDWORK*. THREE ARGUMENTS

DIETER SCHÖNECKER

Endless disagreements as to whether Kant defends this or that particular claim in this or that particular text have accompanied the work of Kant interpretation from the very beginning. Would one have to be regarded as disreputable and ill-disposed to think that these disagreements simply spring from the nature of the texts themselves? I think so. For while we cannot deny that there are different opinions about the question, for example, of whether Kant is already claiming the existence of a “fact of reason”<sup>1</sup> in the *Groundwork of the Metaphysics of Morals* (GMS) before he explicitly makes this claim in the *Critique of Practical Reason* (KpV), it would be a genetic fallacy to conclude from this that the question is unanswerable and simply arises from the unfathomable character of the texts.

Here I shall argue, on the contrary, that the question can indeed be answered in a clear and unambiguous fashion: No, this thesis —*there is a fact of pure practical reason*— is not presented in GMS. Of course, I am not so naive as to hope that the following contribution will put an end to this disagreement. But I would like to formulate my answer to this question in such a succinct and precise manner that those who propose a different answer can at least clearly try and indicate where and how my answer is mistaken. And that is why I speak expressly of “arguments” in this connection. Arguments in the strict sense of the word certainly have the uncomfortable disadvantage that they sometimes prove not to be sound; but if they are identified and recognized as such, we can at least see precisely *why* they are not sound. The claim to provide a demonstration here is thus to be understood in this sense: I provide clear arguments to show exactly why there is no thesis of the fact of reason in GMS, and I pres-

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<sup>1</sup> *Critique of Practical Reason* (KpV): 31, 24. Kant is cited from the Academy Edition, with page reference and line number.

ent them in such a way that those who take a different view on this question can then explain exactly *why* they do so.<sup>2</sup>

I should like to begin by outlining Kant's thesis of the fact of reason as briefly and clearly as possible (section 1); and I shall then present three arguments against the claim that Kant already defends the thesis of the fact of reason in *GMS*; I describe them for short as the *phantom argument*, the *subjection argument*, and the *confirmation argument* (section 2).

### 1. Kant's thesis of the fact of reason: a very brief exposition

What then is 'the fact of pure practical reason'? It is obvious that this question cannot be answered in a truly comprehensive sense without considerable effort. On another occasion I have presented the outline for a new interpretation which I can summarize here as succinctly as possible.<sup>3</sup> This interpretation involves three fundamental thoughts:

1. *The theory of the fact of reason explains our insight into the validity or binding character of the moral law; it is a theory of justification and as such replaces the deduction which is offered in *GMS*.* Thus, so Kant argues in *KpV*, we enjoy neither an immediate (certain) consciousness that we are not determined by sensuous incentives in some particular action (negative freedom), nor an immediate consciousness or experience that we are actually determined in some particular action by the moral law (positive freedom). We know about this freedom solely through the moral law; the "*consciousness*

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<sup>2</sup> The writings of Dieter Henrich in particular (see references at the end of the chapter) have emphatically and influentially endorsed this different view, namely that in *GMS* Kant is already basically defending the thesis of the fact of reason which is expressly presented in *KpV*; most recently, Heiko Puls ("Freiheit als Unabhängigkeit von bloß subjektiv bestimmten Ursachen. Kants Auflösung des Zirkelverdachts im dritten Abschnitt der *Grundlegung zur Metaphysik der Sitten*", *Zeitschrift für philosophische Forschung*, 65 (2011), pp. 534-562), for example, has also endorsed this interpretation. The literature on the subject is vast and cannot be discussed in detail here.

<sup>3</sup> See Schönecker, D., "Das gefühlte Faktum der Vernunft. Skizze einer Interpretation und Verteidigung", *Deutsche Zeitschrift für Philosophie*, Heft 1/2013, pp. 91-107; a briefer English version can be found in Schönecker, D., "Kant's Moral Intuitionism. The Fact of Reason and Moral Predispositions", *Kant Studies Online*, Feb. 2013, pp. 1-38.

of the moral law”<sup>4</sup> is “the *ratio cognoscendi* of freedom”.<sup>5</sup> The theory of the fact of reason is thus a theory as to how we are justified in our conviction regarding the “reality”<sup>6</sup> of the moral law. Only when we know that morality is real, do we also know that freedom is real.

Kant’s decisive thought here is that although there is no deduction of the categorical imperative, this imperative “is nevertheless firmly established of itself [*steht... für sich selbst fest*]”,<sup>7</sup> and that this character of being ‘firmly established of itself’ must be understood as a *non-inferential justification* of the categorical imperative. For the categorical imperative stands ‘firmly established of itself’ insofar as it “is given, as it were, as a fact of pure reason of which we are a priori conscious and which is apodictically certain”.<sup>8</sup> It is in this sense that Kant says:

“It was necessary first to establish and *justify* [*rechtfertigen*] the purity of its origin [i.e. of the categorical imperative] even in the judgment of this common reason before science would take it in hand in order to make use of it, so to speak, as a fact that precedes all subtle reasoning about its possibility and all the consequences that may be drawn from it. [...] But for this reason the *justification* [*Rechtfertigung*] of moral principles as principles of a pure reason could also be carried out very well and with sufficient certainty by a mere appeal to the judgment of common human understanding ...” (KpV: 91, my emphasis).

