K.L. Reinhold's Account of Free Will in Relation to Kant's *Religion within the Boundaries of Mere Reason*

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1792 marked a signal year for Immanuel Kant's and Karl Leonhard Reinhold's respective accounts of free will. Kant's essay, "On the Radical Evil in Human Nature," which was published in April of that year and would serve as Part One of his 1793 *Religion within the Boundaries of Mere Reason* (hereafter *Religion*),[1] is significant because it contains his first published introduction of the *Wille*/*Willkür* distinction he develops more fully in the *Metaphysics of Morals* and his first explicit treatment of free immoral action.[2] Reinhold's *Letters on the Kantian Philosophy Volume II* (hereafter *Letters II*) appeared in short order and contains the first presentation of his account of free will as the capacity to choose for or against the moral law. Recent scholarship has explored several aspects of the relation between Kant's and Reinhold's theories of free will, including: Reinhold's separation of the will from practical reason;[3] the development of Reinhold's theory in light of criticisms and interpretations of the Critical philosophy by figures such as A.W. Rehberg and C.C.E. Schmid;[4] and the dispute between Kant and Reinhold on the proper determination of the concept of free will.[5] However, the relationship between Reinhold's account of free will and that of Kant (as presented in *Religion*) has received little attention.[6] This relationship is important because Reinhold considered Kant's treatment of

[1] For ease of reference, I will cite Kant's *Religion* instead of the pagination of the *Berlinische Monatsschrift* where the essay first appeared.
[2] Jens Timmermann and Michael Walschots suggest that the distinction can already be found in the Powalski manuscript of Kant's lectures on ethics, which is thought to stem from 1782/83 (Timmermann and Walschots 2021, p. 764).
[3] See: Stolzenberg 2004; Zöller 2005; and Noller 2012.
[4] See: Fabbianelli 2000; di Giovanni 2001; Gerten 2003.
[5] See: Bondeli 2001; Baum 2012; Bondeli 2018; Guyer 2018.
[6] While some scholars have touched on this relationship (e.g. Bondeli 2001, Zöller 2005, Noller 2015, Bondeli 2018, and Guyer 2018), there has yet to be a thoroughgoing treatment of it.

free will in *Religion* to be a confirmation of his own contention that the concept of free will pertains equally to moral and immoral action,[7] an issue which had been contested in the reception of Kant's account of free will as presented in the *Critique of Pure Reason*, *Groundwork of the Metaphysics of Morals*, and *Critique of Practical Reason*.[8] It is precisely for this reason that Reinhold was apparently shocked by Kant's remarks on free will in the Introduction to the *Metaphysics of Morals*, which appear to reject the notion of free immoral action and which many commentators have consequently interpreted as a reversal of Kant's position in *Religion*. Thus, Reinhold claims that, in view of Kant's accounts of free will and moral imputation in *Religion*, his remarks in the *Metaphysics of Morals* are either unintelligible or untenable.[9] As such, the hitherto largely unexplored relation between Reinhold's account of free will and that in Kant's *Religion* is in need of investigation. The present paper aims to fill this lacuna. I show that examining Reinhold's account of free will in light of Kant's account in *Religion* indicates an overlooked systematic difference in these thinkers' respective accounts: the subjective ground of the exercise of freedom.

The paper proceeds as follows. In Part 1, I outline the historical background against which the significance of Kant's and Reinhold's accounts of free will as of 1792 can be thrown into sharp relief. In Part 2, I sketch Kant's and Reinhold's respective accounts of free will circa 1792 and show that both are committed to two claims: (1) freedom is a necessary condition for moral imputation; and (2) the concept of free will pertains to immoral action. Despite these shared commitments, the two thinkers have disparate conceptions of the ground for the exercise of free will. In Part 3, I show that Kant conceives of this ground as a supreme maxim that conditions the adoption of all particular maxims. In Part 4, I argue that Reinhold's affirmation of Kant's account of supreme maxim adoption in a review of Kant's *Religion within the Boundaries of Mere Reason* is inconsistent with his own account of free will, which restricts the ground of the exercise of freedom to an absolutely spontaneous choice of first-order maxim adoption. In Part 5, I examine the systematic issues with Kant's and Reinhold's respective accounts of the ground of the exercise of freedom. I argue that Kant's account faces a serious threat of internal

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[7] *Vermischte Schriften II*, pp. 392–393, *RGS* 5/2.150.
[8] For a translation of texts central to the immediate reception of Kant's account of free will, see Noller and Walsh (2022).
[9] *Vermischte Schriften II*, p. 366, *RGS* 5/2.141. I reserve discussion of Reinhold's critique of Kant's remarks on free will in the *Metaphysics of Morals* for another occasion.

inconsistency. Reinhold's account avoids this problem, but faces difficulties of its own. I conclude in Part 6 by discussing the broader implications and benefits of examining Reinhold's account of free will in relation to Kant's *Religion*.

1. The Controversy Over Free Immoral Action

Prior to the publication of his essay on radical evil, the question of whether Kant's conception of free will pertains to immoral action was widely debated. The discussions were often framed in terms of the possibility of the capacity to do otherwise – understood as *libertas indifferentiae* (liberty of indifference) – and the concomitant metaphysical concern that the extension of the concept of freedom to opposed courses of action implies that free volition is a matter of chance, which would apparently render the concept of freedom irrational. By outlining these debates, we can better understand Kant's and Reinhold's emphasis on the possibility of free immoral action and its relation to moral imputation, which will be treated in Part 2.

In his *Eleutheriology*, J.A.H. Ulrich argues that necessity and chance – which are the defining concepts of determinism and indeterminism, respectively – are mutually exclusive and that Kant's attempt to forge a path between these alternatives by recourse to the transcendental idealist distinction between appearances and things in themselves is unsuccessful.[10] Accordingly, Kant's conception of free will is supposed either to amount to chance or to be characterized by a kind of thoroughgoing necessity distinct from the temporally conditioned causal necessity that holds for appearances. Although Ulrich criticized Kant's account of free will from the perspective of the Leibnizian-Wolffian school philosophy, he would be influential for C.C.E. Schmid's apologetic interpretation of Kant's account in terms of "intelligible fatalism," or the doctrine that all occurrences are ultimately subject to the laws of causality of things in themselves. On Schmid's view, freedom consists in the determinability of the faculty of desire by pure reason and only extends to moral action.[11] Such action is supposedly the result of the

[10] Ulrich 1788, p. 32ff.

