GALLOWS POLE: IS KANT’S FACT OF REASON A TRANSCENDENTAL ARGUMENT?[[1]](#footnote-1)

MICHAEL KRYLUK

I

There are few tenets of Kant’s practical philosophy as obscure and as controversial as his argument in the *Critique of Practical Reason* that the moral law is valid as a fact of reason (*Factum der Vernunft*). In an inversion of his equally notorious argument from the reality of freedom to that of the moral law in the third and final section of the *Groundwork of the Metaphysics of Morals*,[[2]](#footnote-2) Kant claims in the second *Critique* that an “undeniable [*unleugbar*]” and “apodictically certain [*apodiktisch gewiß*]”[[3]](#footnote-3) fact of the moral law underlies the reality of his concept of a transcendental, *a priori* faculty of freedom. The validity of the moral law is no longer the sought after conclusion of Kant’s argument since it “has no need of justifying grounds [*rechtfertigenden Gründe*]”.[[4]](#footnote-4) Because the uniquely self-justifying character of the *Factum* authenticates the moral law while also serving as the basis of the reality of transcendental freedom, Kant’s argument as a whole amounts to a legitimation of both as *a priori* moral concepts and shows that pure reason can be practical. With freedom referred to as nothing less than “the *keystone* of the whole structure of a system of pure reason”,[[5]](#footnote-5) it is not an exaggeration to say that Kant’s doctrine of the fact of reason lies at the foundation of not just his practical philosophy, but also his entire critical enterprise. Despite its stated importance, however, Kant is not particularly clear about the exact nature of his fact of reason. This ambiguity has occasioned a long line of criticism. Hegel famously invoked the *Factum* when he called Kant’s notion of moral duty a “Revelation given to Reason”, the “undigested lump left within the stomach” of the critical philosophy,[[6]](#footnote-6) while more recently Karl Ameriks has characterized it as an “un-argued for premise of the validity of the moral law” that is “intrinsically and Critically suspect”.[[7]](#footnote-7)

Kant’s more sympathetic interpreters have taken a variety of approaches to the fact of reason that has done little to settle the problem. They can be broken down into two very broad tendencies. On the one hand, commentators have taken the *Factum* as the premise of a justification of morality that is consistent with at least some important aspects of Kant’s technical notion of a deduction in his other works, the paradigmatic example of which is the deduction of the pure categories of the understanding in the *Critique of Pure Reason*.[[8]](#footnote-8) These treatments take Kant’s deductive strategy as an argument for moral realism within the metaphysical framework of transcendental idealism. Though theoretically indemonstrable, Kant’s aim is nevertheless to show the objective reality of his moral concepts for cognition as valid functions of practical reason.[[9]](#footnote-9) The second *Critique* shares this basic aim with the *Groundwork*, even if their means of accomplishing it are quite different. On the other hand, some interpreters, often of an avowedly constructivist persuasion, oppose the first reading by separating the *Factum* from the onus of a formal Kantian deduction. They do so because taking the fact of the *a priori* moral law as the starting-point of a deduction of practical reason seems to: (i) beg the question, (ii) imply an uncritical and dogmatic ethical intuitionism, or (iii) set up a false equivalence between the models and standards of argumentation for theoretical and practical philosophy. One way of supporting this line of interpretation is simply to deny that the fact of reason constitutes an independent validation of morality in the *Critique*.[[10]](#footnote-10) Another option is to accept that the *Factum* is such a justification of practical reason, but to lower the burden of Kant’s argument by rejecting that it entails a deep metaphysical commitment to a robust moral realism.[[11]](#footnote-11) In both of its variants, the second reading claims that the fact of reason is not concerned with a transcendental deduction of *a priori* moral concepts like that proposed by the *Groundwork*, but rather with illustrating how practical norms emerge from the reflective viewpoint of rational agents without reference to a separate moral order.

II

The divergence between these two courses of interpretation indicates that even with great deal of charitable attention in the scholarly literature, Kant’s position remains in need of a thorough, critical exposition. In this essay I will follow the first reading of the fact of reason by arguing that it is best understood as the starting-point for a transcendental argument for, or deduction of, the validity of practical reason and its moral concepts for cognition. To my knowledge, previous attempts to do so have been either problematic or too brief to be entirely convincing.[[12]](#footnote-12) Typically framed as a reply to a skeptic, a transcendental argument begins from an accepted or established conditioned, *X*, and then validates or justifies the condition of its possibility, *Y*, as the necessary presupposition of *X*.[[13]](#footnote-13) At its most basic, the fact of reason, understood as immediate consciousness of moral obligation, serves as an indisputable conditioned (*X*), which is then used as the basis for an inference to the validity of its necessary condition of possibility (*Y*), in transcendental freedom. This is precisely the relationship that Kant describes when he calls the moral law the *ratio cognoscendi* of freedom, even though freedom is the *ratio essendi* of the moral law.[[14]](#footnote-14)

In the technical, legal vocabulary of a Kantian deduction analyzed by Dieter Henrich, a transcendental argument validates or legitimates a form of cognition by uncovering its origin or *a priori* conditions of possibility.[[15]](#footnote-15) This, in the famous terms of the deduction of the categories in the first *Critique*, is the answer to the *quid juris* as distinguished from the *quid facti*.[[16]](#footnote-16) However, as Henrich emphasizes, the two issues are not entirely disconnected. A deduction must begin by discerning which *facta* are relevant to the justification at hand. Deductions which yield legitimate *a priori* principles for domains of cognition that were previously not known or credible are called ‘strong’. Conversely, deductions which yield legitimate *a priori* principles for domains of cognition that were antecedently known or credible are called ‘weak’. The facts examined by a weak deduction are thus presumed or assured in a manner that is absent from the facts of a strong deduction. Henrich’s distinction maps onto Kant’s distinction between the synthetic and analytic methods, about which I will say more in the next section of this essay. By framing Kant’s use of the fact of reason in the second *Critique* as a transcendental argument, I am following Henrich in taking it as a weak deduction that begins by assuming that morality is a credible form of cognition and then seeks to fully validate it by explaining its *a priori* origins.

With Marcus Willaschek, I argue that the key to understanding the role of Kant’s *Factum* lies with its double meaning as both act or deed (*Tat*) and matter of fact (*Tatsache*).[[17]](#footnote-17) This allows us to recognize its peculiar function in the second *Critique* since Kant’s starting conditioned or fact (*X*), consciousness of the moral law, is a self-validating product of the activity of practical reason. It is a *Tatsache* brought about by a *Tat*, a uniquely undeniable *factum* created by the sole *Factum der Vernunft*. Without this technical understanding of the ‘fact’ in the fact of reason, Kant’s argument easily falls prey to the objections raised by constructivist readings of the *Critique*. In other words, I claim that taking Kant’s *Factum* as both *Tat* and *Tatsache* allows us to see why he thought that his argument amounts to a non-questioning-begging deduction of *a priori* moral concepts that implies neither ethical intuitionism, nor an improper encroachment of the argumentative standards of theoretical reason upon those of practical reason. This is not to say that Kant’s argument is wholly convincing. Rather, I think that my interpretation best fits the text of the second *Critique* and sufficiently illuminates its relation to the third section of the *Groundwork*.

 This paper is divided into four further sections. I will first outline the basic trajectory of *Groundwork* III in order to foreground the conceptual relationship between freedom and the moral law from which Kant’s argument for the fact of reason begins. Next I will go over the relevant passages in the second *Critique* in which the *Factum* occurs, including the central example of the so-called lustful man facing the gallows. These sections would be unduly expository were it not the case that they deal with some of the most inscrutable aspects of Kant’s moral philosophy, and therefore require detailed clarification. With the main exposition of the issue completed, I will then delve into the technical sense of *Factum* noted above that I think underlies its function as the basis of a transcendental argument. This will provide me with an opportunity to address the three objections to my reading of the *Critique* mentioned above. Finally, I will conclude with some critical thoughts on Kant’s position and the interpretative discussion that it has generated.

III

Kant says in the *Groundwork* that the method of its first two sections is analytic and its last synthetic.[[18]](#footnote-18) At their most basic, analysis is a regressive movement from a given whole to its fundamental parts, while synthesis is an inverse progression from elementary parts to a composite whole. Analysis clarifies the components of firmly known but confused concepts. Synthesis produces or establishes a new concept through the integration of its constitutive principles into a necessary unity. In the terms of the *Prolegomena*, the analytic method investigates the ‘how’ of the possibility of actual, uncontested knowledge, while the synthetic method takes up the more philosophically demanding task of showing the ‘whether’ of uncertain, merely hypothetical domains of knowledge.[[19]](#footnote-19)

The analytic segment of the *Groundwork* is designed to show the necessary rational principle of morality embedded in common, unreflective moral beliefs. Although Kant holds that this ordinary understanding of morality functions well without the assistance of philosophical investigation, it does display a tendency to deceive itself about its unconditional moral obligations in order to instead follow non-moral sensuous inclinations.[[20]](#footnote-20) To secure common cognition from this penchant for subterfuge, Kant aims to uncover the absolute metaphysical foundation of morality. For sensibly affected but rational beings like ourselves who are free to follow non-moral motives of action, Kant argues that the principle of morality takes the form of a categorical imperative. Although there is just one moral law, he says that it can be represented or formulated in various ways.[[21]](#footnote-21) Section II concludes with the claim that one of formulations of the categorical imperative, autonomy of the will, is the “supreme [*oberstes*] principle of morality” and the “sole [*alleinige*] principle of morals”.[[22]](#footnote-22) Autonomy is defined as the capacity of a rational, free will to choose or give itself a universal, *a priori* law.[[23]](#footnote-23) Despite this rather abstract philosophical articulation, Kant is quite clear that autonomy is simply an explication of the “generally received concept of morality”.[[24]](#footnote-24) The definition of autonomy merely confirms or elaborates upon the tenets of common moral belief.