Here Kant speaks twice of the ‘justification’ of the categorical imperative: we must ‘*justify*’ the ‘supreme practical principle’, and indeed do so ‘*as a fact*’; and he then refers again to this process of ‘justifying’ of the moral law when he speaks of ‘the *justification* of moral principles’. Thus it is the consciousness of the categorical imperative as a fact of reason which justifies this imperative in its absolutely valid or binding character.

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<sup>4</sup> KpV: 121, my emphasis.

<sup>5</sup> KpV: 4, footnote.

<sup>6</sup> KpV: 47, 15; 48, 6.

<sup>7</sup> KpV: 47, 19.

<sup>8</sup> KpV: 47.

2. *In the consciousness of the moral law the categorical imperative is immediately given, and thereby recognized.* A *kommentarische* interpretation<sup>9</sup> of the passage<sup>10</sup> in which Kant first develops the thesis of the fact of reason in these specific terms permits us to present Kant's theses as follows:

- (F1) The consciousness of the categorical imperative is a fact of reason.
- (F2) The categorical imperative is a fact of pure practical reason.
- (F3) The categorical imperative cannot be reasoned out from any antecedent data of reason.
- (F4) The categorical imperative forces itself upon us as a synthetic a priori proposition.
- (F5) The categorical imperative is given.
- (F6) The categorical imperative is in no way an empirical fact.
- (F7) The categorical imperative is the sole fact of pure practical reason.

I should specifically like to emphasize that this talk of 'givenness' is the central aspect which allows Kant his thesis that the categorical imperative 'stands firmly established of itself'; and that 'the fact of reason' signifies nothing other than the said givenness of the categorical imperative. That the consciousness of this imperative is a 'fact of reason' thus means, according to this exemplary passage, that the categorical imperative is 'given' to us insofar as it 'forces itself upon us of itself'<sup>11</sup> without further mediation through any consciousness of negative freedom and without further conceptual analysis or logical derivation; and that is also why it stands 'firmly established of itself'.

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<sup>9</sup> For this notion of 'kommentarische interpretation', see Schönecker, D., "Textvergessenheit in der Philosophiegeschichte", in Schönecker, D. – Zwenger, Th. (Hrsg.), *Kant verstehen / Understanding Kant. Über die Interpretation philosophischer Texte*, Darmstadt, Wissenschaftliche Buchgesellschaft, 2004, pp. 159-181 and Damschen, G. – Schönecker, D., *Selbst philosophieren. Ein Methodenbuch*, Berlin – Boston, De Gruyter, 2013, pp. 203-272.

<sup>10</sup> KpV: 31.

<sup>11</sup> See also Kant's *Religion within the Boundaries of Mere Reason*: "Were this law not given to us from within, no amount of subtle reasoning on our part would produce it" (Rel.: 26, footnote).

3. *The unconditionally binding character or validity of the categorical imperative is given in the feeling of respect:* the ‘fact of reason’ takes the place of any attempted deductive grounding of the categorical imperative. The fact of reason enjoys a moral self-evidence which is encountered in *anyone’s* judgment – just as it is in the judgment of the individual in Kant’s famous ‘gallows example’<sup>12</sup> – and thus serves as ‘the justification of moral principles’. Kant says hardly anything about how we are supposed to think about this ‘givenness’ of the categorical imperative, namely about the way it ‘forces itself upon us’. Only through the broader context of the argument, and through a further passage at KpV: 91f., does it become clear that the categorical imperative in its absolute validity is given to us in the feeling of *respect*. It is respect which reveals or makes this imperative known to us, and specifically as a law which we must “obey”.<sup>13</sup> And this in turn means: consciousness of the categorical imperative is mediated by respect; and since respect is a feeling, Kant’s thesis of the fact of reason amounts to this: we recognize the validity or binding character of the categorical imperative through an immediately given feeling. Thus the thesis does not merely imply that respect drives us to do what is morally right, and in that sense is an incentive. Respect is a feeling through which we know or recognize something; for what we know or recognize here is that the categorical imperative possesses absolute validity.

Now when Kant speaks about respect he constantly emphasizes the non-empirical origin of this feeling. Respect is described as the “effect” [*Wirkung*] of reason.<sup>14</sup> As an ‘effect’, therefore, respect does not precede reason; in another passage Kant even says that the feeling of respect is “the effect of consciousness of the moral law”,<sup>15</sup> as if there were a ‘consciousness of the moral law’ without the feeling of respect. How is this compatible with the thesis of the fact of reason that it is respect which first allows us to know and recognize the categorical imperative in the first place?<sup>16</sup> – It is certainly true in one sense that there can be a ‘con-

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<sup>12</sup> See KpV: 30.

<sup>13</sup> KpV: 92, 17.

<sup>14</sup> See GMS: 401, 27; KpV: 79, 4; *Metaphysics of Morals*: 399, 16.

<sup>15</sup> KpV: 75.