[11] Schmid 1790, p. 189f. In the 1792 edition of *Attempt at a Moral Philosophy* (*Versuch einer Moralphilosophie*), Schmid is even more explicit about the restriction of freedom to moral action: "some include in *moral freedom* the *capacity to act immorally*. But this contradicts the concept of a moral capacity, and such a freedom would be a capacity to act in contradictorily opposed ways, which amounts to a contradiction" (Schmid 1792, p. 335). On this point, see also Bondeli 2008, p. 376, n226.

will's determination by the causality of pure reason, whereas immoral action must be conceived of as the result of intelligible obstacles that prevented pure reason from being efficacious.[12]

Several other interpreters of Kant's account of free will would restrict freedom to moral action in order to avoid the alleged irrationality of an indeterministic conception contrary to the principle of sufficient reason. Thus, J.H. Abicht rejects the liberty of indifference as absurd, and instead conceives of freedom as inner necessity.[13] Likewise, C.W. Snell offers a compatibilist interpretation of Kant's account of free will heavily, influenced by the Leibnizian-Wolffian philosophy. For Snell, the freedom presupposed by the concept of imputation and entailed by the concept of obligation does not consist in a metaphysical capacity to do otherwise, but in our consciousness of not being impelled by external constraints, a conception completely consistent with the necessity of all action.[14]

In contrast to the aforementioned figures, who flatly reject a concept of free will that entails the capacity to do otherwise, J.G.K.C. Kiesewetter's position is ambivalent. On the one hand, he rejects a lawless and indeterministic conception of freedom and asserts that freedom is tantamount to determinism in accordance with eternal laws given by reason, thereby restricting the scope of freedom to moral action. On the other hand, he attempts to make room for moral culpability by claiming that whether reason lets itself be determined by sensibility in fact depends on reason and is thus free.[15] Of course, if freedom is aptly characterized as determinism in accordance with reason's own laws, then it is difficult to see how reason could freely let itself be determined by alien laws.

Whereas Kiesewetter struggled to avoid the threats of irrational chance and of the impossibility of a robust conception of moral imputation, K.H. Heydenreich decidedly affirms a concept of free will as the capacity to observe or transgress the moral law.[16] Kant's and Reinhold's respective accounts of free will in 1792 would likewise make room for the extension of its concept to immoral action. Before examining these accounts, a brief note on the historical relation between Kant's and Reinhold's 1792 texts and their connection to the discussions on free will outlined above is in order.

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[12] Schmid 1790, p. 207, p. 215.
[13] Abicht 1788, pp. 230–231 and Abicht 1789, p. 67.
[14] Snell 1789.
[15] Kiesewetter 1791, pp. 236–237.
[16] Heydenreich 1791, p. 63f.

Given that Kant's essay on radical evil was first published in April of 1792 and first sent to the *Berlinische Monatsschrift* by the end of that year, Kant could not have been influenced by Reinhold's *Letters II*, which did not appear until October. It is also unlikely that Reinhold was influenced by Kant on the possibility of free immoral action. Most of the letters in Reinhold's volume were previously published in the *Neue Teutsche Merkur*. Of the three that treat free will most explicitly, one was previously published in June of 1792 and the other two were not published prior to the *Letters II*. Although it is possible that Reinhold could have been influenced by Kant's essay, his personal correspondence to Jens Baggesen suggests otherwise. A letter from March 1792 indicates that Reinhold had already developed the defining feature of his account of free will as self-determination independent of both the demands placed on the agent by his sensible inclinations and the demand of the moral law insofar as he conceives of the will as the "capacity of the person, equally independent of reason and sensibility, to determine himself."[17] For Reinhold, observance and transgression of the moral law are two possible exercises of one and the same capacity for self-determination. Accordingly, it is probable that Kant and Reinhold independently saw the need to focus on the possibility of free immoral action as a result of the philosophical discourse on free will prior to 1792.

Indeed, this probability nears certainty with respect to the influence of this discourse on Reinhold's treatment of free will. He frequently refers to the so-called "friends of the Kantian philosophy" – and specifically to C.C.E. Schmid – in the context of his discussion of the topic. Several scholars have observed the likely influence of this discourse on Kant's 1792 treatment of free will.[18] In contrast, Heiner Klemme claims that Kant's doctrine of radical evil is not in any way intended to reconcile his account of autonomy with the possibility of free immoral action.[19] According to Klemme, Kant is instead concerned with introducing the notion of an ethical community under God's sovereignty and with explaining the indispensability of the transition from ethics to religion. Klemme is right to point out the context of Kant's doctrine of radical evil concerning his general aim in *Religion*. However, the propositions that Kant's doctrine of radical evil plays this role in his account of rational religion, that this doctrine serves to elucidate his position on free immoral action, and that it was informed by the debates on free will that

[17] *Baggesen-Briefe* 1.168. See also Noller 2015, pp. 208–209.
[18] See: Kosch 2006, p. 46; Lichtenberger 1993; Prauss 2017, pp. 91–92.
[19] Klemme 1999, p. 127.

preceded it, are not mutually exclusive. To be sure, there is good reason to think that the latter propositions are correct.

Prior to his 1792 essay on radical evil, Kant had treated the notion of free immoral action and its relation to imputation only in passing. Nevertheless, in his limited treatment of the issue he is explicit that freedom is a necessary condition for imputation,[20] and that immoral action is the consequence of freely adopted principles.[21] Given the significance of moral culpability to ethics and the centrality of the question of the proper scope of freedom for the discourse on free will preceding Kant's essay, it only makes sense that he would take occasion to disabuse some of his interpreters of their erroneous views. Indeed, Kant had already done this in the case of J.A.H. Ulrich. Kant sent C.J. Kraus notes on Ulrich's *Eleutheriology* to use as the basis for a review.[22] Kant, via his mouthpiece, Kraus, argues that Ulrich's deterministic conception of freedom precludes the concepts of obligation and imputation. Furthermore, Kant was familiar with the work of several other figures prominent in the discussions of free will. He owned C.C.E. Schmid's *Critique of Pure Reason in Outline for Lectures along with a Lexicon for the Easier Use of the Kantian Writings* (1786) as well as the first two editions of his *Attempt at a Moral Philosophy* (1790, 1792). Abicht's *Attempt at a Critical Investigation into the Activity of the Will* (1788) and Kiesewetter's *On the First Principle of Moral Philosophy* (1790) also featured in Kant's personal library.[23] In light of this, it is implausible that Kant did not intend his claims about the free power of choice and its relation to immoral action and imputation to have the dual function of clarifying his position on the extension of the concept of free will and demonstrating the necessity of the transition from ethics to religion. In what follows, I will be concerned with

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[20] *KrV*, A555/B583; *KpV*, Kant-AA 5.97.
[21] *KpV*, Kant-AA 5.100.
[22] Given Kant's hand in Kraus's review, it is included in Volume VIII of the AA, and Kant's notes are contained in Volume XXIII.
[23] See Warda 1922, p. 45, p. 51. Although the 1791 volume of Kiesewetter's work is not included in Warda's list of books which Kant is known to have owned at the time of his death, the possibility of Kant's familiarity with the text should not be ruled out. In a letter to Kant from April 22nd 1791, Kiesewetter indicates that he has enclosed work which arose partially under Kant's supervision. See *Br*, Kant-AA 11.254. Although Kiesewetter does not specify which work he has sent, it is most likely the 1791 volume of his *On the First Principle of Moral Philosophy*. In a letter from May 1790, Kiesewetter writes that he has sent Kant a copy of the 1790 edition of that work and references his intended stay in Königsburg, hoping that Kant will offer suggestions for the prospective edition of that volume during his visit. See *Br*, Kant-AA 11.164. Furthermore, he first sent Kant the other work he published in 1791, *Outline of a Pure General Logic According to Kantian Principles*, in June 1791. See *Br*, Kant-AA 11.265. Moreover, Kant kept a particularly small library for a scholar but is known to have been a voracious reader who had unbound books sent to him from the bookstore, which he would read and subsequently return. See Warda 1922, pp. 9–10. Similar considerations apply to the texts of Heydenreich and Snell.

