

Obligation, Ability and the Deduction of Freedom

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Abstract

In this paper, I examine the place of the principles “ought implies can” (OIC) and “you can because you ought” (CBO) in Kant’s moral philosophy. Contrary to an often tacit assumption in the relevant literature, according to which CBO is simply a version of OIC, I argue that it is a separate principle, which has a central role in Kant’s attempt to justify morality and freedom on the basis of the consciousness of the moral law as a “fact of reason”. Crucial to my main argument is the somewhat neglected distinction between actuality and reality of freedom, which leads me to a differentiation within CBO itself. This differentiation is of particular importance for understanding in what the deduction of freedom in the second *Critique* consists.

Keywords

Kant; “Ought implies can”; “You can because you ought”; Fact of reason; Credential of the moral law; Freedom

The principle¹ “ought implies can” (OIC), which denotes a tight link² between moral obligation and human ability, is very often attributed to Kant. However, its place in

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¹ In the relevant literature, both English and German, the claim “ought implies can” is commonly referred to as “principle” (“Prinzip”).

² This link (implication) is usually taken to be conceptual or semantic, and as such it is taken to mean either entailment or presupposition. For a different view, according to which the implication in OIC is not semantic, but rather colloquial –more precisely, a “pragmatic conversational implication”–, see Sinnott-Armstrong 1984. In the present paper, I take “imply” to mean “presuppose” not in a semantic, but in a practical or

Kantian ethics is anything but clear. Besides Kant, this principle has been used in many debates in moral philosophy,³ which concern issues such as moral dilemmas, free will and determinism, moral motivation, obligation and blame, but also issues regarding the foundation and the principles of moral theories.⁴ In Kant, it is to be found in several parts of his work, but without being explained or justified any further; thus, its relevance to the above-mentioned debates remains obscure. This becomes even more perplexing considering that the principle “you can because you ought” (CBO) also occurs in Kant. In the relevant literature on Kant, CBO is not usually treated as a separate principle, but rather as a version of OIC.⁵

In the present paper, I will argue that CBO’s “absorption” into OIC is *one* way of considering the specific Kantian relation between obligation and ability; and, to be sure, it is an important one, insofar as one wishes to point to the difference between Kantian and non-Kantian forms of OIC.⁶ However, so my argument goes, in Kant there is a version of CBO –let us call it CBO*– that is entirely independent of OIC. This version occurs in the framework of Kant’s attempt in the second *Critique* to justify morality and freedom on the basis of the consciousness of the moral law as a “fact of reason”. In this attempt, the crucial point about CBO* is made *prior* to the “official” deduction of freedom. More specifically, it occurs by means of an appeal to the common use of reason and a related phenomenological account of both the moral law and freedom. And although this point is made prior to the official deduction of freedom, it constitutes an essential part of the latter. Kant there derives freedom from the moral law in terms of *consciousness* of the moral law and *awareness* of freedom. I take “awareness” to denote the “actuality” of freedom from where its “reality” can afterwards be inferred.⁷ CBO* is affirmed by the facticity of reason.

normative sense. For a discussion on the different interpretations of OIC, primarily the semantic/conceptual and the practical/normative and secondarily the colloquial, see Kühler 2016.

³ Regarding the roots of OIC in the history of philosophy, as Griffin (2010, p. 17, n. 2) notes, this principle appears in an early form in Aristotle’s *Nicomachean Ethics* (book 3, ch. 2). Furthermore, according to Vranas (2007, p. 198), it has been traced back to Pelagius and Augustine and is akin to the Roman legal maxim “*impossibilium nulla obligatio est*”.

⁴ Cf. Stern 2004; Graham 2011.

⁵ An exception is Timmermann (2003). I employ his interpretation later in the present article; however, I differentiate myself from it.

⁶ An interesting distinction between Kantian and non-Kantian versions of OIC is found in Brown’s (1950) examination of OIC. Based on Brown’s understanding, the Kantian version is reflected in the “declaration” *What I ought to do that I also can do*, which, according to his argumentation, is not *ethically* equivalent to the “declaration” *What I cannot do is not my duty*, which, in turn, is *logically* equivalent to OIC. Considering them exclusively in their ethical sense, Brown ascribes these two principles to two different moral theories respectively: “[T]hese two forms of declaration express two different and quite incompatible ethics. The Kantian ethic is essentially idealistic and puritan; the non-Kantian ethic here is essentially naturalistic and realistic” (1950, p. 276). Interestingly, in this dispute Brown sides with Kantian ethics, which “affirms what the naturalist denies, that there are categorical imperatives in the minimum sense that obligations are obligations quite apart from a man’s success or failure in discharging them in fact” (ibid.)

⁷ I use the term “awareness” in the context of the actuality of freedom and “consciousness” in the context of its reality. For a clarification of the distinction between actuality and reality of freedom, see section 4.1 of the present paper.

Thus, the facticity of reason is reflected not only in the givenness of the moral law,⁸ but also in the actuality of freedom, the latter being the “can” of CBO*.

By contrast, the second *Critique*'s “official” deduction of freedom⁹ is a form of CBO – let us call it CBO**– that (a) presupposes and affirms CBO* and, additionally, (b) undertakes the task of deriving the reality of freedom (as distinct from its actuality) from the moral law. Now, as I will argue, this endeavour *does* need the assistance of OIC, which is provided –in a Kantian manner– by the notion of autonomy as self-legislation. Thus, while both forms of CBO are specifically Kantian, CBO* essentially differs from CBO** due to the latter's association with OIC, which is also a specific Kantian principle that differs from contemporary forms of OIC. In any case, my conclusion will be that CBO rather than OIC is the prevailing principle which better describes the Kantian situation.

1. Moral Rightness and Moral Obligation

Stern (2004) offers a helpful interpretation regarding the place of OIC in Kant's moral theory. He focuses first on the criteria for moral rightness and, more specifically, on the way OIC has been used for the identification of these criteria with respect to basic assumptions of moral theories. Stern examines a set of examples and arguments, in which this principle is used,¹⁰ that come from ethics, epistemology and political philosophy: Griffin's attempt to support a greater degree of realism in ethics, P. F. Strawson's naturalistic response to skepticism, arguments regarding blame, moral obligation, moral motivation and anti-utopianism as well as Nietzsche's and Dewey's naturalism. In all cases, his conclusion is that although OIC is supposed to be used as a strong principle that amounts to a determinant of what is right and wrong, in reality only a weak use of it remains defensible. This weak use suffices only for the support of a –weaker– position, such as “blame implies can”, and not of the –stronger– position “right implies can”. Therefore, it cannot be used as an argument against a moral theory (such as Utilitarianism), which assumes that there are actions that are, on the one hand, right but, on the other, impossible for human beings, given the limitations of human life; and, hence, it cannot support moral theories¹¹ that rely on the assumption that moral norms should be determined on the basis of facts about human nature and society.

⁸ As Schönecker (2013 [1], p. 96 f.) points out, the facticity and the givenness of the (consciousness of) the moral law are one and the same.