<sup>16</sup> I should like to thank Christoph Demmerling for raising this question and for the ensuing discussion.

consciousness of the moral law' without the feeling of respect. As I am thinking now about the categorical imperative, and thus am also conscious of the latter, I do not experience a feeling of respect. If, as I write, I think about the categorical imperative without having a feeling of respect, I can nonetheless only rightly claim to be thinking about the categorical *imperative* and to recognize its content if I can affirm that I have had that experience (namely the experience of the imperative character of the moral law through the feeling of respect); if I had not had this experience, then I would be in the same position as a blind person talking about colours.<sup>17</sup> The 'consciousness of the moral law', in the sense in which it is relevant to the thesis of the fact of reason, refers neither to the abstract consciousness of a sceptic, nor to a merely reflective consciousness in which the feeling of respect is not currently or actually manifest. Rather, we are talking about the consciousness of someone who is confronted with an urgent and concrete situation of action and asks himself how he ought to act, and who thereby experiences the sense of *You Ought!*<sup>18</sup> as he draws up maxims (for himself) with regard to his conduct. But in what sense precisely is this experience an 'effect' of the moral law or of reason, or even an 'effect of the *consciousness* of the moral law'? Let us directly consider the categorical imperative: "So act that the maxim of your will could always hold at the same time as a principle in a giving of universal law".<sup>19</sup> It is immediately obvious that this imperative has two components: it includes a demand ("So act") and a content, albeit a formal one (*what* is thus demanded here, in short, is universalization). It is precisely this connection that makes the moral law into a synthetic proposition; as an analytic proposition, on the other hand, the

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<sup>17</sup> See Husserl, E., "Kritik der Kantischen Ethik", in Husserl, E., *Vorlesungen über Ethik und Wertlehre 1908-1914*, Dordrecht – Boston – London, Kluwer, 1988, p. 404: "If we imagine a being that is, as it were, entirely blind to feeling, just as we know there are beings which are blind to colour, then the whole moral dimension loses its content, and moral concepts simply become words without meaning".

<sup>18</sup> It may be mentioned in passing that Kant is clearly a weak internalist where motives are concerned: the recognition of the moral Ought implies a motivation (I certainly recognize what is binding here insofar as I feel a respect which possesses motivating force), but this moral motive may be weaker than other motives, so that the action that is morally required does not actually ensue. Kant thus recognizes such a thing as weakness of will.

<sup>19</sup> KpV: 30.

moral law is simply descriptive: a perfectly rational being acts in such a way that the maxims of its will can always hold at the same time as the principle of a universal legislation. But that it *is* actually so, that I, as an *imperfectly* rational being, *ought* so to act, is something –this is Kant's thesis– that I cannot know or recognize without the feeling of respect; I know and recognize this Ought in and through the feeling of respect. But this Ought is an integral component of the categorical imperative (its normative content); thus I do not know or recognize this imperative –namely the moral law as imperative for imperfectly rational beings– without respect. Without respect we do not recognize the imperative component of the categorical imperative; respect is therefore a necessary condition for the recognition of this imperative. Yet the other necessary component is reason. For the other component of the categorical imperative (its content) is indeed nothing that I could grasp through respect or any other kind of feeling; we do not feel, we *think* (by means of language and concepts) that 'the maxim of one's will must always be able to hold at the same time as the principle of a giving of universal law'. But not only must we possess reason in order to think the categorical imperative, the content of the latter is itself a product of reason, and insofar as it is a product of reason then respect is an 'effect' of reason. We should not, however, misunderstand this to mean that anyone who possesses a moral consciousness can *first* have a consciousness devoid of respect with regard to the categorical imperative, which itself would only subsequently be connected with the feeling of respect; that cannot be the case, for this imperative is precisely a categorical *imperative*, and this compelling character –this sense that one *actually ought* to choose one's maxims in universal terms– is simply not experienced (and thus not known and recognized) without the feeling of respect. Thus respect is an 'effect' of reason insofar as it is indissolubly and specifically connected with that rational content rather than with any other sort of object. Here we must not think of 'reason' as an organ which does this or that (as we might in the case of a sensory organ such as the eye). Rather, we find certain mental activities and processes within ourselves, some of which are experienced as spontaneous and some as receptive in character; we experience ourselves as capable of these activities and processes and describe these as capacities (sources or faculties); and in this way we come to speak of 'reason' or 'sensitivity'. We find ourselves reacting to situations

of action in terms of this content, namely (the procedure of) universalization –hence Kant’s repeated allusion to ‘common human reason’, not just in the context of the theory of the fact of reason, but also in the context of the universalization which is the content of the categorical imperative. This procedure is quite different from a case of colour perception or a case of feelings; we characterize it as an activity of reason; it is a rational procedure, and it presents itself as something which is demanded of us.

It is not the case that we first recognize the categorical imperative and then experience respect; on the contrary, respect is “*inseparably connected* with the representation of the moral law in every finite rational being”,<sup>20</sup> for the normative content is ‘inseparably’ connected with the categorical imperative. Thus we recognize the normative content of this imperative in and through respect, or as Kant had already put it in GMS: “What I cognize immediately as a law for me I cognize with respect”.<sup>21</sup> We should note precisely what is said here: I know or *cognize* the law with respect, and it is *with* respect that I know or cognize it. And that is why Kant writes in the *Metaphysics of Morals*, in the ‘Doctrine of Virtue’, that man “must have respect for the law within himself in order *even to think* of any duty whatsoever”.<sup>22</sup>

However it precisely turns out with Kant’s thesis of the fact of reason, the basic thought behind this thesis is that we know and recognize the validity of the moral law “*immediately*”<sup>23</sup> and in a way that is “*undeniable*”.<sup>24</sup> Whether this immediacy lies in the way that we know and recognize the moral law through a feeling (of respect), or in some other way, is irrelevant for our purposes here. What matters is that the validity or binding character of the moral law is not *derived* from anything; on the contrary, we have a ‘consciousness’ of the moral law which is necessary and sufficient in order to “know” [*wissen*]<sup>25</sup> about the validity or binding character of the moral law, so that the idea of freedom is ‘revealed’

<sup>20</sup> KpV: 80; my emphasis.

<sup>21</sup> GMS: 401.