Kant's claims in connection with the former function and bracket the role that his doctrine of radical evil plays in his conception of rational religion.

2. Imputability and Free Immoral Action

In the *Critique of Pure Reason*, Kant appeals to the transcendental distinction between appearances and things in themselves in order to establish the logical possibility of transcendental freedom, conceived of as the "capacity to begin a state from itself."[24] In the *Groundwork*, he introduces the concept of autonomy as "the property of the will by which it is a law unto itself,"[25] which constitutes the so-called positive concept of freedom.[26] This identification of positive freedom with autonomy undoubtedly contributed to the discussions on the possibility of free immoral action outlined above insofar as it was taken to restrict freedom to moral action. In his essay on radical evil, Kant emphasizes the power of choice and its freedom to incorporate any incentive into its maxim: "freedom of the power of choice has the characteristic, entirely peculiar to it, that it cannot be determined to action by any incentive *except insofar as the human being has incorporated it into his maxim*."[27] This claim entails that not only volition based on the moral incentive of respect, but also volition based on incentives of inclination, are free. With this conceptual feature in place in his account of free will, Kant demonstrates his commitment to the following two propositions:

(1) Freedom is a necessary condition of moral imputation.

(2) The concept of free will pertains to immoral action.

Although (1) and (2) are logically distinct propositions, Kant generally treats them in conjunction and holds that (2) is parasitic on (1).

According to Kant, the exercise of the free power of choice is a necessary condition of the imputation of both moral goodness and moral evil to the agent. Thus, he contends that the human being's moral character "must be an effect of his free power of choice, for otherwise it

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[24] *KrV*, A533/B561.
[25] *GMS*, Kant-AA 4.440.
[26] *GMS*, Kant-AA 4.446–447; *KpV*, Kant-AA 5.33.
[27] *Religion*, Kant-AA 6.24. This passage serves as the basis for the so-called Incorporation Thesis (Allison 1990, pp. 39–40).

could not be imputed to him, and consequently, he could be neither morally good nor morally evil."[28] In this passage, (1) is presupposed and Kant suggests that by virtue of this proposition the human being's moral character must be conceived of as the result of the free power of choice. Similarly, Kant claims that the subjective ground of the exercise of freedom "must itself always be a deed of freedom (for otherwise the use or abuse of the human being's power of choice with respect to the moral law could not be imputed to him, nor could the good or evil in him be called 'moral')."[29] In this second passage, Kant speaks not of the human being's moral character but of the subjective ground of the exercise of freedom. In Part 3 it will be shown that Kant takes the first subjective ground of the exercise of freedom, which he conceives of as a supreme maxim, to constitute the human being's moral character. For now, I would like to note that (1) is assumed in this passage as well, i.e. by virtue of the proposition that freedom is a necessary condition of moral imputation, the subjective ground of the exercise of freedom must itself be free (otherwise the agent's actions could not be imputed to him). Kant also relies on (1) in the context of his discussion of radical evil to argue that the concept of free will specifically pertains to immoral action.

One of Kant's principal aims in *Religion* is to account for the possibility of moral evil. He maintains that moral evil is radical or endemic to human nature. This universal propensity to evil consists in a supreme maxim that prioritizes the incentive to self-love over that of morality and grounds the adoption of all particular maxims. The present paper is not concerned with Kant's notoriously problematic justification for the claim that the propensity to evil is universal to human nature, a claim which he appears to base on experience. For our purposes, it should be noted that he appeals to (1) in order to claim that this disposition to moral evil is freely wrought: "this disposition too, however, must be adopted through the free power of choice, for otherwise it could not be imputed."[30] Since the disposition to moral evil constituted by a supreme maxim grounds the adoption of particular maxims, the free adoption of the disposition entails that particular evil maxims are ultimately grounded in the free power of choice. Furthermore, Kant makes a more general claim about the relation between immoral action and the free power of choice. He contends that "nothing is morally (i.e. imputably) evil but that which is our own

[28] *Religion*, Kant-AA 6.44.
[29] *Religion*, Kant-AA 6.21.
[30] *Religion*, Kant-AA 6.25.

deed."[31] In the *Metaphysics of Morals*, Kant defines *deed* (*Tat*) as "an action insofar as it is subject to laws of obligation, and hence insofar as in the action the subject is considered in terms of the freedom of his power of choice."[32] This definition implies that an action may be interpreted as morally evil only if it is considered to be the result of the subject's free power of choice, which is tantamount to the proposition that the concept of freedom pertains to the concept of immoral action.

While it is highly plausible that the discussions on free will in the late 1780s and early 1790s influenced Kant's 1792 essay on radical evil, it is certain that they influenced Reinhold's account of free will in his *Letters II*. As mentioned above, Reinhold consistently refers in this work to the misinterpretations of the so-called "friends of the Kantian philosophy," and specifically cites the second edition of C.C.E. Schmid's *Lexicon* as evidence of an interpretation of Kant's conception of free will that abolishes the possibility of free immoral action.[33] In contrast to the interpretation that free will consists solely in dependence on practical reason, Reinhold contends that the activity of the will must be independent of reason's pure lawgiving. Thus, freedom is "more than the involuntary self-activity of practical reason […] it is the voluntary self-activity of the person that is essentially distinct from practical reason and through which the law is either observed or transgressed."[34] In short, freedom of the will consists in the capacity to choose for or against the moral law. While this is an apt simplification of Reinhold's conception of free will, his account of the structure of volition is more complex.

Reinhold posits two fundamental drives in the human being: the selfish drive and the unselfish one. The former expresses the demand of desire, which is based on pleasure and displeasure. The latter expresses the demand of the moral law given by pure practical reason. He conceives of these drives as inextricably related: the demand of the unselfish drive, insofar as it is expressed, always relates to the demand of the selfish drive. That is, the moral law serves as the normative criterion of the permissibility of desires based on inclination. Reinhold contends that volition consists in a decision to satisfy or not satisfy the demand of the selfish drive in light of the moral demand expressed by the unselfish drive. He maintains that the person's power of choice is equally free to prioritize desire despite its moral impermissibility or to privilege moral

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[31] *Religion*, Kant-AA 6.31.
[32] *MdS*, Kant-AA 6.223.
[33] *Briefe II*, pp. 267–271, *RGS* 2/2.185–187.
[34] *Briefe II*, p. 297, *RGS* 2/2.201.

constraint on the satisfaction of inclination. The tripartite relation between the two drives and the free power of choice is essential to the structure of volition, i.e. every volition consists in a choice for or against the moral law.[35] In this way, Reinhold claims that free will consists in the capacity to choose to act morally or immorally. Thus, proposition (2) introduced above is part and parcel of Reinhold's conception of free will.