The analytic trajectory of the *Groundwork* thus moves from freedom, in the form of the unconditional worth of a good will with which Section I opens, to its foundation in the moral law as a categorical imperative, and then back again to freedom in the form of autonomy of the will. Kant is open about the fact that this analysis of morality is circular. He refers to freedom and the moral law as “reciprocal concepts [*Wechselbegriffe*]” and only “apparently different representations [*verschieden scheinende Vorstellungen*] of the same object”.[[25]](#footnote-25) Mere analysis (*bloße Zergliederung*) of either freedom or the moral law, he says, leads to the concept of the other, for “a free will and a will under moral laws are one and the same [*einerlei*]”.[[26]](#footnote-26) Henry E. Allison has called this analytic identity of freedom and the moral law argued for in Sections I and II of the *Groundwork* the ‘Reciprocity Thesis’.[[27]](#footnote-27) Autonomy of the will is the supreme principle of morality because it encompasses or comprehends this reciprocal entailment of freedom and the moral law argued for in the analytic portion of the *Groundwork*. To be autonomous is to choose a universal, *a priori* law, that is to say, to be at once both free and moral.

Here, however, an issue arises. The relation between freedom and the moral law captured by the ‘Reciprocity Thesis’ is strictly conceptual and contains no necessary relation to an independent basis in reality. In accordance with the analytic method, the ‘Reciprocity Thesis’ is an account of a justifiably assumed object. *If* there is something that we call morality which posits an absolute, unconditional good for human conduct, then this good is autonomy of the will. Despite Kant’s insistence that the existence of morality is uncontroversial and that most people understand it without any difficulty, he also raises the spectre of skepticism by noting that “it is absolutely impossible by means of experience to make out with complete certainty a single case in which the maxim of an action . . . rested simply on moral grounds”.[[28]](#footnote-28) Because Kant locates moral worth in the principle or intention of an action, it is impossible to externally verify whether the action of a given agent has been chosen for a strictly moral end. The first two sections of the text thus explain *what* morality is rather than establishing *that* it is. It has answered ‘how’ morality must be understood if morality is the case, and not definitively ‘whether’ morality is the case. The supreme principle of morality in autonomy of the will has been clearly defined, but it has not been shown to be real or actual. The remaining task of the *Groundwork* in Section III is thus to show that Kant’s account of morality is neither a “chimerical idea” nor “a phantom”.[[29]](#footnote-29)

Based on Kant’s methodological statements, the purpose of the synthetic procedure of Section III is to authenticate morality as a valid concept for cognition through a unification of its principles in a single demonstrable concept. This concept is autonomy of the will since it brings Kant’s notions of freedom and the moral law together in a single definition.[[30]](#footnote-30) But how does one prove autonomy of the will, especially since it is possible that no example of it can be confirmed by experience? According to the ‘Reciprocity Thesis’, if Kant can independently justify the reality of either freedom or the moral law, then the validity of the other will follow. In other words, *if* freedom is the case, so is the moral law; or, *if* the moral law is the case, so is freedom. Justifying either freedom or the moral law is therefore tantamount to justifying autonomy of the will, and hence also Kant’s project of a pure morality. Kant does not fully consider the second option, an argument from the moral law to freedom, in the *Groundwork*. It is not clear to him at this stage how a non-question-begging proof of the moral law could be given independently of freedom. As we will see, this is precisely what his argument for the fact of reason purports to do in the second *Critique*. In *Groundwork* III, however, Kant looks to a demonstration of the reality of freedom as the basis of a validation of the ‘Reciprocity Thesis’ and autonomy. Freedom, as Allison points out, is thus the necessary and sufficient condition of the moral law.[[31]](#footnote-31) This is why the first of Kant’s three references to a deduction of morality in this section is to a “deduction of the concept of freedom from pure practical reason, and with it the possibility of a categorical imperative”.[[32]](#footnote-32)

 Part of the notorious obscurity of the final section of the *Groundwork* derives from the fact that Kant does not actually attempt the deduction of the reality of freedom that he initially poses. Only an *a priori* faculty of freedom can determine the will in accordance with a necessary and universal command of the moral law. The ‘freedom’ of the ‘Reciprocity Thesis’ is not the negative or practical freedom of a will that is not entirely determined by the causal order of nature, but rather the positive or transcendental freedom of a purely rational will.[[33]](#footnote-33) Readers of the *Critique of Pure Reason* know that Kant has run into a problem here. The argument of the Third Antinomy in that text resolves the apparent contradiction between the equally logical claims of reason for necessity in nature and freedom in action by showing that the latter has to be understood as an *a priori*, transcendental causality situated beyond the sensible conditions of experience in an intelligible realm.[[34]](#footnote-34) How can one demonstrate the reality of a merely non-contradictory idea of pure reason absolutely removed from experience? Kant makes it clear in *Groundwork* III that he cannot do this. Rather than directly prove transcendental freedom, he instead provides an indirect deduction of it through an appeal to an independent, non-moral “third cognition” alongside freedom and the moral law.[[35]](#footnote-35) Because a detailed explanation and evaluation of Kant’s argument here is beyond the scope of the present essay, I will limit myself to broadly outlining his deduction and its implications in the remainder of this section. For my purposes, the success or failure of the actual argument of the deduction is less important than Kant’s reflections upon it as the text reaches its close since they foreground his new justification of morality through the fact of reason in the second *Critique*.

Kant begins his deduction by simply assuming the capacity of transcendental freedom for all rational beings in order reach the mysterious third cognition to which the former “points us [*uns . . . weiset*]”.[[36]](#footnote-36) This third cognition will turn out to be our ability to think of ourselves as belonging to an intelligible world of understanding alongside our empirical existence in the world of sense (*Sinnenwelt*). The idea of transcendental freedom allows us to “transfer ourselves into the world of understanding as members of it [*versetzen wir als Glieder in die Verstandeswelt*] and cognize [*erkennen*] autonomy of the will along with its consequence, morality”.[[37]](#footnote-37) Kant raises the problem that this argument is essentially a circular inference from his initial assumption of transcendental freedom to its foundation in the world of understanding, which then permits an inference to the reality of our obligation to the moral law.[[38]](#footnote-38) Just a few pages later, however, we are told that this circle has been broken.[[39]](#footnote-39) Most commentators agree that Kant offers his deduction between these two references to circularity.[[40]](#footnote-40) The aim of the deduction is to validate the distinction between the worlds of sense and understanding on non-question-begging, non-moral grounds. The justification of the ‘two worlds’ thesis is based on our need to presuppose an active, intelligible source or ground of the sensible phenomena that we only passively receive as data for experience. “[W]e must admit and assume”, Kant writes, “behind appearances something else [*etwas anderes*] that is not appearance, namely things in themselves”.[[41]](#footnote-41) If theoretical philosophy independently confirms the distinction between an intelligible, noumenal sphere beyond the sensible, phenomenal one, then our membership in a world of understanding and a corresponding faculty of *a priori* freedom can be justified.

The longest subsection of *Groundwork* III is called “On the Extreme Boundary [*Von der äußersten Grenze*] of All Practical Philosophy”. This is the lead-up to Kant’s famously aporetic claim that his deduction has ultimately only allowed us to comprehend (*begreifen*) the incomprehensibility (*Unbegreiflichkeit*) of the reality of morality for a critical philosophy that properly observes the boundary (*Grenze*) of human reason.[[42]](#footnote-42) How does Kant get to this point and seemingly undo the work of *Groundwork* III? Despite the efforts of the deduction, the notion of a world of understanding is a merely “useful and permitted idea [*eine brauchbare und erlaubte Idee*] for the sake of a rational belief [*vernünftigen Glaubens*]” in morality,[[43]](#footnote-43) a standpoint (*Standpunkt*) into which reason can think itself without contradiction but which it cannot hope to ever demonstrably know.[[44]](#footnote-44) The task of explaining the possibility of how pure reason can be practical within its critical limits is ultimately vain and without promise.[[45]](#footnote-45) Claims like this will be completely reversed in the *Critique of Practical Reason*. The *Groundwork*, however, is content with the modest conclusion that transcendental idealism supports the belief in a pure morality, even if it cannot metaphysically validate its principles. This conclusion is not to be lamented because, as Kant has continuously told us, the existence of morality and the nature of its commands are clear to even the most unrefined understanding. The synthetic method and the corresponding strong form of transcendental deduction employed in the first *Critique* cannot and need not be applied to practical philosophy. Dieter Henrich has shown that Kant did try to find such a strictly theoretical validation of transcendental freedom throughout the 1770s.[[46]](#footnote-46) If there is a definitive result of *Groundwork* III, it is that Kant has at last decisively ruled out the coherence of an authentication of autonomy using the argumentative paradigm of his theoretical philosophy. The radical question of the ‘whether’ of morality simply cannot be answered. Though in the *Groundwork* Kant sees the impasse for a robust theoretical justification of autonomy and morality, he has yet to see that the critical philosophy offers a route forward through a return to the analysis of morality and a reconfiguration of its ‘how’. This is accomplished by the fact of reason.