<sup>22</sup> *Metaphysics of Morals*: 403, my emphasis.

<sup>23</sup> KpV: 29, 34; my emphasis.

<sup>24</sup> KpV: 32, 2; my emphasis.

<sup>25</sup> KpV: 4, 10.

precisely through this moral law. In a ‘deduction’, on the other hand, we are offered a *demonstration* that the moral law is valid or binding, and this demonstration does not consist simply in referring to the consciousness of the moral law; in the context of such an approach the moral law does not stand ‘firmly established of itself’, for something else is still required (further propositions, an explicit argument). It is also important that the law, as Kant puts it, is ‘undeniable’. The validity or binding character of the categorical imperative is incontestably (self-evidently) ‘given’ in the consciousness of this law.<sup>26</sup>

## 2. *The phantom argument, the subjection argument, and the confirmation argument*

There is no doubt whatsoever that Kant constantly refers, in *GMS* as well as in *KpV*, to the moral consciousness of (*all*) human beings, and specifically also of those who are not philosophically trained or educated. Thus it is no accident that the initial “Transition from common rational moral to philosophic moral cognition”<sup>27</sup> is accomplished in Chapter One of *GMS*, whereby Kant expressly emphasizes that with the moral law (the categorical imperative) we have found a law which common human reason “admittedly does not think so abstractly in a universal form, but which it actually has always before its eyes and uses as the norm for its appraisals”;<sup>28</sup> and Chapter Two likewise begins with the assertion that “we have drawn our concept of duty from the common use of our practical reason”.<sup>29</sup> In much the same vein Kant observes in a footnote of *KpV* that a “reviewer [of *GMS*] who wished to say something censuring this work hit the mark better than he himself may have intended when he said that no new principle of morality is set forth in it but only a *new formula*. But who would even want to introduce a new principle of all morality and, as it were, first invent it? Just as if, before him, the world had been ignorant of what duty is or in thoroughgoing

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<sup>26</sup> See *KpV*: 32, 33.

<sup>27</sup> *GMS*: 392.

<sup>28</sup> *GMS*: 403.

<sup>29</sup> *GMS*: 406.

error about it”.<sup>30</sup> Thus both GMS and KpV refer to something like a (common) “consciousness of a law”<sup>31</sup> or a (common) “consciousness of this fundamental law”;<sup>32</sup> in this regard, therefore, there is indeed no difference between the two works. Yet it would be false to adduce this as evidence for the claim that Kant already effectively defends the thesis of the fact of reason in GMS; we must first raise and answer the question as to *how* Kant refers to moral consciousness in GMS. It turns out that the way in which he refers to such a ‘consciousness of the moral law’ – and this is the decisive point– *is quite different in the two works*. Thus while in GMS Kant understands the consciousness of the moral law in such a way that the moral law cannot possibly stand ‘firmly established of itself’ in and through that consciousness alone,<sup>33</sup> this is precisely what is claimed for the consciousness of the moral law as Kant understands it in KpV: it is through this consciousness that we ‘immediately’ and ‘undeniably’ know about the validity or binding character of the moral law in such a way that the latter indeed ‘stands firmly established of itself’. In this consciousness the moral law is ‘given’ in its absolute validity or binding character, and that is why Kant calls the consciousness of the fundamental moral law ‘a fact of reason’. If we can show that precisely this claim –that we know the validity or binding character of the moral law *immediately* and *undeniably*– does *not* hold for the moral law or the consciousness of that law in GMS, then we shall also have shown that there is no thesis of the fact of reason implied or presented in that text.

Now there is no doubt that there are passages in GMS III which seem at first sight to suggest that Kant does indeed already defend the thesis of the fact of reason in the *Groundwork*.<sup>34</sup> Anyone who claims that

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<sup>30</sup> KpV: 8.

<sup>31</sup> GMS: 449, 7.

<sup>32</sup> KpV: 31, 25.

<sup>33</sup> For the question as to why Kant chooses in GMS to begin with ‘common moral knowledge’ in the first place, see Schönecker, D., *Kant: Grundlegung III. Die Deduktion des kategorischen Imperativs*, Freiburg – München, Karl Alber-Verlag, 1999; “The Transition from Common Rational to Philosophical Rational Moral Knowledge in the *Groundwork*”, in Ameriks, K., – Höffe, O. (eds.), *Kant’s Moral and Legal Philosophy*, Cambridge, Cambridge University Press, 2009, pp. 93-122.

<sup>34</sup> Here we are thinking (above all) of the following eight passages: (1) “Now, a human being really finds in himself a capacity by which he distinguishes himself from all

Kant does nothing of the kind here must show that all these passages can be interpreted otherwise; I have undertaken to do this elsewhere, or more precisely, I have attempted to show that they *must* be interpreted otherwise.<sup>35</sup> And, then again, those who claim that Kant does already defend the thesis of the fact of reason in the *Groundwork* (and especially in