Reinhold's commitment to (1), i.e. the claim that freedom is a necessary condition of imputation, is perhaps not as explicit in his *Letters II* as one might expect, given its importance to his position. However, his commitment to the thesis is apparent in his 1794 *Contributions to the Correction of Previous Misunderstandings of Philosophers Volume II* (hereafter *Contributions II*), a work in which his account of free will remains fundamentally unchanged from that presented in his *Letters II*. There Reinhold claims that without freedom as he understands it, "no *conscience* is conceivable – no *imputation*, which with respect to both *merit* and *blame* presupposes the capacity of the person to be the *absolute cause of action*."[36] Furthermore, Reinhold is committed to the proposition that the concepts of morality and imputability are reciprocal, which entails that an action has moral significance (i.e. is either morally good or morally evil) if, and only if, it is imputable. He suggests his commitment to this thesis in *Letters II* when he argues that if moral action is the inevitable consequence of moral judgment then "all *imputation*, and with it all difference between *moral* and *immoral* actions is abolished."[37] Similarly, in *Contributions II* he asserts that the free character of an action entails its morality and imputability.[38] Reinhold's commitment to this proposition is most explicit in his "Some Remarks" of 1797, where he suggests that "the *morality* of actions and their imputability as *blameworthy* and *meritorious* are one and the same."[39] Reinhold's commitment to the analytic relation between the concepts of morality and imputability implies (1). That is, given that he takes freedom to be a necessary condition of the morality of an action and maintains the reciprocity of the concepts of morality and imputability, it follows that he is committed to freedom as a necessary condition of imputation.

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[35] *Briefe II*, p. 185, *RGS* 2/2.137; *Briefe II*, p. 281, *RGS* 2/2.193.
[36] *Beiträge II*, p. 226/142.
[37] *Briefe II*, p. 238, *RGS* 2/2.170.
[38] *Beiträge II*, p. 249/156.
[39] *Vermischte Schriften II*, p. 364, *RGS* 5/2.141.

In the following, I show that, in spite of these shared commitments, Kant and Reinhold have different conceptions of the subjective ground of the exercise of freedom. In Part 3, I explain this subjective ground as it relates to Kant's account of a supreme maxim. I then argue in Part 4 that Reinhold's affirmation of this account is incompatible with his own theory of free will.

3. Kant's Account of the Supreme Maxim

As radical, the propensity to evil must be represented as fundamentally rooted in the agent's character, or disposition. Thus, the judgment that the human being is evil entails the proposition that he contains within himself a universal ground of evil.[40] Yet, because moral evil must be imputable to human beings, the ground of evil must be represented as freely adopted. Whereas an objective ground can be expressed as a practically necessary proposition, a subjective ground pertains to the agent's own power of choice, the use of which does not always conform to objective laws.[41] Thus, as freely adopted, the ground of evil must consist "in a rule that the power of choice itself makes for the use of its freedom, i.e. in a maxim."[42] Fundamental to the agent's character, this maxim is a supreme maxim insofar as it conditions the adoption of "all particular morally evil maxims."[43] Although Kant does not explicitly use this terminology, the supreme maxim functions as a maxim of the highest order that conditions all lower-order maxims.

Kant characterizes a maxim as "the subjective principle of volition"[44] and as "the subjective principle of acting."[45] As subjective, a maxim is an agent's own action principle that serves as the basis of volition and is not necessarily objectively valid (though it may be if it is fit to be a universal law). A first-order maxim is a general rule that specifies action-types.[46] Second-order maxims would be those more general action principles which serve as a rule for the adoption of first-order maxims.[47] I leave undecided whether Kant's account admits of orders of

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[40] *Religion*, Kant-AA 6.20.
[41] On this point, see *GMS*, Kant-AA 4.413.
[42] *Religion*, Kant-AA 6.21.
[43] *Religion*, Kant-AA 6.20.
[44] *GMS*, Kant-AA 4.402n.
[45] *GMS*, Kant-AA 4.420n.
[46] For discussion of the difference between maxims as general action policies and specific practical rules that fall under them, see Allison 1990, p. 91ff. and Allison 2011, p. 198ff.
[47] This distinction is not to be confused with Harry Frankfurt's account of second-order volition, whereby an agent wants a certain first-order desire to be his will, i.e. to effect action. Whereas Frankfurt's account involves desires,

maxims beyond the second order. Several scholars characterize Kant's conception of the supreme maxim in *Religion* as a second-order maxim.[48] Other scholars suggest that Kant's account of rational agency admits of various orders of maxims,[49] and indeed Kant himself suggests this on at least one occasion.[50] For the purposes of the present paper, I will refer to the supreme maxim as a maxim of the highest order in the sense that if Kant's account does admit of orders of maxims beyond the second order, then the supreme maxim would be the highest of these.[51] It is a maxim of the highest order in the sense that it serves as "the first subjective ground of the adoption of maxims, can only be a single one, and applies universally to the entire use of freedom."[52] This status of the supreme maxim as the ground of the adoption of all lower-order maxims becomes more clear in view of the nature of this maxim.

As partly sensible, partly intelligible beings, the will of humans is subject to both sensible and intelligible incentives, namely those of self-love and of the moral law.[53] Kant holds that the supreme maxim consists in a hierarchical ranking of these incentives whereby one is subordinated to the other. According to Kant, the subordination of the moral incentive to the incentive of self-love in the supreme maxim constitutes the propensity to evil. In adopting this maxim, the human being "makes the incentives of self-love and their inclinations the condition of compliance with the moral law."[54] This "corrupts the ground of all maxims"[55] such that the

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which are necessarily conative (though a given desire might not be sufficiently conative to motivate action), the distinction drawn here between orders of maxims concerns merely the scope and degree of generality of subjective action principles, which, as mere principles, are not necessarily conative. A maxim is conative only if the power of choice has freely adopted it and incorporated an incentive into it. In this vein, whereas Frankfurt's account of (second-order) volition is completely compatible with determinism, Kant's account of maxim adoption presupposes the absolute spontaneity of the power of choice. Lastly, according to Frankfurt, second-order volitions do not "necessarily manifest a *moral* stance" (1971, p. 13). By contrast, for Kant maxims are necessarily morally evaluable and, according to the rigorism he affirms in *Religion*, either morally good or morally evil. I am grateful to Manfred Baum for pressing me to clarify the relation between my account and that of Frankfurt.

[48] See Muchnik 2009, p. 88 and Noller 2015, p. 197.

[49] Paton 1947, pp. 136–137; Beck 1960, p. 118; Korsgaard 1989, p. 324; Allison 1990, p. 93; Kosch 2006, p. 57. It should be noted that here the hierarchical ordering of maxims is at issue. This does not preclude conceiving of imperatives as objective second-order principles that "specify the norms for maxim selection and action" (Allison 1990, p. 88). I am grateful to Martin Bondeli for raising this point.

[50] *MdS*, Kant-AA 6.411.

[51] For other characterizations of the supreme maxim as a maxim of the highest order, see Allison 1990, p. 151; Kosch 2006, p. 57; Allison 2020, p. 481. In his 1795 work, *On the Grounds and Laws of Free Actions*, F.C. Forberg interpreted the supreme maxim not as a higher-order maxim, but as the most general maxim. See Forberg 1795, pp. 37–40.

[52] *Religion*, Kant-AA 6.25.

[53] *GMS*, Kant-AA 4.412–413.

[54] *Religion*, Kant-AA 6.36.

[55] *Religion*, Kant-AA 6.37.

incentives incorporated into any lower-order maxim adopted by the agent reflect this hierarchical structure. Thus, the reign of the evil supreme maxim entails that all volition is based on incentives of self-love. Given Kant's position that only action performed from duty, i.e. out of respect for the moral law, has moral worth,[56] it follows that the supreme maxim constituting the propensity to evil precludes the possibility of morally good action. To be sure, the agent may act in external conformity to the moral law; however, in this case the action has no moral worth since it is based on an incentive of self-love.[57] Thus, such action is legally but not morally good.