IV

Kant is very clear in the *Critique of Practical Reason* that one of its main functions is to address the enigmatic deduction of *Groundwork* III. He devotes an entire section of the second *Critique*, “On the Deduction of the Principles of Pure Practical Reason”,to a consideration of this issue. It is here that Kant definitively states that “the objective reality of the moral law cannot be proved by any deduction” but “it is nevertheless firmly established of itself [*steht . . . für sich selbst fest*]”.[[47]](#footnote-47) The attempt in the *Groundwork* to reach a theoretical demonstration of the validity of the moral law through a proof of transcendental freedom has clearly been abandoned. As we saw in the last section of this essay, this procedure is blocked because a purely rational freedom of the will is not a possible object of experience and hence theoretically unknowable. The indirect proof of transcendental freedom based on the supposition of our participation in an intelligible world of understanding turned out to be insufficient for anything more than a belief in morality and the comprehension of the incomprehensibility of pure practical reason. Since the thesis of the second *Critique* statedon its first pageis “to show *that there is pure practical reason*”, its program is an obvious departure from the final conclusion of the *Groundwork*.[[48]](#footnote-48) For Kant, the fact of reason is the central advance on the *Groundwork* that allows him to make this claim.[[49]](#footnote-49)

 Beck points out that interpreting Kant’s position in the *Critique* is difficult since his *Factum der Vernunft* does not clearly indicate a stable referent.[[50]](#footnote-50) For example, it can refer to consciousness of the moral law,[[51]](#footnote-51) consciousness of freedom,[[52]](#footnote-52) the moral law itself,[[53]](#footnote-53) autonomy,[[54]](#footnote-54) or an action that presupposes an *a priori* causality of the will.[[55]](#footnote-55) Moreover, the *Factum* is sometimes qualified as a fact “as it were [*gleichsam als*]” or “so to speak [*gleichsam*]”,[[56]](#footnote-56) suggesting a certain hesitancy or even lack of clarity on Kant’s part regarding his use of the term. In my view, the key starting-point for an examination of the fact of reason is its first appearance in the text in its Preface, where Kant calls the *Factum* that by which pure reason is practical independently of theoretical reason through its justification of the reality of freedom.[[57]](#footnote-57) This is the core contribution of the fact of reason in the second *Critique* that is presented in full in Sections 6 and 7 of Chapter I of the “Analytic of Pure Practical Reason”, and then discussed further in the abovementioned “Deduction” segment. Although the precise nature of the puzzling ‘fact’ in the fact of reason will require clarification, Kant is clear that it allows him to deduce the reality of transcendental freedom from our immediate consciousness of valid or normatively binding moral obligation. Both terms of the ‘Reciprocity Thesis’, the moral law and freedom, are thereby legitimated as *a priori* concepts of practical reason for cognition. The fact of reason thereby establishes what *Groundwork* III could not, the reality of autonomy of the will. Kant can occasionally refer to the *Factum* as, for instance, autonomy or an *a priori* causality of the will because the fact of reason ultimately underlies the validity of these concepts.

 The fact of reason does not appear again in the *Critique* until Section 6 of the Analytic. While it does not actually mention the *Factum* by name, this section provides Kant’s key illustration of it with the so-called two gallows case that will inform his explicit treatment of the issue in Section 7. First, however, it is important to situate the passage in the context of the *Critique* as a whole. Kant’s “Remark” to Section 6 begins with the claim that “freedom and the unconditional practical law reciprocally imply each other [*weisen* . . . *wechselweise auf einander zurück*]”.[[58]](#footnote-58) This is a restatement of the ‘Reciprocity Thesis’, or the identity of freedom and the moral law under the definition of autonomy reached at the end of *Groundwork* II. It suggests that the earlier sections of the *Critique* have simply recapitulated the analytic trajectory of the *Groundwork* without making a step towards a justification of moral principles for cognition. Although Kant’s terminology has shifted slightly since the *Groundwork*, the first four sections of the Analytic outline the now familiar claim that an objective, necessary principle of action for a rational will must have its ground in the form of a universal law entirely separate from any empirical determination by the contingent desires of a particular agent.[[59]](#footnote-59) As in the *Groundwork*, Kant thinks that this is clear to even the “most common understanding [*der gemeinste Verstand*] without instruction”.[[60]](#footnote-60) Despite such assurances, Kant shifts to the question of confirming his analysis of a universal practical law in Sections 5 and 6. As per their section headings, Kant presents the relation between the two sides of the ‘Reciprocity Thesis’, transcendental freedom and the universal form of the moral law, as a problem or task (*Aufgabe*) to be solved. The two gallows case comes in as a way to answer this issue in the “Remark” to Section 6.[[61]](#footnote-61) First, though, it is prefaced by what Kant calls an account of the “order of concepts” for moral cognition.[[62]](#footnote-62) This is the discussion of the *ratio cognoscendi* of freedom invoked in the Preface to the *Critique*.

Kant revises the terms of the circularity of the ‘Reciprocity Thesis’ by limiting himself to the question of whether the origin of our cognition of practical reason begins from freedom or the moral law.[[63]](#footnote-63) As we know, it cannot be the former since an *a priori* causality of the will is not a possible object of experience. In an inversion of *Groundwork* III, Kant takes the moral law, and not freedom, as the foundation for his justification of his moral concepts. This is where we get his startling claim that “we become immediately conscious [*unmittelbar bewußt*]” of the moral law “as soon [*so bald*] as we draw up [*entwerfen*] maxims of the will for ourselves”.[[64]](#footnote-64) Immediate awareness of a necessary and universal practical law attends or accompanies deliberation about possible courses of action. This law of action strikes us as an unconditional command that overrides any contingent, conditional object of the will provided by the empirical faculty of desire. The only possible source for such an objective principle of action is an independent practical dimension of pure reason completely divorced from sensibility. “[T]he mere form of a law”, Kant says, “can be represented [*vorgestellt*] only by reason”, and thus has a “purity [*Reinigkeit*] of . . . origin [*Ursprungs*]” which can only be explained as an *a priori* function of practical reason.[[65]](#footnote-65) Consciousness of such an *a priori* constraint on possible actions then “leads directly [*gerade . . . führt*] to the concept of freedom” as the sole condition of its possibility.[[66]](#footnote-66) This is a consequence of the ‘Reciprocity Thesis’, though one which the *Groundwork* does not adequately consider, namely, the notion that the moral law can be justified independently of a justification of transcendental freedom. By contrast, in the second *Critique*, practical reason is able to authenticate what was merely a non-contradictory assumption for theoretical reason, an *a priori* faculty of freedom, through the immediate awareness of moral commands that Kant imputes to rational deliberation. “One would never”, he concludes, “have ventured to introduce freedom into science had not the moral law, and with it practical reason, forced [*aufgedrungen*] this concept upon us”.[[67]](#footnote-67) As we will see, this capacity of practical reason to independently force or impose a valid moral law upon us will be explained by the fact of reason.

After this fairly abstract sketch of moral cognition, Kant moves to reinforce his argument with an example, the so-called two gallows case. Imagine, he says, an individual of lustful inclination who claims that he absolutely cannot resist gratifying his sensuous proclivities, whatever the consequences. Erect a gallows in front of his house, tell him that such gratification will lead to his execution, and the lustful man will undoubtedly curb his desire in favor of maintaining his life. In this first case, the fundamental drive for self-preservation is the only motive that can trump the otherwise indefeasible appetites of our tawdry protagonist. Now imagine this same man confronted with the demand of his prince that he needs to provide false testimony against an honorable, innocent man or face the gallows. This proposed perjury of the lustful man will result in the death of the honourable man.[[68]](#footnote-68) The self-preservation of the profligate is now opposed to an act of deception in which the life of the honorable man becomes the mere means to his survival. Faced with this decision, Kant writes that the lustful man

. . . would perhaps not venture to assert whether he would do it [i.e., willingly die] or not, but he must admit without hesitation that it would be possible for him. He judges [*urteilt*], therefore, that he can do something because he is aware [*bewußt*] that he ought to do it and cognizes [*erkennt*] freedom within him which, without the moral law, would have remained unknown [*unbekannt*] to him[[69]](#footnote-69)

According to Kant’s example, awareness of binding moral obligation precipitates the judgment of the lustful man that it must be possible for him to do what the moral law unconditionally commands. Because his non-moral desires are so insatiable, the only explanation for his consciousness of moral obligation entirely opposed to them—indeed, opposed to his very survival—is the existence of practical reason and a transcendental freedom radically distinct from his typical, strictly appetitive motivation. If the moral law really commands us to courses of action that contradict any and every possible motive derived from sensibility, then we must be able to determine our will accordingly through an *a priori* faculty of freedom.