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other things, even from himself insofar as he is affected by objects, and that is *reason* [...] but reason, on the contrary, shows in what we call *ideas* a spontaneity so pure that it thereby goes beyond anything that sensibility can ever afford it” (452, 7; my emphasis here, and in the following citations). (2) “This better person, however, he believes himself to be when he transfers himself to the standpoint of a member of the world of understanding, as *the idea of freedom, that is, of independence from determining causes of the world of sense, constrains him involuntarily to do*; and from this standpoint he is conscious of a good will” (454, 37). (3) “*All human beings think of themselves as having free will*. From this come all judgments upon actions as being such that they ought to have been done even though they were not done. Yet this freedom is no concept of experience [...] Hence freedom is only an idea of reason, the objective reality of which is in itself doubtful” (455, 11). (4) “But the rightful claim to freedom of will made even by common human reason is based on the consciousness and the granted presupposition of the independence of reason from merely subjectively determining causes, all of which together constitute what belongs only to feeling and hence come under the general name of sensibility” (457, 4). (5) “So it is that the human being *claims for himself a will*” (457, 25). (6) “The concept of a world of understanding is thus only a standpoint that reason sees itself constrained to take outside appearances in order to think of itself as practical, as would not be possible if the influences of sensibility were determining for the human being but is nevertheless necessary insofar as he is not to be denied *consciousness of himself as an intelligence and consequently as a rational cause active by means of reason, that is, operating freely*. This thought admittedly brings with it the idea of another order and another lawgiving than that of the mechanism of nature, which has to do with the sensible world; and it makes necessary the concept of an intelligible world (i.e., the whole of rational beings as things in themselves)” (458, 19). (7) The idea of freedom “holds only as a necessary presupposition of reason in a being that believes itself to be *conscious of a will*, that is, of a faculty distinct from a mere faculty of desire (namely, a faculty of determining itself to action as an intelligence and hence in accordance with laws of reason independently of natural instincts)” (459, 9). (8) “Moreover, to presuppose this will is (as speculative philosophy can show) not only quite possible (without falling into contradiction with the principle of natural necessity in the connection of appearances in the world of sense); it is also practically necessary—that is, necessary in idea, without any further condition—for a rational being who is conscious of his causality through reason and so of a will (which is distinct from desires) to put it under all his voluntary actions as their condition” (461, 17). (Kant’s emphases have been in part omitted, while the formulations which seem to suggest the thesis of the fact of reason have been highlighted).

<sup>35</sup> See Schönecker, D., *Kant: Grundlegung III. Die Deduktion des kategorischen Imperativs*.

GMS III) are duty bound to counter or refute the arguments of those who claim to prove the opposite –namely that Kant certainly does not develop or defend the thesis of the fact of reason in the *Groundwork*. I would now like to introduce three internally connected arguments in order to make my case: the *phantom argument*, the *subjection argument*, and the *confirmation argument*. There is also a further argument which I believe is a very strong one and which has also played a significant role in the reception history of Kant's moral philosophy. I only mention the argument in passing here since it is very complex, and has already provoked various counter-arguments which would have to be addressed in their own right, something that cannot be undertaken here.

I am talking about the *deduction argument*, which can be formulated as follows:

1. If Kant defends the thesis of the fact of reason in GMS, then there is no deduction of the categorical imperative in GMS.
2. But there is a deduction of the categorical imperative in GMS. Therefore, Kant does not defend the thesis of the fact of reason in GMS.

It seems clear to me that Kant employs the concept of a “deduction” as a *counter-concept* to the concept of “fact”; in GMS the categorical imperative is grounded specifically through a deductive argument, and is not grounded ‘immediately’ in terms of the consciousness of the moral law. There is certainly much that could be said in this connection; but, as I have said, I shall not pursue this line of argument any further here. But if the other arguments which I present prove to be convincing, this is a clear indication that the deduction argument is also convincing (and likewise the reverse).

#### a) *The phantom argument*

The phantom argument appeals to the essential content of the thesis of the fact of reason: the validity or binding character of the categorical imperative is ‘immediately’ and, above all, ‘undeniably’ given. Since this is so (or since Kant claims that it is so), we cannot find a single passage in KpV where Kant would so much as question this validity; Kant already

refers to the “fact” concerned in the Preface.<sup>36</sup> And it would indeed be a glaring contradiction in one and the same book to set out the thesis of the fact of reason, i.e. to claim on the one hand that the validity or binding character of the moral law is immediately and undeniably given in the (common) consciousness of this law, while on the other hand placing the consciousness of this law and thereby the law itself in doubt after all. But this is precisely what Kant does in *GMS*: here he places the consciousness of this law and thereby the law itself in doubt. Of course, to ‘put in question’ or ‘to place in doubt’ the consciousness of the moral law and its validity does not mean that Kant himself, as an individual and as a philosopher, personally harboured any actual, genuine, or persistent doubt with regard to the validity or binding character of the categorical imperative; he has no such doubt (and never did have throughout his life). To put the consciousness of the moral law and its validity in question means to regard such doubt as possible or real, and to take it as such a serious philosophical challenge that it is worth presenting someone who does have doubt in this regard with an argument for overcoming such doubt.

But since it would be a glaring contradiction if Kant in one and the same book, let us now say in the *Groundwork*, were to set out the thesis of the fact of reason, while *at the same time* placing in doubt the moral law (the categorical imperative), it must simply be shown that this latter is exactly what Kant does: in *GMS* he places the validity or binding character of the moral law in doubt –so that he could not set out the thesis of the fact of reason at the same time without courting that glaring contradiction. The first of our arguments takes its name from what may be the most prominent passage to present such a possible and overtly expressed doubt regarding the validity of the categorical imperative. For at the end of *GMS* II Kant observes that only someone who “holds morality to be something and not a chimerical idea without any truth”<sup>37</sup> has to “admit”<sup>38</sup> his preceding analyses and thereby the categorical imperative. But precisely this (that morality *is* ‘something’ and is *no* ‘chimerical idea

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<sup>36</sup> KpV: 6, 12.