According to Kant, a revolution in the agent's disposition is a necessary condition for moral action. This revolution consists in a "single and unalterable decision"[58] to reverse the order of incentives in the supreme maxim. This 'decision,' however, is inaccessible to the agent's consciousness qua phenomenon. Thus, Kant asserts: "Assurance of this [revolution] cannot of course be attained by the human being naturally, neither via immediate consciousness nor via the evidence of the life he has hitherto led, for the depths of his own heart (the subjective first ground of his maxims) are to him inscrutable."[59] To be sure, Kant maintains the inscrutability of the supreme maxim as such, i.e. in its iteration as the propensity to evil whereby the incentive to morality is subordinated to that of self-love and as the reversal of this evil disposition whereby morality is properly given precedence over the incentives stemming from our sensible nature. This inscrutability stems from Kant's transcendental idealism. He argues in the *Critique of Pure Reason* that the causal law of natural necessity is valid for all occurrences under temporal conditions and that transcendental freedom qua absolute spontaneity must be independent of such conditions, and therefore intelligible. Accordingly, "to seek the temporal origin of free actions as free (as though they were natural effects) is thus a contradiction."[60] As the subjective ground of the exercise of freedom, the supreme maxim is posited as "antecedent to every deed that falls within the senses"[61] and "antecedent to every use of freedom given in experience."[62] While particular actions are empirical and "given in time,"[63] the adoption of the supreme maxim is an intelligible act of the power of choice "cognizable by mere reason apart from all temporal

[56] *GMS*, Kant-AA 4.398; 400.
[57] *Religion*, Kant-AA 6.36–37.
[58] *Religion*, Kant-AA 6.48.
[59] *Religion*, Kant-AA 6.51.
[60] *Religion*, Kant-AA 6.40.
[61] *Religion*, Kant-AA 6.21.
[62] *Religion*, Kant-AA 6.22.
[63] *Religion*, Kant-AA 6.31.

conditions."[64] Hence, the disposition wrought by the adoption of the supreme maxim "has not been earned in time."[65]

In summation, the supreme maxim is freely adopted by the power of choice and grounds the moral worth of all lower-order maxims that manifest themselves in empirically conditioned actions. Reinhold would affirm Kant's doctrine of the supreme maxim in his review of *Religion.*

4. Reinhold's Review of Kant's *Religion*

For Kant, it is a condition for the possibility of moral action that a revolution in the hierarchical order of incentives be incorporated into the supreme maxim. Reinhold's theory of free will, however, has no such place for a maxim of the highest order that conditions the moral worth of volition by virtue of grounding all lower-order maxims. For Reinhold, the subordination of the moral incentive to that of inclination, or vice versa, does not occur via the adoption of a supreme maxim but is integral to volition qua self-determination on the basis of a first-order maxim:

> There are then two distinct impulses, two equally involuntary demands opposed to one another present in him that can only be united through the person himself, only through his freedom, and only insofar as through the person, the one is subordinated to the other or vice versa, the demand of the selfish [drive] is fulfilled at the expense of the unselfish [drive] or vice versa.[66]

> The demands of the selfish as well as the unselfish drive can become an incentive of the will only through voluntary prescripts, only through maxims; they are only conceivable as determining grounds of the satisfaction or non-satisfaction of the selfish drive in volition insofar as the person *incorporates them in his maxims.* The will determines its incentive itself.[67]

Although in the first passage Reinhold describes the demands of the selfish and unselfish drives as impulses, he is clear in the second and elsewhere that the demands are to be understood as

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[64] *Religion*, Kant-AA 6.31.
[65] *Religion*, Kant-AA 6.25.
[66] *Briefe II*, p. 291, *RGS* 2/2.197–198.
[67] *Briefe II*, p. 255, *RGS* 2/2.179.

precepts, or rules, the formation of which requires reason. The demand of the selfish drive is to be understood as a demand of desire modified by reason, i.e. as a precept for the attainment of an end based on pleasure or displeasure.[68] The demand of the unselfish drive is a precept given by pure reason and thereby attains the rank of law.[69] The subordination of one of the demands to the other is contained in a "*maxim of the will*"[70] grounded in the freedom of the power of choice. Every volition consists in the free subordination of one of the demands to the other, and is therefore either moral or immoral. The maxim that contains the subordination of one of these demands to the other is to be understood as a first-order maxim insofar as it indicates a particular course of action and is consciously represented by the agent.

Indeed, Reinhold also takes consciousness of the demands themselves to be a necessary condition of the exercise of free will:

> The reality of freedom depends on consciousness of the demands of the selfish as well as the unselfish drive, and moreover on the consciousness of the capacity to determine *oneself* to the satisfactions and non-satisfactions of the selfish drive either through or contrary to the demand of the unselfish drive.[71]

Thus, it is by virtue of the agent's consciousness of the respective demands of the selfish and unselfish drives that the agent can choose to make one of these demands the determining ground of volition by subordinating the other to it, and can thereby choose to act morally or immorally. Accordingly, the hierarchical ordering of the incentives expressed by these demands in a supreme maxim that is inaccessible to phenomenal consciousness and that conditions the moral worth of all lower-order maxims would undermine the utter freedom of self-determination on the basis of consciously representable principles that is the hallmark of Reinhold's account of free will. It is therefore puzzling that Reinhold supports Kant's doctrine of the supreme maxim in his 1794 review of the latter's *Religion*.

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[68] *Briefe II*, p. 252, *RGS* 2/2.177.
[69] *Briefe II*, p. 252, *RGS* 2/2.177.
[70] *Briefe II*, p. 253, *RGS* 2/2.177.
[71] *Briefe II*, p. 276, *RGS* 2/2.190.

In his review, Reinhold advocates Kant's account of the human propensity to evil as the "ground of the possibility of evil,"[72] which must consist in an evil maxim "that functions as the ground of all other evil maxims, as a universal evil maxim under which particular evil maxims are contained."[73] Furthermore, Reinhold affirms Kant's claims that the propensity to evil consists in making pleasure and displeasure the condition of fulfillment of the moral law and that a revolution, viz. a reversal of the priority of incentives incorporated into the supreme maxim, is a necessary condition not merely to be legally good, but also to be morally good.[74] Yet Reinhold's gloss of Kant's conception of propensity in terms of his own account of free will runs counter to Kant's understanding of that concept. Reinhold claims:

> Freedom of the human will, to whose nature belongs the inseparable unification of the capacity of the person to determine himself through the law and the capacity to determine himself contrary to the law through pleasure or displeasure, takes on the property and designation of a *propensity* to the extent it exercises only one of these two capacities and lets the other rest.[75]

In this passage, Reinhold appeals to his account of free will as the capacity to determine oneself through the moral law or on the basis of one's sensible nature. As discussed above, Reinhold's account of free will involves the conscious representation of the respective demands placed on the agent by the selfish and unselfish drives. Here, Reinhold claims that freedom takes on the designation of a propensity – a claim which in itself is difficult to parse – to the extent that it exercises either the capacity to determine oneself through the moral law or the capacity to determine oneself through pleasure or displeasure (the conjunction of which presumably constitutes a more general capacity to obey or transgress the moral law). Reinhold makes it clear from the outset of his review that he assumes his own conception of free will as the capacity "to determine oneself, either through the moral law or contrary to it through pleasure or displeasure, to the satisfaction or non-satisfaction of a desire, or what is the same: *to act morally good or morally evil*."[76] He explains that "one will have to find everything in the following presentation