Together with the preliminary outline of moral cognition, Kant takes the two gallows case as sufficient for establishing the categorical imperative as the fundamental law of pure practical reason in Section 7.[[70]](#footnote-70) The “Remark” here reintroduces the *Factum* into the text of the *Critique* and functions as a crucial elaboration on the argument of the previous section:

Consciousness of this fundamental law [of pure practical reason] may be called a fact of reason [*ein Factum der Vernunft*] because one cannot reason it out [*nicht . . . herausvernünfteln* *kann*] from antecedent data [*Datis*] of reason, for example, from consciousness of freedom (since this is not antecedently given to us [*uns nicht vorher gegeben*]), and because it instead forces itself upon us [*es sich für sich selbst uns aufdringt*] as a synthetic a priori proposition that is not based on any intuition [*Anschauung*], either pure or empirical, although it would be analytic if freedom of the will were presupposed[[71]](#footnote-71)

The reference to the analytic relation between freedom and the moral law that would be valid if the former could be presupposed also indicates that the ‘Reciprocity Thesis’ and the problem of *Groundwork* III are very much in play here. According to the passage, the fact of reason provides the explanation for what Kant calls the “strange [*befremdlich*]” notion that practical reason is able to spontaneously impose a binding *a priori* moral command.[[72]](#footnote-72) His use of the verb *aufdringen* to describe this capacity of practical reason recalls its occurrence in the sketch of moral cognition that precedes the two gallows case. The second “Remark” to Section 7 further specifies this compulsory force of practical reason as “an internal but intellectual constraint [*Zwang*]” on action absolutely opposed to non-moral motives generated by the empirical faculty of desire.[[73]](#footnote-73) The *Factum* is that by virtue of which practical reason independently forces such awareness of a valid moral law upon us. This is its primary referent in the *Critique* because it serves as the basis for Kant’s justification of the reality of his two key *a priori* moral concepts, transcendental freedom and the moral law. Section 8 can therefore introduce their unification under autonomy of the will as “the sole principle of all moral laws [*das alleinige Princip aller moralischen Gesetze*]”.[[74]](#footnote-74) Although the appeal to an immediate consciousness of moral obligation looks suspiciously like a relapse into ethical intuitionism, Kant clearly dismisses such an interpretation. If intellectual intuitions were admissible for his critical philosophy, then transcendental freedom could be used to prove the moral law. This is exactly the route the *Critique* does not take. On the other hand, Kant also says that while the moral law is, unlike freedom, given (*gegeben*) through the fact of reason, the latter “is not an empirical fact but the sole fact of pure reason [*es kein empirisches, sondern das einzige Factum der reinen Vernunft sei*] which, by it, announces itself as originally lawgiving [*die sich dadurch als ursprünglich gesetzgebend . . . ankündigt*]”.[[75]](#footnote-75) As neither an intellectual intuition of a moral truth nor an empirical matter of fact, the exact status of Kant’s *Factum* is hard to discern.[[76]](#footnote-76) The next section of this essay will examine its technical function in order to clarify this point.

Before moving on, however, it is important to consider the implications of the fact of reason that Kant discusses in the “Deduction” section of Chapter I of the Analytic. It is here that he recasts the argument of Sections 6 and 7 in terms that render its function as a transcendental argument more explicit. The moral law, he says, “is given [*ist . . . gegeben*], as it were, as a fact of pure reason [*gleichsam als ein Factum der reinen Vernunft*] of which we are a priori conscious [*bewußt*] and which is apodictically certain”.[[77]](#footnote-77) As illustrated by the two gallows case, it is the immediate necessitating force of the moral law through the *Factum* that grounds what Kant calls a deduction of the objective reality of an *a priori* faculty of freedom, though only in a practical sense with respect to possible principles of action for rational agents. Clearly invoking the final section of the *Groundwork*, Kant writes in summary:

. . . something quite different and paradoxical [*Widersinnisches*; literally, contrary to sense] takes the place of this vainly sought deduction of the moral principle, namely, that the moral principle, conversely itself serves as the principle of the deduction of an inscrutable faculty which no experience could prove . . . namely, the faculty of freedom, of which the moral law, which itself has no need of justifying grounds [*selbst keiner rechtfertigenden Gründe bedarf*], proves [*beweiset*] not only the possibility but the reality [*Wirklichkeit*] in beings who cognize this law as binding upon them [*als für sie verbindend erkennen*][[78]](#footnote-78)

Although this passage more or less restates the argument of Sections 6 and 7, it also clarifies its stakes. The self-authenticating character of the moral law as a fact of reason is the basis for the justification of the reality of morality announced at Section 5 with the return to the problematic status of the ‘Reciprocity Thesis’. This is the special “credential [*Creditiv*]” of the moral law.[[79]](#footnote-79) It legitimates both itself and transcendental freedom as *a priori* moral concepts for practical cognition. “This Analytic”, Kant says in at the opening of the “Deduction”, “shows that pure reason can be practical – that is, can of itself, independently of anything empirical, determine the will – and it does so by a fact [*und dieses zwar durch ein Factum*] in which pure reason proves itself actually [*in der Tat*] practical, namely autonomy in the principle of morality by which reason determines the will to deeds [*zur Tat*]”.[[80]](#footnote-80) The function of the fact of reason in the *Critique* is to do nothing less than establish the central thesis of the text, that pure reason can be practical through *a priori* concepts—freedom and the moral law—that are valid for cognition. Its justificatory role could not be clearer.[[81]](#footnote-81) Even though Kant says in this section that the moral law cannot be theoretically demonstrated in the same manner as the *a priori* categories of the understanding, this does not preclude it from serving as the foundation of a transcendental deduction of the reality of practical reason.

According to the “Deduction” section, then, Kant frames the *Factum* as the explanation for the self-justification of the moral law that grounds the reality of freedom and breaks the vicious circularity of the ‘Reciprocity Thesis’, evidently only imperfectly dealt with in the *Groundwork*. I have already indicated that this constitutes a transcendental argument for morality that begins from a credible or assured conditioned, consciousness of the binding moral law, to its *a priori* condition of possibility in transcendental freedom. In Henrich’s terms, this can be understood as a weak transcendental deduction because the starting conditioned in question, the moral law, is taken as immediately and unquestionably valid. To return to the methodological paradigm of the *Groundwork*, Kant’s argument in the second *Critique* seems to involve a reconfiguration of the analysis of morality such that no strong deduction of its principles according to the synthetic method is needed. The previously separate questions of the ‘how’ and the ‘whether’ of morality have collapsed into one another. The moral law is no longer a hypothetical chimera, but rather an indisputable feature of rational deliberation. On the surface, however, it looks as if Kant has simply taken the bindingness of the moral law as a brute, indemonstrable ‘given’, even if he insists that the *Factum* is ‘given’ as neither an intellectual intuition nor an empirical matter of fact. The next section of this essay will show that Kant’s argument depends on a technical sense of *Factum*. Without it, his critique of pure practical reason appears to rest on an uncritical and dogmatic assertion of the undeniable fact of moral obligation.[[82]](#footnote-82)

V

At the opening of this essay I posed three objections to reading the fact of reason as the basis of a transcendental argument for practical reason. The first is that it seems to beg the question by assuming (the bindingness of the moral law) what the argument sets out to prove (the validity of Kant’s *a priori* concepts of morality). The second objection is that taking the fact of reason as the starting-point for the deductive authentication of objective moral concepts reduces Kant’s argument to a form of naïve ethical intuitionism. Finally, my reading seems to wrongly import the methodology of Kant’s theoretical philosophy into his practical philosophy.

At this stage, I think that I can at least answer the last of these objections. Although Kant is clear in the *Groundwork* and the second *Critique* about the methodological asymmetry between practical and theoretical cognition, this does not rule out the possibility of a specific kind of transcendental argument or deduction for *a priori* moral concepts. The self-legitimating character of the moral law captured by the fact of reason is meant to show just how such an argument works. Kant explicitly addresses this point in the following passage:

practical a priori concepts in relation to the supreme principle of freedom at once become cognitions [*sogleich* *Erkenntnisse werden*] and do not have to wait for intuitions in order receive meaning [*Bedeutung*]; and this happens for the noteworthy reason that they themselves produce [*sie . . . selbst hervorbringen*] the reality [*Wirklichkeit*] of that to which they refer [*beziehen*] (the disposition of the will [*Willensgesinnung*]), which is not the business of theoretical concepts[[83]](#footnote-83)

According to Kant, there is a methodological distinction between practical and theoretical philosophy because only the former can confirm its concepts for cognition without an appeal to an independent, non-conceptual domain like sensibility. Moral concepts are instead immediately and autonomously justifying. A transcendental argument or deduction in the sphere of practical philosophy is by no means prohibited because of this point of departure from theoretical philosophy.[[84]](#footnote-84) Or, put a different way, there is no need to assume that transcendental arguments are only valid for theoretical philosophy. A deduction of the moral law is not possible because it is uniquely self-deducing, and not because pure reason oversteps its bounds by making use of a transcendental argument for the authentication of its practical concepts.

The remaining two objections to the interpretation of the fact of reason presented thus far in this paper still need to be addressed. However, the key to doing so is to take into account the peculiar sense of the word *Factum* that Kant exploits in the second *Critique*. What, after all, is this mysterious ‘fact’ underlying his account of moral cognition and his proposed justification of morality? According to Pauline Kleingeld, two meanings of the word *Factum* were available to Kant during his lifetime.[[85]](#footnote-85) This reflects the dual signification of the Latin noun *factum*, derived from the verb *facere*, as both an act and its product. In its older meaning in German, *Factum* is equivalent to *Tat*, that is, the act or deed that creates something. A newer signification of *Factum* came into use only in the second half of the 18th century as a translation of *res facti*, or matter of fact. This is *Factum* as *Tatsache*, which refers to that which is made or produced by a *Tat*. Kant uses both senses of the word in his writings. In the *Metaphysics of Morals*, for example, he equates *Tat* with the Latin *factum* as a moral imputation (*Zurechnung*; *imputatio*) of the authorship of an action to someone.[[86]](#footnote-86) In another passage, however, he uses *Factum* synonymously with *Tatsache*.[[87]](#footnote-87) Following Marcus Willaschek, then, it is important to keep both meanings of *Factum* in mind when considering the fact of reason in the second *Critique*.[[88]](#footnote-88)

This technical sense of *Factum* allows me to respond to the remaining objections to my reading of the *Critique* offered in this essay. On the one hand, the consciousness of moral obligation described in Section 6 of the Analytic is not an immediate ‘given’ to which rational agents have access through an intellectual intuition of a distant moral realm. Rather, our unshakeable awareness of an unconditional moral command is a matter of fact or state of affairs (*Tatsache*) produced by a spontaneous, *a priori* act of practical reason (*Tat*). This is why Kant says in the Preface that practical reason “proves its reality and that of its concepts by what it does [*durch die Tat*]”.[[89]](#footnote-89) “Recognition [*Anerkennung*] of the moral law”, he writes later on, “is . . . consciousness of an activity [*einer Tätigkeit*] of practical reason”.[[90]](#footnote-90) The main function of the fact of reason in the *Critique* is to explain how each rational being has the capacity to impose or force consciousness of moral obligation upon themselves. The moral law is binding because practical reason can generate necessary and universal commands *a priori* through its *Factum*. This is not an intuition from without of a readymade, self-evident moral duty, but simply an account of the origin of the purely formal, *a priori* element of the cognitive judgment of a rational agent that yields a determinate moral principle of action. The latter takes the form of a synthetic *a priori* proposition because the objective principle of the moral law needs to be combined with a particular subjective maxim in order to actually produce a specific volition or intention. Freedom, Kant tells us, is the *ratio essendi* of the moral law. Each of us produces awareness of principles of action that are necessarily and universally binding for all rational beings. Claiming, as I think Kant does, that we possess a faculty of practical reason capable of imposing an abstract formal criterion upon determinate courses of action does not entail an intuition of an external moral order from which particular moral propositions are beamed to the mind from afar.[[91]](#footnote-91) It would indeed be strange for Kant to relapse into an uncritical position that he long opposed, [[92]](#footnote-92) and which would clearly undermine the importance of the autonomous, that is, entirely self-given, character of the moral law in his practical philosophy.