<sup>37</sup> *GMS*: 445, 5.

<sup>38</sup> *GMS*: 445, 7.

without any truth') has *not yet* been shown; for at the end of GMS II it is not yet clear that the categorical imperative as a synthetic a priori proposition "is no *phantom*" [*Hirngespinnst*].<sup>39</sup> This passage at the end of GMS II forms a parallel to the earlier one in GMS II where Kant makes the transition to the metaphysics of morals. There too Kant emphasizes that "if duty"<sup>40</sup> is a concept with any reality and significance, then it must be understood as a categorical imperative; but whether this is so has not yet been shown: "But we have not yet advanced so far as to *prove* a priori that there really *is* such an imperative, that there *is* a practical law, which commands absolutely of itself and without any incentives, and that the observance of this law is duty".<sup>41</sup>

It is not just that Kant expressly says here that he wishes to 'prove' the reality of the categorical imperative later (in GMS III). No such proof<sup>42</sup> – or "establishment" [*Festsetzung*] as Kant already puts it in the Preface<sup>43</sup> – would be necessary if the categorical imperative were a 'fact'; quite obviously it has not yet been shown that there really 'is' a categorical imperative.<sup>44</sup> And what sense could this doubt possibly have if Kant were to claim at the same time that the categorical imperative is a 'fact' and as such 'undeniable'?

We can thus formulate the phantom argument as follows:

<sup>39</sup> GMS: 445, 8; my emphasis. Kant had already spoken of the idea of morality as a "phantom" at the very beginning of GMS II (407, 17).

<sup>40</sup> GMS: 425, 1; my emphasis.

<sup>41</sup> GMS: 392, 7; my emphasis.

<sup>42</sup> In GMS Kant often speaks of 'proof' etc. as well as of 'deduction'; see 392, 4; 392, 13; 403, 27; 412, 2-8; 425, 8; 425, 15; 427, 17; 431, 33; 440, 20-28; 445, 1; 447, 30-448, 4; 449, 27.

<sup>43</sup> GMS: 392, 4; my emphasis.

<sup>44</sup> In GMS (as also in KpV) Kant also speaks in this connection of *obligation* [*Verbindlichkeit*] (see 389, 12; 389, 16; 391, 11; 432, 31; 439, 31; 439, 33; 448, 34); of the *reality* [*Realität*] (see 425, 14; 449, 26) of the categorical imperative; of its *actuality* [*Wirklichkeit*] (420, 1; see also 406, 15); of its *validity* [*Geltung*] (see especially 389, 12; 389, 14; 403, 7; 408, 18; 412, 3; 424, 35; 425, 18; 442, 8; 447, 32; 448, 6; 448, 32; 449, 29; 460, 25; 461, 1; 461, 3); of its *correctness* [*Richtigkeit*] (392, 13); of its *objective necessity* [*objektive Notwendigkeit*] (see especially 442, 9; 449, 26; 449, 30); he talks of showing that it really *is* or *transpires* [*wirklich stattfindet*], of human beings as subject to it [*unterworfen*] (449, 12). All of these concepts and expressions can be subsumed under the later formula of the "validity of this imperative" (461, 12).

1. If Kant defends the thesis of the fact of reason in GMS, then at no point of the argument in GMS does Kant entertain the possibility that the moral law is a phantom.

2. Kant does entertain at one point of the argument in GMS II that the moral law is a phantom.

Therefore, Kant does not defend the thesis of the fact of reason in GMS.

It is obviously impossible to contest the second premise here. On the other hand, there might initially appear to be a plausible objection to the first premise. Thus we might argue as follows: while it is quite true that in GMS II Kant still considers it possible that the moral law is a phantom, and to that extent it is also true that up to this point in the text (i.e. up to the end of GMS II) the thesis of the fact of reason could not be set out, this does not exclude the possibility that such a thesis is set out in GMS III. —Our response to this argument is twofold. In the first place, we shall soon see that even in GMS III Kant still expressly puts in question whether there actually ‘is’ such a thing as the categorical imperative. In the second place, it would precisely contradict the fundamental notion behind the theory of the fact of reason if on the one hand we were to assert the undeniability of the categorical imperative (and particularly with reference to our common reason,<sup>45</sup> and at however late a point in the book) while on the other hand denying this undeniability itself by putting this imperative in question; if the categorical imperative or the consciousness of its validity is a ‘fact’, then this very consciousness cannot be denied.<sup>46</sup> (In the case of a proof the situation is different: as long as the proof has not yet been provided it is unclear whether the conclusion is true; and even if it is provided, it may still be treated for presentational reasons as if it had not carried out. To deny the fact of reason, even temporarily, would be as if someone actually had a perception of colour, and had no other reason for the conviction that he has a

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<sup>45</sup> I shall return to this point later.

<sup>46</sup> One can deny the fact hypothetically in the sense that one can imagine what would be the case if there were no such fact; but that is something different from really doubting the fact. I would like to thank Elke E. Schmidt for her critical observations on this point.

perception of colour –and would temporarily deny this was so, but without indicating or even being able to indicate another reason for this conviction).

*b) The subjection argument*

We have already pointed out that in GMS III Kant expressly and repeatedly asks the question whether there really ‘is’ a categorical imperative. He does so above all in the third subsection of GMS III. At this point he summarizes the argument so far and says:

“But there also flowed from the presupposition of these ideas the consciousness of a law for acting; that subjective principles of actions, that is, maxims, must always be so adopted that they can also hold as objective, that is, hold universally as principles, and so serve for our own giving of universal laws” (GMS: 449, 7).