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[72] *Beiträge II*, pp. 306–308/191.
[73] *Beiträge II*, pp. 311–313/194.
[74] *Beiträge II*, pp. 322–324/201.
[75] *Beiträge II*, pp. 305–306/190.
[76] *Beiträge II*, pp. 303–305/189.

either *unintelligible* or *absurd*"[77] if this conception of freedom is not presupposed. Ironically, it is precisely *because of* this presupposition that Reinhold's advocacy of Kant's doctrine of the supreme maxim is inconsistent. The propensity to evil, as Reinhold characterizes it, is brought about as a result of exercising the capacity for self-determination on the basis of a first-order maxim in which one of the precepts expressed by the selfish and unselfish drives is subordinated to the other. This is incompatible with Kant's conception of propensity as consisting in a supreme maxim adopted through an intelligible act of the power of choice which is inaccessible to our phenomenal consciousness. Reinhold is seemingly unaware of the discrepancy.

Lest it be thought that Reinhold's apparent affirmation of Kant's doctrine of supreme maxim adoption is merely an elucidation of Kant's position for the purposes of the review, it must be noted that Reinhold fully endorses Kant's position. The review, with a few minor stylistic revisions, is reprinted in Reinhold's 1794 *Contributions II* under the title "Foundation of Religion." While it might seem *prima facie* implausible that Reinhold could overlook the incongruity between his account of free will and his affirmation of Kant's doctrine of the supreme maxim as constituting the propensity to evil, Reinhold had a history of not understanding key components of the philosophical doctrines he endorsed.[78] It is not therefore surprising that as late as February 1793 he was writing to Jens Baggesen that he did not fully understand Kant's doctrine of radical evil:

> Despite having now repeatedly thoroughly studied the work on radical evil, it nevertheless remains essentially incomprehensible to me, above all because I cannot conceive any other ground of a maxim than freedom itself, and I therefore fear Kant has gotten himself into an investigation – in order to elevate dogmatic Christianity to moral Christianity without sacrificing dogma – that is impossible according to his own principles: namely, [the investigation] of the ground of free acts, which can have no ground except freedom itself. However, I still hope to learn to understand him better even on this issue.[79]

[77] *Beiträge II*, pp. 305–306/190.
[78] For Reinhold's failure to adequately understand Fichte's *Wissenschaftslehre*, see Breazeale 2020.
[79] *Baggesen-Briefe*, 1.249.

Even if Reinhold came to understand Kant's doctrine of radical evil better, he was apparently still unable to recognize how Kant's account of supreme maxim adoption relates to his own conception of free will. Reinhold's claim in his letter to Baggesen that the ground of free action can have no ground but freedom itself indicates a fundamental systematic difference between Kant's and Reinhold's accounts of free will circa 1792: namely, the difference in their respective conceptions of the ground of the exercise of freedom.

5. The Ground of the Exercise of Free Will

As discussed above, Kant holds that the agent's supreme maxim serves as the ground of the exercise of freedom. He maintains that the supreme maxim must itself be adopted freely in order for the human being's moral character to be imputed to him. We also saw that Kant claims that this maxim is inscrutable and that this claim can be understood to stem from the transcendental idealist distinction between cognizable appearances subject to temporal conditions and intelligible things in themselves independent of those conditions. However, several other claims Kant makes with respect to the exercise of free will threaten to render his account of the supreme maxim incoherent.

The first of these is the claim that the exercise of freedom presupposes a ground that is itself a maxim. Kant appeals to this claim in order to argue that the supreme maxim, as the first subjective ground of the adoption of all lower-order maxims, is inscrutable:

> That the first subjective ground of the adoption of moral maxims is inscrutable can be seen provisionally from this: since the adoption is free, its ground (why, for example, I have adopted an evil maxim instead of a good one) must be sought not in any incentive of nature, but rather always again in a maxim; and, since this too must have its ground, yet apart from a maxim no *determining ground* of the free power of choice is to be or can be adduced, we are endlessly referred back in the series of subjective determining grounds, without ever being able to arrive at the first ground.[80]

Kant clearly asserts that because the adoption of the supreme maxim is free, its ground must be sought in a maxim, which in turn must also have a ground that is a maxim. As he observes, this

[80] *Religion*, Kant-AA 6.21.

obviously leads to an infinite regress. Curiously, Kant infers from this that the supreme maxim is therefore inscrutable. In fact, the regress stemming from the premise that the exercise of freedom requires a ground precludes the possibility of a first ground, and with it that of a supreme maxim. Thus, there is a serious concern that Kant's claim that the exercise of freedom requires a ground completely undermines his doctrine of the supreme maxim.

To be fair, we might try to charitably interpret Kant as making the weaker conditional claim that *if* we were to try to explain why we have adopted an evil supreme maxim, then this enterprise would lead to an infinite regress of putative explanatory grounds. Indeed, another passage lends support to this reading: "Now the subjective ground, or the cause, of this adoption, however, cannot be cognized (although inquiring after it is inevitable),[81] for otherwise yet another maxim would have to be adduced into which the disposition was incorporated and this maxim would likewise have to have its ground in turn."[82] Accordingly, we might understand Kant to be making a claim about our deficiency to fathom the supreme maxim as a first ground: were we to try to comprehend it, the regulative principle of reason to seek the condition for any conditioned would entangle us in an infinite regress. This seems to be Michelle Kosch's reading.[83] It faces several problems.

The aforementioned regulative principle results in a regress in its empirical application. Indeed, this is the source of the difficulty of the transcendental realist position manifested in the "Third Antinomy" in the *Critique of Pure Reason*. Kant's reconciliation of the notion of an empirically conditioned infinite regress with the idea of transcendental freedom invokes the transcendental idealist distinction between appearances and things in themselves. That is, freedom can be conceived of as an intelligible causality that grounds the entire series of empirical conditions without itself being a member of the series. However, since the regress of maxims at issue with regard to the ground of the exercise of freedom is already conceived of as intelligible, it is not clear why such a regress should arise in the first place. As an instance of transcendental freedom, the exercise of the free power of choice in adopting a maxim is necessarily intelligible. Its intelligibility alone precludes its being cognized by us insofar as it

[81] I have followed the now standard translation practice of moving the closing parenthesis here.
[82] *Religion*, Kant-AA 6.25.
[83] "We can give neither an empirical nor a subjective explanation of how such a maxim is chosen. If we could give a causal explanation, the choice would not be free, as it must be if we are to hold an agent responsible…If we could give another subjective reason, we would have to posit a still higher-order maxim; the posited highest maxim would then not be the highest after all, and a regress would begin" (Kosch 2006: 61).

transcends the bounds of possible experience. Thus, it seems Kant could have simply offered this reason for the inscrutability of the supreme maxim and ended the discussion there. Furthermore, the notion of explaining maxim adoption on the basis of other maxims seems *prima facie* otiose since "we cannot observe maxims…not even within ourselves."[84] Why, then, does Kant claim that the exercise of freedom presupposes a ground that is a maxim?