 On the other hand, understanding the fact of reason as something other than a brute matter of fact provides only a limited response to the charge of question-begging. Although the *Factum* gives the source of our awareness of the moral law in the activity of practical reason, Kant nevertheless assumes that it really is the case that valid moral duties are immediately clear to rational agents in relevant deliberative scenarios. Indeed, they must be so. If, through the moral law, practical reason does not immediately determine the will, then it can only do so mediately through a non-moral, heteronomous ground of action. If moral obligation is not spontaneously binding, then mere legality or conformity of the will with the categorical imperative is all that is possible for rational agents.[[93]](#footnote-93) Despite their different argumentative approaches, this is a central point of continuity between the *Groundwork* and the second *Critique*. Even the “most hardened scoundrel [*der ärgste Bösewicht*]”, Kant writes in the earlier text, recognizes morality as “a law of whose authority [*Ansehen*] he is cognizant [*kennt*] even while he transgresses it”.[[94]](#footnote-94) Similarly, in the later work Kant characterizes the moral law as a “voice of reason . . . so distinct, so irrepressible, and so audible even to the most common human beings”.[[95]](#footnote-95) For Kant, the commands of morality are even clearer than the competing claims of self-love because they do not involve sophisticated and uncertain instrumental calculations about individual advantage.[[96]](#footnote-96) The immediate bindingness of the moral law can serve as the unquestionable foundation for a transcendental justification of *a priori* moral concepts because Kant holds that, on some level, everyone acknowledges moral obligation. The moral law is ultimately “a fact [*ein Factum*] that precedes all subtle reasoning about its possibility and all the consequences that may be drawn from it”.[[97]](#footnote-97)

VI

“[A]ll human insight”, Kant writes in the “Deduction” section of the second *Critique*, “is at an end as soon as we have arrived at basic powers or basic faculties [*Grundkräften oder Grundvermögen*]; for there is nothing through which their possibility can be conceived [*begriffen*], and yet it may not be invented and assumed at one’s discretion”.[[98]](#footnote-98) For Kant, the fact of reason is found at this limit of human insight. It is the result of his realization that the transcendental ground of morality must be a self-justifying product of the activity of practical reason. This is the point, to borrow Wittgenstein’s metaphor, at which the spade hits bedrock and turns back on itself.[[99]](#footnote-99) Although for Kant neither freedom nor the moral law are theoretically demonstrable objects of possible experience, he invests the latter with an autonomous validity for cognition that is denied to the former. In order to mitigate the charge of circularity or question-begging, the bindingness of the moral law needs to be accepted as both legitimate and incapable of an independent, non-moral justification. This is the retreat from the ‘whether’ of morality to the less demanding question of its ‘how’, from a strong deduction (using the synthetic method) to a weak deduction (using the analytic method). For Kant, then, the allegation of question-begging is misplaced because morality admits of no possible independent, non-moral justification. That morality is the case thus becomes the supposedly sound but indemonstrable proposition of the second *Critique*. This is why, despite his invocation of an “abyss of scepticism”, Kant does not and cannot have a reply to the radical skeptic who simply refuses to countenance the existence of morality.[[100]](#footnote-100) His consistent appeals to the undoubtable clarity and simplicity of moral concepts for common cognition in the *Groundwork* and the *Critique* only underscore this point. Such an extreme or hyperbolic skepticism, he says, is ultimately only for the learned and does not affect the majority.[[101]](#footnote-101) In the later work Kant is therefore more concerned with refuting competing conceptions of morality—for instance, hedonism, sentimentalism, perfectionism, divine command theory—than he is with establishing its principles on a definitive theoretical basis.[[102]](#footnote-102) Following the vain toils of *Groundwork* III, Kant’s argument for the fact of reason expresses a kind of contentment with this more limited philosophical project.

While this more limited justification of morality may be unsatisfactory to the skeptic,[[103]](#footnote-103) the typical target of a transcendental argument, I think that the foregoing has shown that it is nevertheless Kant’s position in the second *Critique*. With the constructivist, Kant can say that there is no ‘outside’ or ‘exterior’ of morality through which its claims can be independently authenticated on strictly non-moral terms. Against certain constructivist approaches, however, Kant thinks that this does not entail a rejection of either a deductive argumentative strategy or a robust moral realism. “The moral law”, he writes, “is thought as objectively necessary only because it is to hold [*gelten soll*] for everyone having reason and will”, including even the idea of an infinite, supreme intelligence or God.[[104]](#footnote-104) This is certainly a high threshold for morality that we of a postmetaphysical or postmodern age may not be inclined to accept. However, as I think Ameriks correctly argues, it does not follow from the relativity of moral obligation to all rational beings that its commands are merely ideal constructions or procedural outcomes which arise from the subjective features of human cognition. Ignoring this point, he says, sets up a false dichotomization of morality as “either imposed by us, or imposed by another”, in other words, an unnecessary dilemma between some form of either constructivism or intuitionism in ethics.[[105]](#footnote-105)

The central tenet of Kant’s practical philosophy is the unity of the moral law and freedom as autonomy of the will, or the capacity for universal self-legislation. His doctrine of the fact of reason reflects this: it is ultimately an expression of the unproveable but indispensible autonomy of practical reason as that which produces necessary, universal and entirely self-imposed moral laws. We can fault Kant for failing to adequately question the connection between the moral law and freedom at the foundation of his notion of a pure, *a priori* morality. But I think that we seriously misread him if we take this relationship as anything less than a commitment to the reality of his moral concepts as practical cognitions, that is to say, *a priori* operations of pure reason that are *known* insofar as they are legitimately and necessarily applicable to the will of every rational being. For Kant, the ultimate justificatory basis for morality is thus neither a model conception of rational agency from which norms can be derived, nor an external moral order radically divorced from the spontaneous activity of pure reason. It is to be located instead in the perspicacity by which necessary and universal moral commands are recognized as self-created, and for which he simply seeks to provide a transcendental ground in the fact of reason. His argument, vividly illustrated by the example of the lustful man at the gallows pole, turns on the supposed plausibility of this claim.