It is not immediately clear what Kant means by ‘ideas’ here: are they the “ideas of morality” mentioned in the heading of the third subsection?<sup>47</sup> But then the claim would be that the ‘consciousness’ of the moral law follows from the ‘ideas of morality’. Or does he mean the “idea of freedom” which is discussed in the second subsection,<sup>48</sup> and which is taken up and recapitulated in the first paragraph of the third subsection? But that idea is referred to in the singular. Or does he perhaps mean the ideas of morality in the sense of common moral knowledge and its moral concepts?<sup>49</sup> Whatever we decide in this regard, if we read this passage without paying attention to what Kant says in the next paragraph one might well think that Kant is indeed claiming a fact here, that is, precisely a ‘consciousness of a law for acting’, and thus a consciousness of the categorical imperative. But whereas in KpV such a “consciousness”<sup>50</sup> is interpreted as an ‘immediate’ and ‘undeniable’ ‘fact of pure practical reason’, in GMS Kant directly takes up the passage we have just cited, and

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<sup>47</sup> GMS: 448, 23.

<sup>48</sup> GMS: 448, 25.

<sup>49</sup> I would like to thank Elke E. Schmidt for this suggestion.

<sup>50</sup> KpV: 31, 24.

in spite of the ‘consciousness’ which is acknowledged here takes up the persisting doubt as to whether this imperative *actually* possesses *validity*, so that human beings must indeed subject themselves to it. Thus Kant continues (and expresses this question of validity) as follows: “But why, then, ought I to subject myself to this principle and do so simply as a rational being, thus also subjecting to it all other beings endowed with reason?”<sup>51</sup>

And what follows in this and the next two paragraphs is a questioning with regard to the validity of the categorical imperative which could hardly be formulated in a more pointed fashion; the question whether there ‘is’ a categorical imperative, or whether it is not rather a ‘phantom’, still awaits an answer. Repeating once again the thought from GMS II (428 and 445) –the conceptual analysis and more precise determination of the moral law may be satisfactory, but nothing has yet been gained with regard to its reality– Kant now writes:

“We should still have gained something considerable by at least determining the genuine principle more accurately than had previously been done, but *we should have got no further* with respect to its validity and the practical necessity of subjecting oneself to it; for, if *someone asked us why* the universal validity of our maxim as a law must be the limiting condition of our actions [...] we could *give him no satisfactory answer*” (GMS: 449, 27; my emphasis); and with regard to the claim that we must “hold ourselves subject to certain laws” Kant says that “*we cannot yet see how this is possible*, and hence on what grounds the moral law is binding”.<sup>52</sup>

These are all questions<sup>53</sup> which no one who regards the consciousness of the validity of the categorical imperative as ‘undeniable’ would ask or even discuss. The subjection argument (which takes its name from that question regarding validity from GMS: “But why, then, ought I to *subject* myself to this principle?”<sup>54</sup>) can be formulated as follows:

<sup>51</sup> GMS: 449, 11.

<sup>52</sup> GMS: 450, 12; my emphasis.

<sup>53</sup> Kant expressly alludes to someone who “asked us” such questions (GMS: 449, 31; my emphasis) and for whom there is still “no satisfactory answer” (GMS: 450, 2).

<sup>54</sup> GMS: 449.

1. If Kant defends in GMS the thesis of the fact of reason, then in GMS Kant does not ask the question as to why one ought to subject oneself to the moral law.
  2. In GMS Kant does ask the question as to why one ought to subject oneself to the moral law.
- Therefore, Kant does not defend the thesis of the fact of reason in GMS.

It is obviously just as impossible to contest the second premise in this argument as it was to contest the second premise in the phantom argument. And indeed the question regarding the validity of the categorical imperative which is presented in various formulations in the third subsection is only a variation of the phantom question posed in GMS. Thus the subjection argument basically expresses the same thought as the phantom argument: Kant places the categorical imperative in question in a manner that is incompatible with the thesis of the fact of reason. Once again, it might initially look as if there is a plausible objection to this reading. Thus one might argue that it is certainly true that Kant asks the question concerning validity, but that the answer to this question is precisely the thesis of the fact of reason. Our response to this is straightforward: if the 'fact of pure reason' as a 'consciousness' of the validity of the categorical imperative is present in GMS, then the question of its validity does not even arise in the first place; but the question of validity is raised in GMS; therefore there is also no thesis of the fact of reason in GMS. And indeed the question of validity in GMS is also answered with a deduction; the deduction is the answer to the question as to how a categorical imperative is possible, and this question is answered in the fourth subsection of GMS III.