⁹ The “deduction of freedom” in the second *Critique* consists in the derivation of freedom from the moral law: “the moral law [...] proves not only the possibility but the [actuality of freedom] in beings who cognize this law as binding upon them [...] and thus for the first time provides objective reality to this concept” (CP, V:47). It is “official” insofar as it is included in the chapter “On the deduction of the principles of pure practical reason” (CP, V:42-50; especially 47 ff.).

¹⁰ See Stern 2004, pp. 43-52.

¹¹ Stern (2004, p. 44 f., p. 60) specifically mentions Griffin, who, with regard to his own theory, argues that “[t]he limits of ‘ought’ are fixed by, among other things, the limits of ‘can’” (1996, p. 96), while, in

With these in mind, Stern examines Kant's case¹² and argues that although at first glance Kant seems to use OIC in its strong sense, in reality, he makes a weak use of this principle, according to which the "can" in OIC is implied not by the moral law as such, but by the way the moral law is related to us as agents, that is, by the specific human status of moral obligation.¹³ The moral law is not constrained by the capacity of agents to act according to it, as the strong reading of OIC would suggest. The Kantian, weak, use of OIC simply claims that the moral law *could not obligate us* were we not able to act in accordance with it, rather than that something cannot be *morally right* unless it concerns human beings and their capacities. Let us examine some characteristic passages¹⁴ from Kant's works, where OIC appears, and in which it seems that moral rightness is actually being substituted with moral obligation:

(a) Pure reason thus contains –not in its speculative use, to be sure, but yet in a certain practical use, namely the moral use– principles of the *possibility of experience*, namely of those actions in conformity with moral precepts which *could* be encountered in the *history* of humankind. For since they command that these actions ought to happen, they must also be able to happen. (CR, A807/B835)

(b) Impulses of nature, accordingly, involve *obstacles* within the human being's mind to his fulfillment of duty and (sometimes powerful) forces opposing it, which he must judge that he is capable of resisting and conquering by reason not at some time in the future but at once (the moment he thinks of duty): he must judge that he *can* do what the law tells him unconditionally that he *ought* to do. (MM, VI:380)

(c) But if a human being is corrupt in the very ground of his maxims, how can he possibly bring about this revolution by his own forces and become a good human being on his own? Yet duty commands that he be good, and duty commands nothing but what we can do. (Rel, VI:47)

(d) [T]he command that we *ought* to become better human beings still resounds unabated in our souls; consequently, we must also be capable of it. (Rel, VI:45)

(e) Morals is of itself practical in the objective sense, as the sum of laws commanding unconditionally, in accordance with which we *ought* to act, and it is patently absurd, having granted this concept of duty its authority, to want to say that one nevertheless *cannot* do it. For in that case this concept would of itself drop out of morals (*ultra posse nemo obligatur*). (PP, VIII:370)

discussing theories that do not rest on this assumption, he observes: "Ethics, particularly the ethics studied in modern universities, strikes me as often too ambitious. It usually fails to operate with a realistic conception of human agency" (1996, p. 100).

¹² See Stern 2004, p. 53 f.

¹³ Deligiorgi (2018, p. 325) explains this by claiming that Kant's support of OIC means that "what is *a priori* valid is *a posteriori* commanding and action-guiding".

¹⁴ Stern (2004, pp. 53-55) offers a similar list of passages. I follow him only partly.

If we accept Stern's interpretation, we should assume that in these passages the conception of ought is viewed *from the perspective of the human being as far as the moral law refers to the latter and not from the perspective of the moral law as such*. Correspondingly, in the Kantian passages, where OIC refers to the highest good and its conditions, we should assume that Kant focuses on the *content* of the moral law, insofar as it is addressed to us, commanding us to try with all our powers to realise the highest good:

(f) [A] need of *pure practical* reason is based on a *duty*, that of making something (the highest good) the object of my will so as to promote it with all my powers; and thus I must suppose its possibility and so too the conditions for this, namely God, freedom, and immortality. (CP, V:142)

(g) It is a duty to realize the highest good to the utmost of our capacity; therefore it must be possible. (CP, V:143 n.)

Especially in these passages (f and g), it seems to be even clearer that for human beings striving for the promotion of the highest good takes the form of duty, because (or to the degree to which) they have the capacity to respond to it. However, this does not mean that the aim of realising the highest good is not right "by itself", even if we assume that no human being has the capacity to promote this aim.

I believe that "implication" in OIC, as Stern generally understands it, has the meaning of "presupposition" (as contrasted to "entailment"), both in the strong sense of OIC, which he rejects, and in its weak sense, which he advocates. The most general question is whether moral obligation does, or does not, presuppose facts about the human condition (the human ability as determined by human limitations, capacities etc.). Thus, there is an assumption that lies behind "implication", namely that in OIC there is a fixed direction between "ought" and "can" and that, since "implication" is supposed to mean "presupposition", this direction is from "can" to "ought".¹⁵ However, I believe that Stern's support of the weak sense of OIC in Kant does not in fact concern the OIC principle in this meaning; rather, it is about OIC as concerning "merely" a tight link between ought and can without a fixed indication of the direction between them. It is characteristic that almost all of the above-cited passages do not express the principle that "ought" *presupposes* "can", but, in contrast, they begin from "ought" in order to arrive at "can". It seems that the principle being operative here is not OIC, but rather CBO. The only one of the above passages where "ought" *depends* on "can" is c. Thus, it seems as if "implication" in OIC can mean both "presupposition" and "entailment", *thus rendering CBO –the direction from ought to can– a version of OIC*. It will be shown in the next section of this paper that, given the

¹⁵ The word "direction" here is simply used in an attempt to explain the prefix "pre-" of the word "presupposition". I am not referring to the "direction of fit" of ought-demands (which in the case of the normative interpretation of OIC is *world-to-mind*, contrary to the semantic interpretation, where ought-propositions have a *mind-to-world* direction of fit [for this distinction, cf. Kühler 2016]).

distinction between moral rightness and moral obligation in Kant, this should not be considered a problem, since in this context moral obligation is meant to be an application or an adjustment –the moral law’s modus of appearance– to the human capacities; thus, the human capacities are presupposed by this “adjustment” (the “ought”), *but not* by the moral law itself. This explains why in the examined passages the direction in OIC can be two-way, thus making CBO simply a version of OIC.

Nevertheless, this should not be understood as threatening the “autonomy” of CBO as a self-standing principle. It is my view that in Kant there is a genuine distinction of CBO *as a truly separate principle*, which occurs in the context of a specific doctrine of Kant’s ethics, that is, the doctrine of the “fact of reason”. However, before turning to this topic, we need to consider some consequences arising from Stern’s interpretation.