I think the answer to this question becomes clearer in light of the reception of Kant's account of free will prior to his 1792 essay on radical evil. As mentioned above, J.A.H. Ulrich was concerned with the threat of indeterminism, which he conceived of as entailing "the capacity to will or not will *under absolutely identical internal and external circumstances, in absolutely the same aggregate condition conceived of as entirely unaltered*, or even to be able to will the opposite of what one actually decides to do."[85] Here Ulrich identifies free will as the capacity to do otherwise with indeterminism. An indeterministic conception of free will is groundless in the sense that it posits an effect that is not necessarily connected with a preceding ground. As we saw earlier, Kant was sufficiently concerned with Ulrich's criticisms to provide J.G. Kraus with a manuscript to serve as the basis of a review of Ulrich's work. In light of this background, it seems Kant is caught in the dilemma between the proposition that free will entails the capacity to do otherwise in order to account for a robust conception of moral imputation and the proposition that any exercise of free will have a sufficient ground in order to avoid the charge of groundlessness. With respect to the former proposition, already in the *Critique of Practical Reason* Kant claims that "a rational being can now rightly saw of every unlawful action he performed that he could have omitted it even though as appearance it is sufficiently determined in the past."[86] Kant is committed to this claim in *Religion* as well, where he asserts that the human being's action "can and must always be judged as an *original* exercise of his power of choice."[87] As original, the exercise of the power of choice is not sufficiently determined by a higher ground. Kant goes on to remark that in the case of immoral action, the agent "should have refrained from it, whatever his temporal circumstances and entanglements."[88] Given Kant's commitment to the principle that *ought* implies *can*, the fact that the agent *should* have refrained

[84] *Religion*, Kant-AA 6.20.
[85] Ulrich 1788, p. 21.
[86] *KpV*, Kant-AA 5.98.
[87] *Religion*, Kant-AA 6.41.
[88] *Religion*, Kant-AA 6.41.

from the immoral action entails that the agent *could* have done so. Yet Kant's position appears to be ambiguous:

> Those who pretend that this inscrutable property is entirely comprehensible concoct an illusion through the word *determinism* (the proposition that the power of choice is determined by inner sufficient grounds), as though the difficulty consisted in reconciling this determinism with freedom, which of course no one has in mind. Rather, what we wish to have insight into but never shall is how *predeterminism* – according to which voluntary actions, as events, have their determining grounds in *antecedent time* (which, along with what it contains, is no longer within our control) – can co-exist with freedom, according to which the action as well as its opposite must be in the agent's control *at the moment of its occurring*.[89]

On the one hand, Kant suggests that determination by a sufficient inner ground is by no means inconsistent with freedom. On the other hand, at the end of the passage he suggests that the concept of freedom entails the capacity to do otherwise. In another passage, Kant apparently endorses the proposition that the exercise of freedom does presuppose a sufficient ground: "freedom does not consist in the contingency of action (that it is not determined by any ground whatsoever), i.e. not in indeterminism."[90] His espousal of the claims that the supreme maxim is a freely adopted first ground and that every exercise of the power of choice presupposes a ground can be seen as a reluctance to take on either horn of the dilemma. That Kant is in fact committed to the proposition that the exercise of freedom presupposes a sufficient ground is further evidenced by a passage relevant to the discussion of the second principal claim he makes that poses difficulties for his doctrine of the supreme maxim. As such, I will discuss it in what follows.

The second of Kant's claims about the exercise of free will that threatens to undermine his account of the supreme maxim is that causality – including the causality of freedom – must operate according to a law. In the *Critique of Pure Reason*, Kant notes that the concept of

[89] *Religion*, Kant-AA 6.49–50n.
[90] *Religion*, Kant-AA 6.50n.

causality entails that every cause must have a law of its causality.[91] Furthermore, he observes that "one can conceive of causality in only two ways: either according to *nature* or from *freedom*."[92] Accordingly, in the *Groundwork of the Metaphysics of Morals*, Kant claims:

> Since the concept of causality carries with it that of laws, according to which something that we call an effect must be posited by something else that we call a cause, freedom, although it is not a property of the will in accordance with natural laws, is not for that reason lawless but must instead be a causality in accordance with immutable laws, though of a special kind; for otherwise a free will would be an absurdity.[93]

Given Kant's subsequent identification of the positive concept of freedom with autonomy, it seems as though the moral law or the practical laws grounded in the moral law are the "immutable laws" to which he refers in the passage. Indeed, as intelligible causality, it seems that the only law commensurate to freedom could be the moral law, because it is purely formal. Herein lies the problem for Kant's account of the supreme maxim. It is impossible that the moral law serve as the law of causality for the free adoption of the supreme evil maxim. There is thus no lawful rule in accordance with which the power of choice could adopt the supreme maxim constituting the propensity to evil. It seems Kant attempts to hide this problem behind the supposed inscrutability of the propensity to evil:

> The rational origin, however, of this discord in our power of choice with respect to the way it incorporates subordinate incentives into its maxims and makes them supreme, i.e. this propensity to evil, remains inscrutable to us since it must itself be imputed to us and hence this supreme ground of all maxims would in turn require the adoption of an evil maxim. Evil can have originated only from moral evil (not from the mere limitations of our nature); and yet the original predisposition (which none other than the human being himself could have corrupted, if this corruption is to be imputed to him) is a

[91] *KrV*, A539/B567.
[92] *KrV*, A532/B560.
[93] *GMS*, Kant-AA 4.446.

> predisposition to the good. There is therefore no conceivable ground for us from which the moral evil in us could have first come.[94]

Whereas Kant characterizes the first ground of evil as inscrutable, it is in fact *impossible* for two reasons. The first stems from Kant's claim that evil can have originated only from moral evil. This proposition by itself leads to an infinite regress. Furthermore, if the original predisposition in us is a predisposition to the good, and if evil can originate only from evil, then the corruption of the predisposition to the good is impossible. Second, if the adoption of the supreme maxim is free and must therefore operate according to a law, and if the moral law is the only possible law of the causality of freedom, then not only is there no "conceivable ground" from which moral evil could have first arisen in us, there is no *possible* one.[95]

The passage above also lends credence to the reading already discussed that Kant is committed to the claim that the exercise of freedom presupposes a ground. He claims that the supreme ground of all maxims "would in turn require the adoption of an evil maxim." The supreme ground of all maxims is *already* a freely adopted maxim: namely, the purportedly supreme maxim in which the incentive to morality is subordinated to that of self-love. Kant claims that this supreme maxim would itself require the adoption of an evil maxim, presumably as its ground. That Kant is not simply being careless in his phrasing is evidenced by the next sentence, in which he claims that evil can have arisen only from evil. This claim only makes sense on the assumption that the exercise of freedom presupposes a ground. Of course, this threatens to render Kant's account of the supreme maxim internally inconsistent. Nevertheless, the textual evidence indicates that this is in fact Kant's view, however problematic it may be. As I have suggested, consideration of the discussion on free will preceding Kant's account shows that Kant was likely torn between a conception of free will sufficient for a robust account of moral imputation and a conception that avoids the threat of indeterminism.