*c) The confirmation argument*

We have already briefly pointed out that in KpV Kant often<sup>55</sup> refers to our common rational moral knowledge and the moral experience asso-

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<sup>55</sup> See KpV: 27; 32; 35; 44; 91; 105; 155.

ciated with it. Here he connects the thesis of the fact of reason with this common rational moral knowledge. And this is of course no accident. For the ‘fact’ at issue –namely the consciousness of the absolute validity of the categorical imperative– is not some special insight or knowledge on the part of the trained or learned philosopher, but rather a fundamental experience that belongs to human existence itself. Just after Kant has introduced the thesis of the fact of reason in the Remark to §7, he says in a passage we have already cited: “The fact mentioned above is undeniable. One need only analyze the judgment that people pass on the lawfulness of their actions...”<sup>56</sup> Later he explicitly thematizes this point when he writes, in another passage already cited: “It was necessary first to establish and justify the purity of its origin [that of the categorical imperative] even in the *judgment of this common reason* [...] But for this reason the justification of moral principles as principles of a pure reason could also be carried out very well and with sufficient clarity *by a mere appeal to the judgment of common human understanding*”.<sup>57</sup> Thus the ‘fact’ is shown by the ‘judgment’ of common reason; it reveals or manifests itself in this judgment. In GMS III the situation is quite different. After Kant has furnished a deduction as an answer to the question as to how a categorical imperative is possible (in the fourth subsection), he writes: “The practical use of common human reason confirms the correctness of this deduction”.<sup>58</sup> That is to say: in contrast to KpV, the proof of the absolute validity of the categorical imperative does not consist in a ‘fact’, which *shows* itself in this practical use of common human reason; rather, this practical use merely ‘*confirms*’ the deduction. Although, according to Kant, even the most hardened scoundrel is also “conscious of a good will”,<sup>59</sup> this consciousness is not as such a sufficient reason for regarding the validity of the categorical imperative as ‘undeniable’. In GMS Kant does not of course challenge or reject the idea that we human beings have a consciousness of the moral law –how and why would he ever do such a thing? But in contrast to the thesis of the fact of reason in KpV, Kant does not yet credit this consciousness with the epistemological

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<sup>56</sup> KpV: 32, 2.

<sup>57</sup> KpV: 91f.

<sup>58</sup> GMS: 454, 20.

<sup>59</sup> GMS: 455, 4.

function of ‘immediately’ and ‘undeniably’ vouchsafing knowledge of the absolute validity of the categorical imperative.

The confirmation argument can be formulated as follows:

1. If Kant defends the thesis of the fact of reason in GMS, then the practical use of common human reason will not merely confirm the correctness of the deduction of the categorical imperative.
2. The practical use of common human reason merely confirms the correctness of the deduction of the categorical imperative.

Therefore, Kant does not defend the thesis of the fact of reason in GMS.

A possible objection here would be to point to KpV: there Kant says that moral “experience”,<sup>60</sup> as exemplified and described by reference to the famous gallows example, also “confirms” something.<sup>61</sup> But if it is possible that moral experience in a particular context ‘confirms’ something, although in this context we are (indirectly) directed to the fact of reason, this shows that the passage regarding ‘confirmation’<sup>62</sup> is not that decisive. I admit that the confirmation argument on its own would perhaps be relatively weak; but at the same time I think that it acquires strength in the light of the other two arguments (and especially in the light of the aforementioned deduction argument that I have not examined in detail here). As far as the parallel passage in KpV is concerned, I would simply say this: what is ‘confirmed’ there is “this order of concepts”.<sup>63</sup> It is true that the experience described in the gallows example also reproduces what the fact of reason as the “consciousness of that moral law” consists in.<sup>64</sup> But what is ‘confirmed’ here is not the fact of reason itself but the ‘order of concepts’ of morality and freedom with regard to that order of knowledge regarding the concepts of freedom

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<sup>60</sup> KpV: 30, 21.

<sup>61</sup> KpV: 30, 21.

<sup>62</sup> See GMS: 454.

<sup>63</sup> GMS: 454.

<sup>64</sup> KpV: 30, 3. I have undertaken to elucidate the gallows example in detail in Schönecker, D., “Kant’s Moral Intuitionism. The Fact of Reason and Moral Predispositions”, *Kant Studies Online*, Feb. 2013, pp. 1-38.

and law and their relationship to one another which Kant is so concerned to describe: the moral law is the ‘ratio cognoscendi’ of freedom, rather than the other way around. Hence Kant recapitulates his claim in the example of the subject of the prince: “He judges, therefore, that he can do something *because* he is conscious that he ought to do it and cognizes freedom within him, which, without the moral law, would have remained unknown to him”.<sup>65</sup>

Anyone who defends the fact of reason approach to GMS must be able to show that Kant both defends the thesis of the fact of reason in this text and *at the same time* leaves open the possibility that the moral law is a phantom; that Kant *at the same time* still has room for the question as to why one ought to subject oneself to the moral law; and that Kant *at the same time* can write that the practical use of common human reason merely ‘confirms’ the correctness of the deduction of the categorical imperative. Of course it is true that in GMS Kant does *not* regard the moral law as a phantom, and of course he *does* have an answer to the subjection question. But that is not the point. The point is that there is no longer any room for such doubts in KpV, and that is so precisely because the consciousness of the moral law and thereby the validity of the moral law is a ‘fact’. If Kant had insisted upon such a ‘fact’ in GMS, or, to put it another way, if he had set out the thesis of the fact of reason in GMS, there would no longer be any room for such doubts, even if these doubts were ultimately allayed; but there is still room in GMS for such doubts; therefore Kant does not set out the thesis of the fact of reason in GMS. May we not thus conclude: q.e.d?<sup>66</sup>

*Universität Siegen  
Siegen, Germany*

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<sup>65</sup> KpV: 30; my emphasis.

<sup>66</sup> A shorter version of this paper was first published in German: “Warum es in der *Grundlegung* keine Faktum-These gibt. Drei Argumente”, in Puls, H. (Hrsg.), *Kants Rechtfertigung des Sittengesetzes in Grundlegung III. Deduktion oder Faktum?*, Berlin, de Gruyter, 2014, pp. 1-14. Many thanks to Nicholas Walker for providing the English translation of this text.

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