2. Obligation and Human Receptivity

The distinction between moral rightness and moral obligation –or so it might be argued– reveals a gap between the moral law *as such* and the moral law *insofar as it is addressed to the human being* in the form of duty, imperative, command or obligation. The question here is whether in Kant’s ethics the latter is constitutive of the former: does the imperatival form of the (categorical commanding) moral law not *constitute* the moral law? Although Stern recognises this problem, his strategy consists in denying such a strong reading of Kant; instead, he points out that “Kant certainly held that *given what we are*, the moral law is a command to us: but that is (so to speak) a fact about us, rather than a fact about the moral law, that it must be such that it can be commanded to human agents” (Stern 2004, p. 57).

Although this seems reasonable to me, it needs some clarification. To begin with, a first reading of this view would be that it touches upon the well-known issue of the possibility of the categorical imperative, when, for instance, in the GMM Kant argues that “[t]he moral ‘ought’ is [...] his [the human being’s] own necessary ‘will’ as a member of an intelligible world, and is thought by him as ‘ought’ only insofar as he regards himself at the same time as a member of the world of sense” (IV:455). Thus, this reading would imply that the moral law is related to us in its imperatival form, because we, as members of the sensible world, are exposed to the influence of the inclinations of sensibility; and these are obstacles that, along with the propensity to evil, we must overcome in order to do what for us is our duty. Even more telling is a passage from the MM:

The very *concept of duty* is already the concept of a *necessitation* (constraint) of free choice through the law. [...] The moral *imperative* makes this constraint known through the categorical nature of its pronouncement (the unconditional ought). Such constraint, therefore, does not apply to rational beings as such (there could also be *holy* ones) but rather to *human beings*, rational *natural* beings, who are unholy enough that pleasure can induce them to break the moral law, even though they recognize its authority; and even

when they do obey the law, they do it *reluctantly* (in the face of opposition from their inclinations), and it is in this that such *constraint* properly consists. (MM, VI:379)

However, this reading focuses on human nature as a *rival of morality* and fails to take into account the side of human nature that is friendly and receptive to duty. Therefore, if we accepted solely this reading, we would have to admit a shift to a principle that is entirely different from OIC. This principle would state that “ought implies the hostility of human nature”, but this would be an entirely different issue. And, indeed, with his conclusion Stern does not touch upon this issue; as I understand him, he actually examines and highlights the other side of the same issue: that of the human agent as a rational being capable of being subjected to moral obligation, where “capable” refers to specific predispositions (on the level of moral anthropology).¹⁶ In the MM, Kant characteristically refers to “the mind’s receptivity to concepts of duty as such” and he explains that:

[t]hey are *moral feeling, conscience, love of one’s neighbor, and respect for oneself (self-esteem)*. [...] [T]hey lie at the basis of morality, as *subjective* conditions of receptiveness to the concept of duty, not as objective conditions of morality. All of them are natural predispositions of the mind (*praedispositio*) for being affected by concepts of duty, antecedent predispositions on the side of *feeling*. [...] [E]very human being has them, and it is by virtue of them that he can be put under obligation. - Consciousness of them is not of empirical origin; it can, instead, only follow from consciousness of a moral law, as the effect this has on the mind. (MM, VI:399)

As this important passage indicates, apart from their motivational role, these predispositions also have an epistemic function with regard to moral obligation.¹⁷ Consequently, the previous analysis should be complemented with the following: the “ought” in OIC does not designate only the moral law in the form it takes as an imperative, duty or moral obligation, but it goes even further to designate its “touchpoint” with human predispositions and encompass the reason for which we are receptive to its bindingness. It concerns the moment when the categorical commanding moral law dovetails with the human mind and the form it takes from the perspective of the supportive human predispositions. Thus, the “ought” in OIC constitutes the “human” modus of the appearance of moral obligation. However, as the final sentence¹⁸ of the above cited text indicates, it also goes the other way around: insofar as the categorical commanding moral law is directed to the human agent, it lights up and features specific capacities in her/him,

¹⁶ I am not sure that Stern would agree with this formulation. However, I think that it is a consistent explanation that ensues from his interpretation.

¹⁷ For this twofold function of moral predispositions with regard to moral obligation, see Schönecker’s (2013 [2], pp. 26-36) convincing argumentation. I agree with him that “[t]he moral predispositions are not merely the sensuous basis that allows us to be motivated by the moral law, but are the basis for us to *comprehend* the moral law as the C[ategorical] I[mperative] at all” (ibid., p. 29).

¹⁸ What I mean is the following sentence: “Consciousness of them is not of empirical origin; it can, instead, only follow from consciousness of a moral law, as the effect this has on the mind” (MM, VI:399).

which appear for the first time precisely under the light of the commanding moral law.¹⁹ To put it differently: duty constitutes the *ratio cognoscendi* of those capacities that are supportive of it. And this is precisely a form of CBO. OIC subsequently suggests that if these capacities could not prevail in the struggle with impediments (inclinations and propensity to evil), the “ought” would be meaningless. In other words, it suggests that in order for the moral law to bind/obligate the human agent, the latter’s capacities must allow its compliance (and they *do* allow it), since otherwise concepts such as “ought”, “duty” and “obligation” would not bear any meaning. Thus, in the determination of these capacities Kant takes into account their relation to duty, not the converse:

Ethical duties must not be determined in accordance with the capacity[-ies] to fulfill the law that is ascribed to human beings; on the contrary, their moral capacity must be estimated by the law, which commands categorically, and so in accordance with our rational knowledge of what they ought to be in keeping with the idea of humanity, not in accordance with the empirical knowledge we have of them as they are. (MM, VI:404 f.)

This passage clarifies that moral capacities must be determined first on the basis of their relation to duty (and not independently from it) –which is a form of CBO– and that subsequently, *given* this determination, OIC can be used for the determination (or limitation) of the “ought” itself, namely that the latter cannot contain demands that transcend the human moral capacities. While this may sound circular, its meaning constitutes a primal compatibility between the unconditionally commanding moral law and the human powers and capacities. What is important to note here is that we can discern two particular moments in this weak sense of OIC: (a) a form of CBO, where duty is the *ratio cognoscendi* of the capacities that are friendly to it and (b) a specific form of OIC: the principle that “ought”, as conceptually including these capacities, *presupposes* their power (within the use of human freedom) to prevail in the struggle with impediments to morality.

Let us now return to Stern. His general conclusion is that Kant does not *begin* “with an account of human capacities to set the parameters of moral theorizing”, but the other way around: “he first fixes his moral theory, in which what matters is not what we are capable of qua human beings, but what obligations can be shown to apply to rational agents capable of acting rightly; and then, once the moral law is fixed, he uses ‘ought implies can’ to determine what we are capable of qua human beings, in so far as we fall under this law” (Stern 2004, p. 60). In this sense, Stern argues that in Kantian ethics OIC does not denote the movement from what we can do to what we ought to do, but rather the movement from what we ought to do to what we can do. Consequently, we could argue that this movement

¹⁹ It is my view that in this respect “ought” denotes the way in which it appears *as such* (as “ought”) from the perspective of human nature. However, this does not inform us with regard to the question of which is the *primary* form of the moral law, that is, whether it is descriptive or prescriptive, thus opening up both possibilities. Consequently, it does not change anything if we argue that, based on the GMM, it is descriptive in its primary form or, based on the CP, it is prescriptive. In *both* cases, the “ought” here denotes moral obligation from the perspective of human nature.

can be described as CBO rather than OIC. In this respect, CBO is a more general principle, which according to my previous analysis includes:

(1) what Stern calls “fixing of the theory”; this amounts to a determination of the obligations for all rational beings (which at this level can also be prescriptive);

(2) OIC, as Stern conceives it, which according to my view includes as its sub-moments:

(2.1) a further form of CBO, where “ought” can be thought of as the *ratio cognoscendi* of the supportive human capacities, and

(2.2) another form of OIC, that is, the principle that “ought” (conceived as in 2.1) presupposes the power of these capacities to prevail in the struggle with enemies.