For his part, Reinhold did not find himself torn between these two horns of the dilemma. He holds that the ground of the exercise of freedom is freedom itself, i.e. freedom is the self-contained ground (*Selbstgrund*) of its own activity.[96] Thus, Reinhold claims that free action is

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[94] *Religion*, Kant-AA 6.43.
[95] Similarly, with respect to Kant's position on the inscrutability of the supreme maxim in *Religion*, Leonhard Creuzer asserts that "not merely *inscrutability*…but a real *contradiction* stands in our way here" (1793, p. 150).
[96] For Kant's claim that the notion of a self-contained ground is absurd, see *ND*, Kant-AA 1.394.

"anything but groundless. Its ground is freedom itself. But this [freedom] is also the ultimate conceivable ground of that action. It is the absolute, first cause of its activity…".[97] Of course, this claim is not uncontroversial. Leonhard Creuzer characterized Reinhold's position as "transcendent indifferentism," i.e. an appropriation of Christian August Crusius's liberty of indifference within the framework of Kant's Critical philosophy such that the indifferent, or indeterministic, faculty of volition is intelligible and therefore transcendent of sensible conditions.[98] Salomon Maimon accused Reinhold of reducing free will to a freedom of chance (*Freiheit des Zufalls*).[99] J.G. Fichte accused Reinhold of not taking natural necessity into his account of free will, i.e. of not adequately addressing how an absolutely free capacity to choose between different courses of action can be reconciled with the causal determinism that holds for the empirical world.[100]

Reinhold's position has also received criticism from contemporary commentators. Given the alleged groundlessness of Reinhold's account of free will, Jörg Noller maintains that Reinhold's account is "epistemically precarious and extremely unstable."[101] As a result of Reinhold's contention that the will is completely independent and that it is the ground of its own activity, Faustino Fabbianelli claims that, on Reinhold's account, the will is completely isolated from all other faculties and therefore stands in no real relation to the demands of sensibility and practical reason.[102] Günter Zöller argues that Reinhold's definition of free will amounts to groundless "decisionism" and entails an infinite regress of homunculi in the power of choice.[103]

To be sure, these are serious concerns. However, a treatment of the cogency of Reinhold's account of freedom as an absolute first ground of its own activity is beyond the scope of the present work, which is limited to an elucidation of Reinhold's account of free will in relation to that of Kant's as presented in *Religion*. An investigation into the coherence of the notion of freedom as a self-contained ground would require a thoroughgoing examination of Reinhold's *Elementarphilosophie* and his appropriation of Crusius's critical position on the principle of sufficient reason. For the purposes of this paper, it can be said that while Reinhold's

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[97] *Briefe II*, p. 282, *RGS* 2/2.193.
[98] Creuzer 1793, p. 124ff. Creuzer also considers Kant's position on free will in *Religion* to fall into this camp.
[99] See Bondeli 2008, p. 381, n251.
[100] For a discussion of this charge, see Breazeale 2012, p. 115.
[101] Noller 2015, p. 235.
[102] Fabbianelli 2012, p. 290.
[103] Zöller 2005, p. 82. For responses to Zöller's charge, see Breazeale 2012, p. 108ff. and Walsh 2020, p. 100ff.

conception of freedom as a self-contained ground of its exercise allows for a robust conception of moral imputation in the sense that the concept of freedom – which is presupposed by that of imputation – is equally applicable to moral and immoral action, Reinhold is hardly out of the woods.

6. Conclusion

Examination of Reinhold's account of free will in relation to that of Kant as presented in *Religion* contributes to scholarship on the history of philosophy in three areas: (1) the debates on free will in Germany in the late eighteenth century; (2) Kant's account of free will; and (3) Reinhold's account of free will.

As indicated in the sketch of the initial reception of Kant's Critical conception of free will, his account of freedom was widely discussed in the late 1780s and early 1790s. The possibility of free immoral action and moral imputation was central to these discussions. Investigating Kant's and Reinhold's respective conceptions of free will reveals that their shared commitment to the possibility of free immoral action as a necessary condition of moral imputation is based on disparate respective accounts of the subjective ground of the exercise of freedom. Whereas Reinhold flatly rejects the charge of indeterminism by conceiving of freedom as the self-contained ground of its own activity, Kant seems to have struggled to find a satisfactory conception of free will that simultaneously grounded moral imputation and avoided indeterminism. These distinct responses to the threat of indeterminism indicate the development of the debates on free will with respect to their underlying philosophical contexts: the discussions on free will in Germany, which had been dominated by supporters and critics of the Leibnizian-Wolffian philosophy in the mid-eighteenth century, were now largely undergirded by the framework of transcendental philosophy. Furthermore, there is good reason to believe that Kant's ambiguity on free will in *Religion* was influenced by the discussions that preceded his account. This shows that consideration of the reception of Kant's theory of free will is not only necessary for an appreciation of its historical context, but also instrumental to understanding its *development*.

Examining the relation between Kant's and Reinhold's accounts of free will shows the disparity in their respective conceptions of the subjective ground of the exercise of freedom. This has several implications for Kant's account of free will and his account of rational agency in

general. First, Kant's claim that there is no conceivable ground for the free adoption of the supreme evil maxim, which, I argued, should be read as the stronger claim that there is no such possible ground, bears on the question of the relation between the concept of free will and that of the moral law. Kant famously claims that these concepts are reciprocal, and interpreters have argued that this entails that either being subject to the moral law is necessary and sufficient for freedom, or that the predicate of freedom is restricted to moral action. Kant's claims in *Religion* that all causality (including that of freedom) must operate according to a law and that the absence of any such law for the free adoption of moral evil lends *prima facie* support to the latter interpretation. However, a thoroughgoing treatment of this issue would require detailed examination of the passages in the *Groundwork* and second *Critique* where Kant asserts the reciprocal relation between these concepts. Second, the problems with Kant's account of the supreme maxim threaten to undermine the concept of moral evil as such.[104] That is, if the reality of moral evil is parasitic on its possibility qua propensity to evil, then the incoherence of the supreme evil maxim constituting that propensity would abolish the objective reality of the concept of moral evil. Third, Kant's commitment to the claim that the exercise of freedom requires a sufficient ground runs the risk of undermining his account of rational agency. Since, as we saw, this claim results in an infinite regress of adopted maxims, there is a serious concern that action on any maxim would presuppose such a regress.

Kant's account of free will presented in *Religion* is significant for Reinhold's account. As mentioned earlier, Kant's work served as both a confirmation of Reinhold's own position and a cause of controversy following the publication of the *Metaphysics of Morals*. The unique status of Kant's account of free will as presented in *Religion* in relation to Reinhold's account of the same requires further consideration, particularly concerning the proper definition of free will. The present investigation found that although both thinkers affirm freedom as a necessary condition of moral imputation, they hold distinct conceptions of the subjective ground of its exercise, a point which Reinhold seems to have not fully appreciated. To be sure, his conception of freedom as an absolute first ground of self-determination for or against the moral law extricates Kant's account of supreme maxim adoption from the difficulties stemming from his

[104] Courtney Fugate argues that the incomprehensibility of moral evil as Kant conceives of it renders the concept of moral evil vacuous since we have neither a theoretical nor a practical ground on which to secure its objective reality (2012, p. 366f.). I have argued that the incomprehensibility at issue here runs deeper than the mere lack of a *ratio cognoscendi*.

claims that the exercise of freedom presupposes a sufficient ground and that the causality of freedom must operate according to a law. However, Reinhold's conception faces its own difficulties. Whether his conception ultimately poses more problems than it promises to resolve must be taken up on another occasion.*

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