*BROOKLYN, NY*

1. The essay arose from a graduate seminar on Kant’s ethics at Columbia University in the fall of 2014 held by Professor Patricia Kitcher. I would like to thank Dr. Kitcher for her comments on the earliest version of this paper. In addition, I am very grateful to Professors Allegra de Laurentiis and Jeffrey Edwards of Stony Brook University for their detailed feedback on different iterations of this essay over the past few years, and to my friend Jose Rosales, who was kind enough to carefully read over the final draft. [↑](#footnote-ref-1)
2. Lewis White Beck calls the deduction “the most obscure part of Kant’s ethical theory”, “The Fact of Reason: An Essay on Justification in Ethics,” in *Studies in the Philosophy of Kant* (New York: Bobbs–Merirll, 1965 [1960]), 202. Henry E. Allison calls *Groundwork* III “one of the most enigmatic of the Kantian texts”, saying of the deduction that “although there is virtually unanimity that the attempt fails, there is little agreement concerned the actual structure of the argument that Kant advances”, *Kant’s Theory of Freedom* (New York: Cambridge University Press, 1990), 214. [↑](#footnote-ref-2)
3. Kant, *Critique of Practical Reason*, in *Practical Philosophy*, trans. Mary J. Gregor (New York: Cambridge University Press, 2009), 5:32, 47. In this essay I follow the standard convention of referencing passages in Kant’s texts with the Berlin Academy pagination of his works. [↑](#footnote-ref-3)
4. Ibid., 5:47. [↑](#footnote-ref-4)
5. Ibid., 5:3–4. [↑](#footnote-ref-5)
6. G.W.F. Hegel, *Lectures on the History, Volume III*, trans. Elizabeth S. Haldane and Frances H. Simson (London: Kegan Paul, Trench, Truber & Co., 1896), 461. The passage is noted by Dieter Henrich, “The Concept of Moral Insight and Kant’s Doctrine of the Fact of Reason,” trans. Manfred Kuehn, in *The Unity of Reason: Essays on Kant’s Philosophy* (Cambridge, MA: Harvard University Press, 1994 [1960]), 69. Henrich also points out the following remark by Schopenhauer: “[i]t seems more and more that practical reason and its categorical imperative is a hyperphysical fact for the Kantian school. It is a Delphic temple in the soul from whose dark holiness issue oracular sayings that sadly declare indisputably not what does happen, but what should happen”. Arthur Schopenhauer, *The Basis of Morality*, trans. A.B. Bullock (London: S. Sonnenschein, 1903), 68–9. [↑](#footnote-ref-6)
7. Karl Ameriks, “Kant’s Deduction of Freedom and Morality,” *Journal of the History of Philosophy* 19, no. 1 (1981): 66, 54. [↑](#footnote-ref-7)
8. See Beck, “The Fact of Reason,” 211–14; Beck, *A* *Commentary on Kant’s Critique of Practical Reason* (Chicago: The University of Chicago Press, 1960), 171–5; Dieter Henrich, “The Deduction of the Moral Law: The Reasons for the Obscurity in the Final Section of Kant’s *Groundwork of the Metaphysics of Morals*,” in *Groundwork* *of the Metaphysics of Morals: Critical Essays*, ed. Paul Guyer (New York: Rowman and Littlefield, 1998 [1975]), 333, 341n25, n27; Henrich, “Kant’s Notion of a Deduction and the Methodological Background of the First *Critique*,” in *Kant’s Transcendental Deductions*, ed. Eckart Förster (Stanford: Stanford University Press, 1989), 30, 37; Henry E. Allison, *Kant’s Theory of Freedom*, 230–49; Ian Proops, “Kant’s Legal Metaphor and the Nature of a Deduction,” *Journal of the History of Philosophy* 41, no. 2 (2003): 224–9. [↑](#footnote-ref-8)
9. See Kant, *Critique of Practical Reason*, 5:4–7, 44, 47, 55–6. Kant speaks in these passages of only needing to establish the objective reality of freedom, but this is just because the moral law establishes itself as a fact of reason. The point is still to show: (a) how exactly the moral law establishes itself in this way, and (b) how this allows Kant to validate transcendental freedom. Together, (a) and (b) constitute a justification of practical reason and Kant’s conception of a pure morality. [↑](#footnote-ref-9)
10. This is the position of Pawel Luków, “The Fact of Reason: Kant’s Passage to Ordinary Moral Consciousness,” *Kant-Studien* 84, no. 2 (1993): 209–17. His reading is referenced and adopted, though not without some further distinctions, by Onora O’Neill, “Autonomy and the Fact of Reason in the Kritik der praktischen Vernunft (§§7–8, 30–41),” in *Immanuel Kant: Kritik der praktischen Vernunft*, ed. Otfried Höffe (Berlin: Akademie Verlag, 2002), 81–83, 88–90, and by David Sussman, “From Deduction to Deed: Kant’s Grounding of the Moral Law,” *Kantian Review* 13, no. 1 (2008): 53, 66–70, 76–7, 81n31. [↑](#footnote-ref-10)
11. This is Rawls’s view, who reads the fact of reason as consciousness of a conception of “free and equal moral personality” at the basis of a constructivist procedure of practical deliberation. Rawls does not deny that there are moral facts, and thus does not appear to be a moral anti-realist, but he does say that only those facts that ‘count’ or are valid for an ideal constructivist procedure are moral facts. The fact of reason is therefore a merely “coherentist” authentication of practical reason because moral facts are ultimately dependent upon an ideal standard of action. See his “Themes in Kant’s Moral Philosophy,” in *Collected Papers*, ed. Samuel Freeman (Cambridge MA, Harvard University Press, 1999 [1988]), 512–23. Pauline Kleingeld also reflects this tendency by framing the fact of reason as the validation of a non-moral form of normativity implicit in the process of ‘maxim construction’ employed by rational agents. See her “Moral consciousness and the ‘fact of reason’,” *in Kant’s Critique of Practical Reason: A Critical Guide*, ed. Andrews Reath and Jens Timmermann (New York: Cambridge University Press, 2010), 65–72. [↑](#footnote-ref-11)
12. See note 8. I will discuss just two examples in detail. Though Allison recognizes that, through the fact of reason, the moral law is a product of practical reason, his characterization of it as a “brute given” similar to the *a priori* givenness of space and time in the Metaphysical Expositions of the Transcendental Aesthetic in the first *Critique* runs counter to the technical sense of *Factum* that I will utilize in this essay. See Allison, *Kant’s Theory of Freedom*, 233–6, and Kant, *Critique of Pure Reason*, trans. Paul Guyer and Allen W. Wood (New York: Cambridge University Press, 2000), A22/B37–A25/B40 and A30/B46–A32–B48, for the Metaphysical Expositions of space and time. Henrich’s dedicated treatment of the fact of reason in “The Concept of Moral Insight,” while quite helpful, mainly explores the background for Kant’s position provided by his philosophical predecessors and some posthumously published reflections, and not the text of the second *Critique* and its argument. [↑](#footnote-ref-12)
13. As Paul Franks and Christopher Hookway both point out, Kant himself does not use the term ‘transcendental argument’ in the way that it is used today. The phrase does occur towards the end of his discussion of the “physico-theological proof” of the existence of God (i.e., the argument from design) in the first *Critique*, but it refers to a specious argument that transcends or exceeds the proper boundaries of cognition set out in that text. See Kant, *Critique of Pure Reason*, A627/B655. Nevertheless, what we now call transcendental arguments are generally taken to be a central feature of Kant’s thought. See Franks, “Transcendental Arguments, Reason and Scepticism: Contemporary Debates and the Origins of Post-Kantianism,” in *Transcendental Arguments: Problems and Prospects*, ed. Robert Stern (New York: Oxford Clarendon, 1999), 112n14, and Hookway, “Modest Transcendental Arguments and Sceptical Doubts: A Reply to Stroud,” in *Transcendental Arguments*, 180n8. For an overview of transcendental arguments with an emphasis on Kant, see Stern, “Introduction,” in *Transcendental Arguments*, 1–12, and Ralph C.S. Walker, “Kant and transcendental arguments,” in the *Cambridge Companion to Kant and Modern Philosophy*, ed. Paul Guyer (New York: Cambridge University Press, 2006), 238–68. [↑](#footnote-ref-13)
14. Kant, *Critique of Practical Reason*, 5:5. [↑](#footnote-ref-14)
15. See Henrich, “The Deduction of the Moral Law,” 322–29, and “Kant’s Notion of a Deduction,” 29–46. [↑](#footnote-ref-15)
16. See Kant, *Critique of Pure Reason*, A84–5/B116–17. [↑](#footnote-ref-16)
17. See Willaschek, *Praktische Vernunft: Handlungstheorie und Moralbegründung bei Kant* (Stuttgart: J.B. Metzler, 1992), 177–93. This idea is, however, anticipated in some ways by Beck and his ‘fact of reason’/‘fact for reason’ distinction in “The Fact of Reason,” 211–14. Kleingeld also employs Willaschek’s analysis in her treatment of the fact of reason, but she does not consider its implications for taking the latter as the foundation of a transcendental argument. See her “Moral consciousness,” 61–5. [↑](#footnote-ref-17)
18. Kant, *Groundwork of the Metaphysics of Morals*, in *Practical Philosophy*, 4:392, 445. He is not particularly clear about the difference between the analytic and synthetic methods in the text itself. Probably the most well-known account of the two methods comes in *the Prolegomena to Any Future Metaphysics*, composed less than two years before the *Groundwork*. There Kant tells us that the method of the *Critique of Pure Reason* is synthetic, and that of the *Prolegomena* analytic. See Kant, *Theoretical Philosophy After 1781*, ed. Henry E. Allison and Peter Heath (New York: Cambridge University Press, 2002), 4:263, 274–5, 279. For further general discussions of the methods in Kant, see his *Lectures on Logic*, ed. Michael Young (New York: Cambridge University Press, 1992), 9:63–4, 149, 24:130–2, 843–5. [↑](#footnote-ref-18)
19. Kant, *Prolegomena*, 4:275. [↑](#footnote-ref-19)