This is admittedly a very perplexing situation, since CBO cannot stand alone but rather it is conceived in its association with OIC. Thus, it is my view that the Sternian treatment of OIC in Kant should be better described by the second-order principle “CBO implies OIC”. In this respect, the general principle CBO (as implying OIC) could, in a more concise form, be translated as “you have the capacities to respond because you are morally obligated”. Consequently, from the perspective of the Sternian interpretation, the prevailing principle in Kant seems to be CBO rather than OIC. This can also explain why in passages a, b, d, e, f and g, in the previous section of this paper, the direction is from “ought” to “can”. However, since the general principle CBO includes OIC in the manner explained above, in Kant’s work there are also passages, such as passage c, where the direction goes the other way around. And, in any case, the two principles are interconnected in such a way that CBO relies on OIC.

However, this is not the whole story about CBO and OIC in Kant. It should be noted that for the explanation of “can” the previous account focuses on human capacities in terms of moral anthropology, leaving tacitly aside the issue of freedom in its relation to the moral law. However, if we take the latter into account, we will notice that in Kant there exist two further versions of CBO, that is, CBO* and CBO** –as I called them at the beginning of the present paper–, both of which, as I will argue later in this paper, concern a different meaning of “can”, namely the meaning “you are aware of your freedom”. Thus, CBO* and CBO** are versions of the principle “you are aware of your freedom because you (are conscious that you) ought”. And, as it will be shown below, while CBO* is entirely independent of OIC, CBO** relies on a *specific Kantian* version of OIC,²⁰ which rests on the conception of autonomy. In what follows in the present paper, I will be concerned with these two versions of CBO, regarding them both as characteristic of the specific Kantian treatment of the relation between moral obligation and human ability. Nonetheless, it might be constructive beforehand to examine more closely the relation between the two basic principles OIC and CBO in Kant’s ethics. Timmermann’s interpretation can help us with this.

²⁰ When I say “specific Kantian”, I mean that they rely on basic and characteristic principles of Kant’s moral theory; otherwise, the weak use of OIC in Kant, as Stern interprets it, is also Kantian.

3. The Relation between the Two Principles

In his initial examination of the two principles, OIC and CBO, in the context of moral philosophy in general, and not specifically in Kant, Timmermann makes a clear distinction between them. More specifically, he argues that: (a) they have different meanings, since CBO presupposes “ought” as a given, while, by contrast, the latter’s validity in OIC is to be examined; (b) they are not used in the context of the same philosophical and practical issues; and (c) while OIC is more widely accepted and agreed upon in the contemporary debate, CBO, at least in its primal metaphysical meaning, remains an acceptable principle only for Kant’s adherents.

However, although CBO is a specifically Kantian principle, OIC is *also* of fundamental importance in Kant’s ethics.²¹ For instance, when in the GMM Kant defines duty as “the necessity of an action from respect for law” (IV:400), we must assume that this “necessity” logically presupposes the possibility of action at all levels: moral possibility, that is, permissiveness, the possibility of the right decision at the level of the theory of action as well as the technical possibility of execution of an action. Furthermore, this happens despite the fact that the first two “analytic” sections of the GMS are occupied with the metaphysical fear that the validity of moral commands could be undermined by the human being’s impossibility to comply with them if s/he was taken to be subjected to the compulsion of natural laws and, thus, to have no free will. To be sure, this obstacle is overridden in the third, “synthetic” section of the GMS, where the “transition from metaphysics of morals to the critique of pure practical reason” (IV:446) dissolves the fear that morality could be a “phantom” or a “chimerical idea without any truth” (IV:445) and, thereby, it also provides support to the principle “ought implies can”.²²

As far as CBO is concerned, Timmermann firstly refers to the *Common Saying*, where Kant emphasises that:

in a theory that is based on the *concept of duty*, concern about the empty ideality of this concept quite disappears. For it would not be a duty to aim at a certain effect of our will if this effect were not also possible in experience. (CS, VIII:276-77)

Kant supports this theory in the face of criticisms that argue,

²¹ See Timmermann 2003, p. 113 f.

²² It seems to me that in Timmermann’s analysis there are two conceptions of “can”, the latter being a component of OIC: one conception concerns what he calls “the logical possibility of an action on all levels” as a determinant of the “necessity” of action, with duty being such a necessity; and the other concerns human freedom as a metaphysical presupposition of morality. It is not clear to me how in Timmermann’s analysis these two meanings of “can” –the logical and the metaphysical ones– are interconnected. I think that they are supposed to constitute two different cases of “can”, which are on a par with each other, showing the manifold presence of OIC in Kant’s ethics.

to the scandal of philosophy, [...] that what may be correct in it is yet invalid in practice; and this is said in a lofty, disdainful tone, full of the presumption of wanting to reform reason by experience even in that in which reason puts its highest honor, and in a wisdom that can see farther and more clearly with its dim moles' eyes fixed on experience than with the eyes belonging to a being that was made to stand erect and look at the heavens. (CS, VIII:277)

Here, it is made clear that the foundations of ethics should not be sought in experience. Nevertheless, the fact that the principles of morality are not empirical does not mean that they cannot also be manifested in experience. On the contrary, standing before her/his action, the agent has a very clear consciousness of her/his duty as a guide regarding what s/he should do;²³ and, what is more, a consciousness that is even clearer compared with the guidance provided by the empirical incentives of self-love and selfishness that are “derived from happiness”²⁴, which in other respects (given the propensity to evil) are stronger and usually determine her/his agency. Therefore, for the being that has been made “to stand erect and look at the heavens”, for the being whose consciousness of duty is derived from non-empirical sources, there is no fear that the concept of duty has an “empty ideality”.

In this regard, and given Timmermann's conclusion,²⁵ the operative principle here is CBO, precisely because it expresses the non-empirical derivation of the consciousness of duty. In other words, as I understand it, Kant begins from a concept of duty that is founded independently from experience in order to say that this concept becomes action-guiding in experience, *although* it is not of empirical origin. Thus, you “can” *not because you already can*, but because you “ought”.

However, I believe that this conclusion is restrictive, since Kant in these passages from the *Common Saying* seems to accept a combination of three claims: (a) duty is of non-empirical origin; (b) despite its non-empirical origin, it demands its realisation in experience; (c) it would not demand its empirical realisation if this were not possible.²⁶ Hence, due to c, CBO seems to rely on OIC; yet, Kant does not provide any further explanations. For instance, in challenging claim c one could ask: why does (or how can) the –non-empirical– concept of duty imply the possibility of its empirical realisation? An answer I have in mind starts from the concept of the *categorical imperative* and goes as follows.

²³ However, given her/his already performed action, s/he cannot know whether s/he has acted out of duty (cf. CS, VIII:284).

²⁴ Cf. CS, VIII:286: “The concept of duty in its complete purity is not only incomparably simpler, clearer and, for practical use, more readily grasped and more natural to everyone than any motive derived from happiness, or mixed with it and with regard for it (which always requires much art and reflection); it is also, even in the judgment of the most common human reason [...] far *more powerful*, forceful, and promising of results than all motives borrowed from the [...] selfish principle.”

²⁵ See Timmermann 2003, p. 118.

²⁶ “[I]t would not be a duty to aim at a certain effect of our will if this effect were not also possible in experience” (CS, VIII:276-77).

When Kant speaks of the “categorical imperative”,²⁷ he could possibly refer to two things:²⁸ first, the procedure of testing maxims of our actions in order to find out which particular action for us is duty and, second, the definite result of this testing procedure, namely that a particular action is categorically commanded, that is, it is binding for us.

In this second case, the concept of duty always concerns a particular empirical action.²⁹ In this sense, it already encompasses the possibility of its realisation in experience, thus rendering it pointless to ask whether duty can be realised (that is, whether it does or it does not have “empty ideality”). To put it differently, a particular action is morally binding only if it can be realised, that is, if it is empirically possible. Consequently, the question whether an action is binding for someone also presupposes a diagnosis of the particular case and its conditions, which can only be made with reference to empirical circumstances.

Thus, I believe that in these passages from the *Common Saying* the prevailing principle is OIC and not CBO, which, *if nonetheless is in effect*, “merely” indicates the non-empirical origin of the concept of duty: “that the human being is aware that he can do this because he ought to disclose within him a depth of divine predispositions and lets him feel, as it were, a holy awe at the greatness and sublimity of his true vocation” (CS, VIII:287 f.). Nevertheless, the fact that the human being –the most common human reason (CS, VIII:286)– clearly has before her/his action the consciousness of duty thus conceived *does not at the same time explain the reason why duty can be realised*: it is one thing for duty not to have an “empty ideality” and another for duty to be realised. To be sure, it is possible for the two cases to coincide, but for an explanation of this possibility we need the analysis of “can” (which will be offered in the fifth section of this paper). In the passages we are examining here, Kant seems to identify, as it were, “can” with knowledge (“awareness”) of *what duty asks me to do in the case of a particular action*,³⁰ thus revealing to me the possibility of actions that experience could never present to me. For this we need the analysis of the next section and Kant’s doctrine of the fact of reason.

4. Fact of Reason and CBO

²⁷ See GMM, IV: 414; 419-423; CP, V:20.

²⁸ I would like to thank Maximilian Forschner for a critical discussion on this point.

²⁹ For the link between the concepts of duty and action, cf. CP, V:80: “An action that is objectively practical in accordance with this law, with the exclusion of every determining ground of inclination, is called *duty*, which, because of that exclusion, contains in its concept practical *necessitation*, that is, determination to actions however *reluctantly* they may be done”; V:32: “[T]he moral law is for [the human beings] an *imperative* that commands categorically because the law is unconditional; the relation of such a will to this law is *dependence* under the name of obligation, which signifies a *necessitation*, though only by reason and its objective law, to an action which is called *duty*”.

³⁰ For the view that in Kantian ethics consciousness of the moral law appears to the common human being in the form of particular commands, which are adapted to the specific case of action and are constitutive of “moral experience”, so that in Kant there exists a moment of “phenomenological particularism”, see Sargentis 2007.

Until now we have seen versions of CBO in Kant's work that imply, or need the assistance of, OIC. Timmermann argues that in CBO we presuppose (a) OIC and (b) that "ought" really exists, and from these we conclude that (c) the agent can in her/his agency comply with "ought".³¹ According to him, this model also exists in Kant's doctrine of the consciousness of the moral law as a "fact of reason".³² However, I believe that in the context of Kant's doctrine of the fact of reason we also have a "pure" form of CBO that completely bypasses OIC and focuses on the manner "can" is derived *directly* from "ought". More specifically, when Kant declares that "the moral law is the *ratio cognoscendi* of freedom" (CP, V:4 n.), I believe that he means two things: (a) what is included in the deduction of freedom in the corresponding chapter³³ of the CP; (b) that consciousness of the moral law by the common human being who is ready to act is at the same time awareness of her/his freedom. They both constitute "moments" of the deduction of freedom in the CP. However, while the first case is a form of CBO that seems to include OIC, the second one constitutes a "pure" form of CBO. I will focus first on this second case, where "can" refers specifically to the awareness of (transcendental) freedom.

I will begin with a remark on Timmermann's point that the opponent of CBO is the moral skeptic, as far as s/he believes that natural laws undermine human freedom and responsibility.³⁴ According to the above distinction, I believe that while this is true in the first case, it is not so in the second: if, in the second case, CBO were threatened by something, then this could only be by an alleged inability regarding *knowledge* of the good; for instance, if we assume –Socratically as it were– that due to some "malfunction", we do not have real access to knowledge of the good.³⁵ And this is so, because here the main question as well as the context are different, since "can" identifies with *awareness* of freedom as my possibility to do something which from an empirical perspective would appear as impossibility: to sacrifice even my own life. The human being's highest *empirical* determination, that is, the preservation of human life, is being deprived of its axiological primacy when moral consciousness as the fact of reason raises the human being on a higher level by changing the *perspective* from where values are viewed. From this perspective, the empirical values are downgraded, while the values of pure practical reason are put into the highest place. From the perspective of the empirical nature of human beings, what appears as the highest and non-negotiable value is the instinct for self-preservation, which is irresistible even in the face of the most powerful inclination (in Kant's example below: lust). However, under the light of moral consciousness, it is weakened in terms of values and submitted to moral duty that is commanded by reason. Kant illustrates this with the famous example from the CP:

³¹ See Timmermann 2003, p. 118.

³² Ibid.

³³ "On the deduction of the principles of pure practical reason" (CP, V:42-50; especially 47 f.)

³⁴ See Timmermann 2003, p. 119 f.

³⁵ My view is that the phenomenon termed "moral insight" by Henrich (1960) seems to allow for the possibility of such a malfunction.