20. Kant, *Groundwork*, 4:404-10. See the following remarks on the clarity and simplicity of common moral understanding from the *Groundwork*: “. . . in moral matters human reason can easily be brought to a high degree of correctness and accomplishment, even in the most common understanding”, 4:391; “. . . the concept of the will . . . as it already dwells in natural sound understanding . . . needs not so much to be taught as only to be clarified”, 4:397; “. . . common human reason . . . knows very well how to distinguish in every case that comes up what is good and what is evil, what is in conformity with duty or contrary to duty . . . there is, accordingly, no need of science philosophy to know what one has to do in order to be honest and good, even wise and virtuous”, 4:404. [↑](#footnote-ref-20)
21. Ibid., 4:436. The first articulation of the categorical imperative presented by Kant is the negative definition of the universal law formulation in Section I at 4:402: “I ought never to act except in such a way that I could also will that my maxim should become a universal law”. This is then restated positively in Section II at 4:421(“act only in accordance with that maxim through which you can at the same time will that it become a universal law”) before the remaining formulations are enumerated. See H.J. Paton, *The Categorical Imperative* (New York: Harper & Row, 1967 [1947]), 129–98 for the classic, if sometimes disputed, account of the five formulations of the categorical imperative in the *Groundwork*. [↑](#footnote-ref-21)
22. Kant, *Groundwork*, 4:440. The aim of the *Groundwork* is just to find this supreme principle of morality (4:392), which suggests that autonomy of the will is the central or primary concept of the text. Allen W. Wood defends this view, in particular against what he takes as the undue constructivist emphasis on the universal law formulation. See Wood, “The supreme principle of morality,” in *The Cambridge Companion to Kant and Modern Philosophy*, 342–80. [↑](#footnote-ref-22)
23. In its categorically imperatival form, autonomy of the will is the command “to act only so that the will could regard itself as at the same time giving universal law through its maxim”. Later on, when Kant refers to autonomy as the supreme principle of morality, he defines it as the “property [*Beschaffenheit*] of the will by which it is a law to itself (independently of any property of the objects of volition). The principle of autonomy is, therefore: to choose [*zu wählen*] only in such a way that the maxims of your choice [*Wahl*] are also included as universal law in the same volition”. See Kant, *Groundwork*, 4:434, 440. [↑](#footnote-ref-23)
24. Ibid., 4:445. “Wir zeigten nur durch Entwickelung des einmal allgemein im Schwange gehenden Begriffs der Sittlichkeit: daß eine Autonomie des Willens demselben unvermeidlicher Weise anhänge, oder vielmehr zum Grunde liege”. [↑](#footnote-ref-24)
25. Ibid., 4:450. [↑](#footnote-ref-25)
26. Ibid., 4:447. “But that the above principle of autonomy is the sole principle of morals can well be shown by mere analysis of the concepts of morality. For, by this analysis we find that its principle must be a categorical imperative, while this commands neither more nor less than autonomy”, ibid., 4:440. “If, therefore, freedom of the will is presupposed, morality together with its principle follows from it by mere analysis of its concept”, ibid., 4:447. [↑](#footnote-ref-26)
27. Henry E. Allison, “Morality and Freedom: Kant’s Reciprocity Thesis,” in *Groundwork of the Metaphysics of Morals: Critical Essays*, 273–302. [↑](#footnote-ref-27)
28. Kant, *Groundwork*, 4:407. [↑](#footnote-ref-28)
29. Ibid., 4:445. [↑](#footnote-ref-29)
30. The goal of this section is also presented as a justification of the possibility of a categorical imperative as a synthetic *a priori* proposition. See ibid., 4:420, 440, 444–5, 454. Why? For Kant’s account of morality to be real and not just an empty idea, a rational agent needs to be able to combine an objective, *a priori* command of moral duty with a separate subjective maxim in a single volition of the will. This is just autonomy: the capacity of the will to give itself a universal, purely rational law. Since, however, human beings are just as free to follow non-moral inclinations, a connection between the moral law and subjective intention is always contingent, that is, capable of being otherwise. This is why Kant says that we have an imperfect will, and not a divine or holy one, so that we encounter the moral law as unconditional, necessitating command. See ibid., 4:414. [↑](#footnote-ref-30)
31. Allison, “Morality and Freedom: Kant’s Reciprocity Thesis”, 274. [↑](#footnote-ref-31)
32. Kant, *Groundwork*, 4:447. [↑](#footnote-ref-32)
33. The language of positive and negative freedom is used in the *Groundwork*, 4:446–7, but the corresponding notions of transcendental and practical freedom appear in the *Critique of Pure Reason*. See, for instance, A533-4/B561-2. [↑](#footnote-ref-33)
34. See Kant, *Critique of Pure Reason*, A444-51/B472-79, A532-58/B560-86. “[T]hat this antinomy [i.e., between freedom and natural necessity] rests on a mere illusion, and that nature at least does not conflict with causality through freedom—that was the one single thing we could accomplish”, A558/B586. [↑](#footnote-ref-34)
35. Kant, *Groundwork*, 4:447. [↑](#footnote-ref-35)
36. Ibid., 4:447–8. [↑](#footnote-ref-36)
37. Ibid., 4:453. Closely repeated at 4:455 when Kant speaks of someone who “transfers himself to the standpoint of a member of the world of understanding [*sich in den Standpunkt eines Gliedes der Verstandeswelt versetzt*]”. [↑](#footnote-ref-37)
38. Ibid., 4:450. [↑](#footnote-ref-38)
39. Ibid., 4:453. [↑](#footnote-ref-39)
40. This argument is discussed most straightforwardly in Henrich, “The Deduction of the Moral Law,” 311–20, and Allison, *Kant’s Theory of Freedom*, 221–7, but see also Ameriks, “Kant’s Deduction of Freedom and Morality,” 61–5, 67–73. Timmermann situates the deduction slightly later at 4:454 since this is where Kant refers to it as such, but this is just a restatement of what is argued in more detail at 4:450–3. See his “Reversal or retreat? Kant’s deductions of freedom and morality,” in *Kant’s Critique of Practical Reason: A Critical Guide*, 76–80. Henrich and Allison also discern a supporting preliminary argument at 4:448 that makes an analogy between transcendental freedom and the spontaneity of reason needed for the possibility of its theoretical judgments. According to Kant, this merely logical freedom of thought has already been established in the first *Critique* since it is required for the application of the pure categories of the understanding to the manifold of sensible intuition underlying the possibility of experience. If reason is logically spontaneous in the theoretical realm, then we may assume that it can also be so as transcendental freedom in the practical realm. [↑](#footnote-ref-40)
41. Kant, *Groundwork*, 4:451. [↑](#footnote-ref-41)
42. Ibid., 4:463. [↑](#footnote-ref-42)
43. Ibid., 4:462. [↑](#footnote-ref-43)
44. Ibid., 4:458. [↑](#footnote-ref-44)
45. “But reason would overstep all its bounds if it took it upon itself to explain how pure reason can be practical, which would be exactly the same task as to explain how freedom is possible”, ibid., 4:458–9; “it is impossible for us to explain, in other words, how pure reason can be practical, and all the pains and labor of seeking an explanation of it are lost”, 4:461. [↑](#footnote-ref-45)
46. Henrich, “The Concept of Moral Insight,” 74–82. [↑](#footnote-ref-46)
47. Kant, *Critique of Practical Reason*, 5:47. [↑](#footnote-ref-47)
48. Ibid., 5:3. [↑](#footnote-ref-48)
49. As Beck and Ameriks note, the new argumentative strategy of the fact of reason is already glimpsed in some of the revisions for the second edition of the *Critique of Pure Reason* (1787), alongside which Kant composed the *Critique of Practical Reason*. For instance, Kant writes: “Now suppose that morality necessarily presupposes freedom (in the strictest sense) as a property of our will, citing *a priori* as data [*Data*] for this freedom certain original practical principles lying in our reason, which would be absolutely impossible without the presupposition of freedom”, Bxxviii-ix. Similar passages can be found at Bxxxii-iii and B430-1. See Beck, *Commentary*, 166n10, and Ameriks, “Kant’s Deduction of Freedom and Morality,” 71. [↑](#footnote-ref-49)
50. See Beck, “The Fact of Reason,” 209–10, and *Commentary*, 166. [↑](#footnote-ref-50)
51. Kant, *Critique of Practical Reason*, 5:31. [↑](#footnote-ref-51)
52. Ibid., 5:42. [↑](#footnote-ref-52)
53. Ibid., 5:32. [↑](#footnote-ref-53)
54. Ibid., 5:42. [↑](#footnote-ref-54)
55. Ibid., 5:104. In the *Opus Postumum* Kant adds to the array of referents by saying that there is “a fact [*Factum*] of moral-practical reason: the categorical imperative”. See Kant, *Opus Postumum*, trans. Eckart Förster and Michael Rosen (New York: Cambridge University Press, 1998), 21:21. [↑](#footnote-ref-55)
56. Kant, *Critique of Practical Reason*, 5:47, 55, 91, 104. [↑](#footnote-ref-56)
57. “. . . [N]ow practical reason of itself, without any collusion with speculative reason, furnishes reality [*Realität verschafft*] to a supersensible object of the category of causality, namely, to freedom . . . and hence establishes by means of a fact [*durch ein Factum bestätigt*] what could there only be thought”, ibid., 5:6. [↑](#footnote-ref-57)
58. Ibid., 5:29. [↑](#footnote-ref-58)
59. Ibid., 5:27. [↑](#footnote-ref-59)
60. Ibid. [↑](#footnote-ref-60)
61. Luków, in my view, ignores Kant’s indications of a shift to a justification of morality in Sections 5 and 6 and therefore completely misconstrues the function of the fact of reason when he says that it is introduced only after pure reason has been shown to be practical, and that it “supplements rather than . . . constitutes the main argument of the second *Critique*”. See his “The Fact of Reason,” 210. [↑](#footnote-ref-61)
62. Kant, *Critique of Practical Reason*, 5:30. [↑](#footnote-ref-62)
63. Ibid., 5:29–30. [↑](#footnote-ref-63)
64. Ibid., 5:29. [↑](#footnote-ref-64)
65. Ibid., 5:28, 91. [↑](#footnote-ref-65)
66. Ibid., 5:30 [↑](#footnote-ref-66)
67. Ibid. [↑](#footnote-ref-67)