Suppose someone asserts of his lustful inclination that, when the desired object and the opportunity are present, it is quite irresistible to him; ask him whether, if a gallows were erected in front of the house where he finds this opportunity and he would be hanged on it immediately after gratifying his lust, he would not then control his inclination. One need not conjecture very long what he would reply. But ask him whether, if his prince demanded, on pain of the same immediate execution, that he give false testimony against an honorable man whom the prince would like to destroy under a plausible pretext, he would consider it possible to overcome his love of life, however great it may be. He would perhaps not venture to assert whether he would do it or not, but he must admit without hesitation that it would be possible for him. He judges, therefore, that he can do something because he is aware that he ought to do it and cognizes freedom within him, which, without the moral law, would have remained unknown to him. (CP, V:30)³⁶

I believe that what is foregrounded here is not the “official” deduction of freedom, which, as I noted above,³⁷ is found in the corresponding chapter in the CP, but a first step to it - a derivation of the *awareness* of freedom as the modus by which the human being for the first time cognizes (judges, realises) that s/he is free and independent from the perspective of her/his empirical nature, “from everything empirical and hence from nature generally” (CP, V:97), namely that s/he is transcendently free. I believe that here “awareness of freedom” is analogous to the “idea of freedom” in the GMM,³⁸ in the sense that both conceptions denote the self-consciousness of the moral agent to the degree to which s/he is engaged in the process of deliberation regarding what s/he ought to do; with the difference being that the awareness of freedom here is derived from the consciousness of the moral law as the fact of reason, while in the GMM the idea of freedom is merely “presupposed”³⁹ (which subsequently leads to the known hidden circle that Kant there points out⁴⁰).⁴¹ The fact that the derivation of the *awareness* of freedom is only part of the overall deduction of freedom can be understood on the basis of an often overlooked

³⁶ Cf. Rel, VI:49 n.

³⁷ See n. 9 and n. 33 in the present paper.

³⁸ See GMM, IV:448: “every being that cannot act otherwise than *under the idea of freedom* is just because of that really free in a practical respect”.

³⁹ See GMM, IV:447: “Freedom must be presupposed as a property of the will of all rational beings”.

⁴⁰ See GMM, IV:450 f.; 453.

⁴¹ To be sure, the “analogy” I point out here does not override the basic difference between the conceptions of freedom and the relevant accounts in the two works. For instance, according to Allison (2013, p. 294 f.), from a practical point of view the main difference is that in the GMM we have a negative conception of freedom, which refers to rational agency in all its dimensions, both moral and prudential, while, by contrast, in the CP we have a positive conception of freedom or autonomy. Nevertheless, as Allison argues, this difference does not point to an alleged contradiction between the two accounts; by contrast, it is exactly this difference that makes it possible to avoid the contradiction; and, moreover, these two different accounts together constitute what he calls “Kant’s practical justification of freedom”. A possible objection to Allison’s underlying equation of negative freedom with transcendental freedom is beyond the scope of this paper (for a brief form of this objection, see Bojanowski 2017, p. 62 f., n. 15).

distinction between the concepts of actuality (*Wirklichkeit*) and reality (*Realität*) of freedom. It is to this distinction that I will focus on next.

4.1 Actuality versus Reality

As far as I can discern, in the CP the deduction of freedom consists of two “moments”: the derivation of the *actuality* of freedom from the moral law and the move from the actuality of freedom to its *reality*. Regarding the difference between the two concepts, in the case of a contrast with mere “possibility” Kant alludes to actuality, while in the context of freedom as a mode of causality he refers to reality. More specifically, let us consider the following passages:

(a) [T]he moral law, which itself has no need of justifying grounds, proves not only the possibility but the [actuality⁴² of freedom] in beings who cognize this law as binding upon them. (CP, V:47)

(b) [T]he moral law thus determines that which speculative philosophy had to leave undetermined, namely the law for a causality the concept of which was only negative in the latter, and thus for the first time provides objective reality to this concept. (CP, V:47)

(c) [P]ractical reason of itself, without any collusion with speculative reason, furnishes reality to a supersensible object of the category of causality, namely to *freedom* (although, as a practical concept, only for practical use), and hence establishes by means of a fact what could there only be *thought*. (CP, V:6)

These three passages are characteristic of the distinction between actuality (passage a) and reality (passages b and c) of freedom. Regarding the difference between actuality and reality in general, actuality is a modal concept that requires givenness in the form of perception,⁴³ and as such it is contrasted with (logical) possibility and mere conceivability, while reality is a category of quality that points to the “whatness” (*quidditas* or *essentia*) or

⁴² In Gregor’s translation (Cambridge Edition of the Works of Immanuel Kant) we read “reality”. However, Kant here uses the word “*Wirklichkeit*”. Thus, “actuality” is the right word, which denotes the contrast between “*Wirklichkeit*” and “*Realität*”.

⁴³ Kant says that “the postulate for cognizing the actuality of things requires perception”, and perception “is the sole characteristic of actuality” (CR, A225/B272-3). Moreover, in the Schematism chapter of the CR, actuality appears as the schematised form of existence (*Dasein*) (see CR, A145: “The schema of actuality is existence at a determinate time”) and, in the *Table of Categories*, existence is situated as the second category of modality (CR, A80/B106). Kant seems to use the two concepts (actuality and existence) interchangeably, since in the *Postulates of Empirical Thinking in General* it is actuality, rather than existence, that appears as the second category of modality (CR, A218/B266 f.).

to the “thinghood” (Sachheit) (CR, B182) of a thing, to its positive nature.⁴⁴ Actuality is derived from the assertoric form of judgment⁴⁵ and determines that something exists, while reality is derived from the affirmative form of judgment⁴⁶ and qualitatively determines that something is what it is, even if that is only possible and does not exist. In this respect, *something that is actual is also real, but the opposite does not hold, since something can be real without being actual* – I will return to this point in the next section. Finally, another difference between actuality and reality is that the latter, in contrast to the former, has degrees.⁴⁷ The question arising at this point concerns the way in which the distinction between actuality and reality is applicable to the case of freedom.

To be sure, freedom cannot be shown to be actual as an object of perception; rather, its actuality is shown in both the judgment that I can resist inclinations when I face a situation with moral traits, even at the cost of sacrificing my life, and in the presence of the moral incentive of respect for the moral law, which is inseparably connected with this judgment. This kind of givenness is due to the givenness of the consciousness of the moral law as the fact of reason. On the other hand, the “whatness” of freedom consists in being a causality, whose law is the moral law. Now, regarding the fact that reality, contrary to actuality, has degrees, it seems rather difficult to identify degrees of freedom here, insofar as we have to do with transcendental freedom, which –it will be recalled– requires independence “from everything empirical and hence from nature generally” (CP, V:97).

Let us summarise: while the givenness of freedom, and with it its actuality, result from its identity with the moral law, which is given factually, its thinghood, and thus its reality, consist in being a mode of causality under the moral law. The first is shown in the gallows example,⁴⁸ the second in the “official” deduction of freedom.⁴⁹ However, the second

⁴⁴ For this remark, see Allison 2020, p. 391. Allison makes the distinction between actuality and reality in this context clear, and relates it to the credential issue (that I examine in the next section of the present paper), yet he does not draw any further conclusions from it.

⁴⁵ See CR, A70/B95.

⁴⁶ Ibid.

⁴⁷ “In all appearances the real, which is an object of the sensation, has intensive magnitude, i.e., a degree” (CR, B207).

⁴⁸ To be sure, examples serve merely as *illustrations* of the actual role the fact of reason plays in the everyday life of the common human being. However, what I want to point out here is precisely that since actuality (as contrasted to reality) requires givenness, it consists in the particularity of actual presence, which can be demonstrated only by means of illustration.

⁴⁹ Grenberg (2013, pp. 251-269) also recognises two moments in the context of the deduction of freedom in the second *Critique*, but she interprets the distinction between them as one between the practical perspective of the common person (the “Gallows man”) and the theoretical perspective of the speculative philosopher who is worried about the threat of global determinism. Accordingly, she relates the “official” deduction of freedom to the theoretical problem, treating it as the philosophical counterpart of OIC, which she takes to be part of the common experience of the Gallows Man. It seems that in Grenberg’s account the *medius terminus* between these two perspectives is the perspective of the practical philosopher with an existential starting point, who gives a practical answer to a theoretical problem (see especially pp. 260 ff.). I find this analysis particularly stimulating, especially because it is exactly this constellation of issues that I wish to explain in the present paper on the basis of the distinction between actuality and reality in the context of the deduction of freedom.

presupposes the first: apart from the givenness of freedom through its identity with the moral law, it is impossible to prove its alleged “independent” reality.⁵⁰ This consideration points to a further issue that Kant touches upon in the context of the deduction of freedom.

4.2 The “Credential” of the Moral Law

Essential to the deduction of the reality of freedom (as contrasted to its actuality) is Kant’s demonstration of how the moral law is related to “a kind of credential”, which consists in “that it is itself laid down as a principle of the deduction of freedom as a causality of pure reason” (CP, V:48). In the relevant literature, there is a disagreement over whether this credential concerns the moral law or freedom, that is, whether it is a credential *for* the moral law or a credential *for freedom*. What is actually at stake behind this disagreement is whether in the CP Kant holds that beyond the fact of reason a further “credential” for the validity of the moral law *on the basis of an “independent warrant”*⁵¹ *of freedom as causality and of the role of the moral law as the law of that causality* is necessary. And since Kant associates this independent warrant with “a need of theoretical reason” (CP, V:48), the question turns out to be whether the mentioned credential amounts to, on the one hand, a practical foundation of freedom through the moral law as the fact of reason (which means that, apart from being a factum, the moral law does not need a further credential for its validity) or, on the other hand, a theoretical or a coherentist authentication of the moral law through freedom (or, more accurately, through itself as the causal law of freedom). Although prominent scholars, such as Beck and Rawls, adopt the latter view,⁵² I

⁵⁰ As Bojanowski (2017) in his illuminating analysis shows, even in the GMM Kant delivers a deduction of freedom, the starting point of which is *pure* practical reason. Kant there explicitly essays a “deduction of the concept of freedom from pure practical reason” (GMM, IV:447). However, this deduction is part of a question-begging argument, since Kant moves from our conception of pure practical reason to transcendental freedom and from there to our consciousness of our autonomy. In this sense, Bojanowski sees the non-question-begging argument of moral obligation in the CP as an improvement on the *Groundwork’s* argument. Nevertheless, the radical difference Bojanowski points out between the accounts in the two works concerns the very idea of a critique of pure practical reason and the very nature of pure practical cognition: in sharp contrast to the second *Critique*, the argument in *Groundwork* III rests on the false assumption that practical cognition, similarly to theoretical cognition, requires a critique of *pure* reason.

⁵¹ Beck 1960, p. 173 f.

⁵² See Beck 1960, pp. 173-175; Rawls 1989, p. 102, p. 107 f. However, the positions of those interpreters who attribute the credential to the moral law (rather than to freedom) do not neatly fall into one camp, because there are differences amongst them. A special case here is Allison (2020, p. 389 f.; 1990, p. 243 f.). Although he introduces some coherentist considerations regarding the role of the credential of the moral law in the deduction of freedom, at the same time he makes clear that “Kant is not arguing that the moral law is authenticated and freedom shown to be actual *because* these are somehow necessary to the unity of reason; the claim is rather that the unity of reason is illustrated or confirmed by the fact that the moral law, as self-authenticated, shows freedom to be actual (from a practical point of view)” (1990, p. 245). Moreover, Allison explicitly denies that the credential constitutes an additional justification for the moral law “for those who might not be convinced by the appeal to a fact of reason, [...] because this status presupposes both this fact

agree with the opposite view, which is maintained by Bojanowski and Timmerman, who argue that the credential can only refer to freedom and not to the moral law.⁵³ It is my view that an “independent warrant” for the moral law *embedded in the process of the justification of morality* would run counter to the main idea of Kant’s doctrine of the facticity of reason in the CP, especially when this doctrine is conceived in its opposition to Kant’s account in GMM III.

However, aside from this, I believe that there is a further reason why the credential should be attributed to freedom and not to the moral law. And this rests on the above-mentioned distinction between actuality and reality of freedom. I believe that if the reality of freedom consists in being a mode of causality under the moral law and if what can be deduced directly from the moral law *as factum* is the *actuality* of freedom, *then its reality is in need of a credential* on the basis of its very actuality. We have already seen that something can be real without being actual, but if something is actual, then it is also real.⁵⁴ If we now take into account that the reality of freedom as unconditioned causality cannot be theoretically proven –the first *Critique* could merely defend it by keeping open for the speculative reason “the place which for it is vacant, namely the intelligible” (CP, V:49)–, it follows that the only way to fill this “vacant place”, by providing “a positive determination” (CP, V:48) to the idea of freedom, and thus to determine its *quidditas*, is by means of its actuality that is given with the moral law (which is a “law of causality in an intelligible world” (CP, V:49)). Freedom is hereby “afforded *objective* and, though only practical, undoubted *reality*” (CP, V:49). Thus, freedom “reveals itself through the moral law” (CP, V:4) *both as actual and real*. In this sense, the “credential” is an essential part of the deduction of freedom rather than an addendum to it.

After these clarifications, I will now return to their importance for CBO. It should be clear that the “can” in CBO* identifies with the awareness of the *actuality* of freedom,

and the inference from it to freedom” (2020, p. 389 f.). On the other hand, there are interpreters who, although they also attribute the credential to the moral law (rather than to freedom), seem to repudiate more clearly a coherentist *justification* of morality. Thus, Ameriks (2002, p. 108) denies that Kant presents “a justifying deduction for the truth of morality”; instead, he finds the meaning of the “credential for the moral law” in that “[t]he assertion of freedom on the basis of practical reason adds something that *fits in* with speculative reason’s framework here”. Furthermore, Sussman (2008, p. 66 f.) explicitly denies that the credential provides *any* justification for the moral law; instead, as he maintains, “the credential would only serve to rebut the objection that, because the theoretical conception of reality is complete and self-standing, nothing practical deserves to be called a kind of reality at all” (p. 67). Turning back to the proponents of the coherentist interpretation: for the interesting view that the coherence of the moral law with elements of theoretical philosophy is neither the sole nor the most important “credential” of the moral law, see Gillessen 2016. To show in what the most important credential of the moral law consists, Gillessen focuses on the role “common human reason” plays in Kant’s texts and argues that if we take into account Rawls’ method of Reflective Equilibrium, Kant should be characterised as a specifically *Rawlsian* coherentist.