68. Later on in the *Critique* Kant recasts this example in terms of calumniators in the trial of Anne Boleyn, second wife of King Henry VIII. See ibid., 5:155–6. Timmermann suggests that the man in question is Sir Henry Norris, a figure that Kant would have been acquainted with from Hume’s *History of England*. See his “Reversal or retreat?,” 81n14. This is not to say that Kant’s argument is dependent upon a certain historical fact. The two gallows case is merely an illustration of the order of moral concepts for cognition. [↑](#footnote-ref-68)
69. Kant, *Critique of Practical Reason*, 5:30. [↑](#footnote-ref-69)
70. “So act that the maxim of your will could always hold at the same time as a principle in a giving of universal law [*einer allgemeinen Gesetzgebung*]”, ibid. The notion of a categorical imperative is introduced in the “Remark” to Section 1, but is only in Section 7 that it is fully stated. As Wood notes, definitions like this in Kant’s practical writings after the *Groundwork* should not necessarily be taken as equivalent to the universal law formulation found in the latter, which would suggest that it has priority over the other formulations presented in Section II. See Wood, “The supreme principle of morality,” 359–61. Indeed, Gregor’s more literal translation of *allgemeine Gesetzgebung* as ‘giving of universal law’ instead of the more straightforward ‘universal legislation’ in this and similar passages in the *Critique* is probably designed to connote the autonomy of the will alongside the universality of the law. Compare *The Metaphysics of Morals*, where we read that the “categorical imperative . . . is: act [*handle*] upon a maxim that can also hold as a universal law [*ein allgemeines Gesetz*]”, in *Practical Philosophy*, 6:225. [↑](#footnote-ref-70)
71. Kant, *Critique of Practical Reason*, 5:31. [↑](#footnote-ref-71)
72. Ibid. [↑](#footnote-ref-72)
73. Ibid., 5:32. [↑](#footnote-ref-73)
74. Ibid. This is yet another invocation of the *Groundwork*. See 4:440 where autonomy is called the “sole principle of morals”. [↑](#footnote-ref-74)
75. Ibid. [↑](#footnote-ref-75)
76. Henrich summarizes this issue succinctly: “The concept of a “fact of reason” is apparently contradictory. If reason is defined as a faculty of cognitions a priori, then it is difficult to see how it can contain anything factual. The factual seems to belong to the realm of experience, whereas reason must demand the pure transparency of insight. It appears that Kant’s theory does not fulfill its own claim and reveals a lack of development in its main concepts”. See “The Concept of Moral Insight,” 69. [↑](#footnote-ref-76)
77. Kant, *Critique of Practical Reason*, 5:47. [↑](#footnote-ref-77)
78. Ibid. [↑](#footnote-ref-78)
79. Ibid., 5:48. [↑](#footnote-ref-79)
80. Ibid., 5:42. [↑](#footnote-ref-80)
81. If, through its *Factum*, pure reason has already been shown to be practical by the “Deduction” section, then the remainder of the Analytic is simply an elaboration and exploration of the results of the argument of Sections 6 and 7. This is why Kant tells us in the Introduction at 5:16 that the path of the Analytic is from principles to their application as concepts, from the abstract to the concrete. Although the concrete application of Kant’s moral principles are a crucial component of the Analytic and of the *Critique* as a whole, the “Deduction” discussion shows that they are ultimately dependent upon the more fundamental validity of the moral law and freedom established by the fact of reason. This is nowhere clearer than in the case of respect, the sole motivating incentive (*Triebfeder*) to follow the moral law at the subjective level of feeling. Kant’s treatment of respect is designed to answer another lingering problem from *Groundwork* III, namely, the interest (*Interesse*) that we must take in morality. But even respect is called “the effect [*Wirkung*] of consciousness of the moral law”, a feeling “produced [*bewirkt*] solely by reason”, and is therefore derivative of the operation of the fact of reason as that which imposes valid moral obligation upon us. See *Critique of Practical Reason*, 5:75–6, 79, 91–2. [↑](#footnote-ref-81)
82. This is Ameriks’s reading of the fact of reason. See his “Kant’s Deduction of Freedom and Morality,” 72, 78–9. [↑](#footnote-ref-82)
83. Kant, *Critique of Practical Reason*, 5:66. [↑](#footnote-ref-83)
84. Indeed, one of the central aims of the second *Critique* is to indicate the *unity* of theoretical and practical reason. This supports the notion that, despite clear methodological differences, the critical legitimation of practical cognition cannot be radically distinct from that of theoretical cognition. See Kant, *Critique of Practical Reason*, 5:5, 16, 90–2, and especially 121. I am grateful to Jose Rosales for emphasizing this point. [↑](#footnote-ref-84)
85. Kleingeld, “Moral consciousness and the ‘fact of reason’,” 62–5. [↑](#footnote-ref-85)
86. Kant, *Metaphysics of Morals*, 6:227. [↑](#footnote-ref-86)
87. “Every actual deed (fact) [*Ein jedes Factum* (*Tatsache*)] is an object in appearance”, ibid., 6:371. [↑](#footnote-ref-87)
88. See Willaschek, *Praktische Vernunft*, 177–93. “Diese Doppeldeutigkeit macht verständlich, wie es sich beim »Factum der Vernunft« um eine Tat und zugleich um eine Tatsache handeln kann – allerdings nicht um eine Tatsache als etwas bloß »Gegebenes« (datum), sondern um eine »Tat-sache« als das Ergebnis einer Tat (*factum*)”, ibid., 181. A difficulty with this view is posed by Kant’s synoptic account of the fact of reason in the *Critique of the Power of Judgment*. In two places he calls the reality of freedom a *Tatsache* or matter of fact. This suggests that it is the sole, primary meaning of the *‘Factum’ der Vernunft*, to the exclusion of *Tat*. If, however, we follow the second *Critique* in taking the cognition of freedom as a matter of fact (*Tatsache*) produced by an *a priori* act (*Tat*) of practical reason (the imposition of consciousness of the moral law), then the inconsistency dissolves. This is why Kant says in one of these passages that he extends the notion of a *Tatsache* beyond its usual meaning (*gewöhnliche Bedeutung*) to encompass both possibility and actuality, the capacity of practical reason to act and its result. See Kant, *Critique of the Power of Judgment*, trans. Paul Guyer and Eric Matthews (New York: Cambridge University Press, 2000), 5:468, 474. [↑](#footnote-ref-88)
89. Kant, *Critique of Practical Reason*, 5:3. [↑](#footnote-ref-89)
90. Ibid., 5:79 [↑](#footnote-ref-90)
91. This is also expressed by Ameriks’s formulation that, while not exactly ethical intuitionism, Kant’s construal of the moral law in the second *Critique* relies upon a “nonnaturalistic ultimacy” of moral principles. See his “Kant’s Deduction of Freedom and Morality,” 72. [↑](#footnote-ref-91)
92. Nelson Potter points out that the notion that Kant would embrace ethical intuitionism is patently bizarre given his longstanding critical stance on the rationalist tradition. As early as the famous February 1772 letter to Marcus Herz, Kant complains of the *deus ex machina* by which rationalists as diverse as Plato and Crusius have attempted to explain the validity of moral categories through an appeal to a direct intuition of a transcendent, intelligible moral realm. See Potter, “The Synthetic *a priori* Proposition of Kant’s Ethical Philosophy,” *Jahrbuch für Recht und Ethik* 5 (1997): 443–4. The letter can be found at 10:129–35 in Kant, *Correspondence*, ed. Arnulf Zweig (New York: Cambridge University Press, 2007). [↑](#footnote-ref-92)
93. Kant, *Critique of Practical Reason*, 5:71–2. [↑](#footnote-ref-93)
94. Kant, *Groundwork*, 4:454–5. Timmermann emphasizes the resemblance between this passage and the two gallows case in the second *Critique*. See his “Reversal or retreat?,” 81. This is also probably the best evidence of Henrich’s suggestion that the fact of reason “is already present in substance” in the *Groundwork*, but “has not been formulated in all clarity”. See “The Concept of Moral Insight,” 228n19. [↑](#footnote-ref-94)
95. Kant, *Critique of Practical Reason*, 5:35. [↑](#footnote-ref-95)
96. Ibid., 5:36. [↑](#footnote-ref-96)
97. Ibid., 5:91. [↑](#footnote-ref-97)
98. Ibid., 5:46–7. [↑](#footnote-ref-98)
99. Ludwig Wittgenstein, *Philosophical Investigations*, trans. G.E.M. Anscombe, P.M.S Hacker and Joachim Schulte (Chichester, UK: Wiley-Blackwell, 2009), p. 91. [↑](#footnote-ref-99)
100. Kant, *Critique of Practical Reason*, 5:3. [↑](#footnote-ref-100)
101. See ibid., 5:52 and 5:156. Compare 8:285–6 of “On the Common Saying: That May be Correct in Theory, but It Is of no Use in Practice” (1793), in *Practical Philosophy*. Kant, replying to the objections of Christian Garve, raises the possibility of radical skepticism in the face of his notion of morality before swiftly reiterating the simplicity and purity of the commands of the moral law for all human beings. [↑](#footnote-ref-101)
102. See, for instance, the table of determining grounds of the will provided by other conceptions of morality in Kant, *Critique of Practical Reason*, 5:40, or the discussion of the deficiencies of ancient and modern ethics at 5:64–5. [↑](#footnote-ref-102)
103. I am reminded of Nietzsche’s remark from *Beyond Good and Evil*: “‘How are synthetic judgments *a priori possible*?’ Kant asked himself—and what really is his answer? *‘By virtue of a faculty* [Vermöge eines Vermögens]*’*—but unfortunately not in five words”. Friedrich Nietzsche, *Basic Writings*, trans. and ed. Walter Kaufmann (New York: Modern Library, 2000), Section 11, p. 208. [↑](#footnote-ref-103)
104. Kant, *Critique of Practical Reason*, 5:36, 32. The moral law is of course neither a matter of choice nor a categorical imperative for God, but it is nevertheless formally valid as a necessary and universal principle of a rational will. [↑](#footnote-ref-104)
105. Ameriks, “On Two Non-Realist Interpretations of Kant’s Ethics,” in *Interpreting Kant’s Critiques* (New York: Oxford University Press, 2003), 273. A third possibility, clearly unpalatable to Kant, is a naturalistic account. Compare Sussman, “From Deduction to Deed,” 81n32, who claims that Kant’s view is a form of moral constructivism consistent with a “non-reductive realism in ethics” that is distinct from Rawls’s procedural realism, among others. [↑](#footnote-ref-105)