⁵³ See Bojanowski 2006, pp. 77-81; Timmermann 2007. Moreover, Bojanowski (but not Timmermann) even proposes a grammatical correction in Kant’s text (CP, V:48) in order to clarify that what the moral law proves is not its own reality, but the reality of *freedom* (see Bojanowski 2007, p. 80).

⁵⁴ See section 4.1.

which is deduced directly from the fact of reason, while the “can” in CBO** consists of both that awareness and consciousness of the *reality* of freedom, which is derived –on the basis of its very actuality– from the moral law.

What I want to emphasise with regard to CBO* is that in this context “awareness of freedom” constitutes a *phenomenological moment*, since it denotes the modus by which the moral law appears to the common human being⁵⁵ (who is philosophically uneducated and non-cognisant of Kant’s moral theory), when s/he faces the case of an action with moral traits and must decide what to do - as the man standing in front of the erected gallows in Kant’s example. Consciousness of the moral law as a fact of reason means that the moral law (a) appears to her/him in the form of particular commands adjusted to the concrete case and its specific traits,⁵⁶ which at the same time (b) make her/him realise (by means of a “paradigm shift”, as it were) her/his ability to act in a way that s/he otherwise would be unable even to think about if s/he remained restricted to the empirical perspective; that is, to realise that s/he is free.⁵⁷

My conclusion is that in Kant’s ethics CBO* (the “pure” form of CBO) rests on a specific meaning of the concept of “can”: in this context, “can” identifies with the horizon of agency opened up by the awareness of transcendental freedom, which is derived from the consciousness of the moral law as a fact of reason. To put it another way: out of the sum of actions that can be realised in experience, CBO* separates the subset that includes transcendently free actions and informs us that our moral consciousness (with its imperativ and binding character) reveals the possibility to integrate such actions into our intentional horizon. Thus, our moral consciousness is constitutive of our awareness of freedom, which seems to be an expansion of our knowledge regarding the scope of choices and actions that are possible for us. In this sense, CBO* does not need the assistance of OIC.

Nevertheless, there also exists the other version of CBO, namely CBO**, which, besides CBO*, also presupposes the “official” deduction of freedom in the CP and relies on OIC. How is this possible? How can the “ought” that provides the basis for the deduction of “can” also imply the latter, as if it presupposed it? It is to this issue that I will now turn.

⁵⁵ Cf. CP, V:91; Kant here uses the terms “most common practical use of reason” and “every natural human reason”.

⁵⁶ For this issue, cf. note 30 in the present paper. Regarding my view of a “phenomenological particularism” in Kant’s doctrine of the fact of reason, I would argue that one could apply *also* to Kant two distinctions made by Graham (2011, p. 339 f.) concerning the place of OIC in the contemporary discussion. The first is the distinction between “all things considered moral obligation” and “*prima facie* moral obligation”, and the second is the distinction between “objective sense of ought” and “subjective sense of ought”. I believe that on the basis of what I have called “phenomenological particularism” one can accept, on the one hand, the concept of an “all things considered moral obligation” and, on the other, that of a “subjective sense of ought”.

⁵⁷ Cf. CP, V:42: “this fact is inseparably connected with, and indeed identical with, consciousness of freedom of the will”.

5. Normativity and Ability

Transcendental freedom consists in our ability to be determined by the moral “ought” independently of natural determination –even contrary to it–, while our actions are events in the natural world. A fundamental question here is how the notion of “can” should be understood in this context and what kind of capacities Kant takes to correspond to moral “ought”. Based on Stern’s interpretation, in the first two sections of the present paper I referred to our capacities as agents equipped with certain predispositions that are supportive of morality and to their power to overcome obstacles. Another interpretation by Kohl⁵⁸ can help us to complement this account by featuring the meaning of inner volitional acts as expressions of the freedom of the power of choice (*Willkür*), given –we could say– those supportive predispositions.

Kohl maintains that Kant endorses two versions of OIC, which concern two different aspects that jointly constitute his conception of ourselves as fully rational agents: a version that concerns the relation between “ought” and physical capacity and a version that concerns moral obligation and volitional power (which is distinct from physical capacity).⁵⁹ This distinction is tied to the underlying distinction between “outer” (physical) and “inner” (volitional) actions.⁶⁰ In the following passage from the CR, which refers to ought-governed rational agency in general, both of these action types in the context of OIC are included:

Now of course the action must be possible under natural conditions if the ought is directed to it; but these natural conditions do not concern the determination of the power of choice itself, but only its effect and result in appearance. (CR, A 548/B576)

As mentioned above, this passage refers to ought-governed rational agency in general (both moral *and* prudential), but for our purposes we can focus on the moral context and on the version of OIC that concerns the moral “ought” and its relation to both physical and volitional capacities. According to the previous distinctions, the property of being “possible under natural conditions” as well as that of being the “effect and result in appearance” refer to “outer” actions, while the “determination of the power of choice itself” concerns “inner” actions. Regarding inner actions, the “determination of the power of choice” consists in the process of *Willkür*’s adoption of maxims and the incorporation of incentives into these maxims. This process constitutes an inner self-determination, which often manifests itself through the struggle against inner impediments of the will. Such impediments are self-love in its various forms as well as the propensity to evil.

Regarding the physical capacity, the question is in what sense the action under the moral “ought” must be “possible under natural conditions”. This amounts to the question

⁵⁸ See Kohl 2015.

⁵⁹ See Kohl 2015, p. 690, p. 697 f., p. 707.

⁶⁰ Cf. MM, VI:213, 218 f.

of how the “can” in this version of OIC should be understood. Does it encompass *general* or *specific* physical capacities⁶¹ on the part of the agent? Although the moral “ought” *does* presuppose (“imply”) some causal⁶² capacities regarding the agent’s effectiveness in outer actions, these are *general* capacities as contrasted to *specific* capacities required for the actual production of effects in specific circumstances of particular outer actions. In this context, Kohl refers to Herman, who holds that the moral “ought” in Kant requires the possibility of a certain *type* of physical action and not of a particular action *token*.⁶³ Herman’s point is that if the moral “ought” also required the possibility of particular action tokens, then in the case of an occasional impossibility of an action token we could nullify our moral obligation.⁶⁴ On the other hand, Kohl maintains that Kant does indeed connect the “can” with types (and not with tokens) of actions, but not for the reason Herman invokes;⁶⁵ Kant does not associate OIC with action tokens, because the successful performance of particular physical actions (tokens) largely depends on contingency or lack, which constitute characteristics that are ruled out by Kant’s conception of compliance with morality and duty.⁶⁶

Nonetheless, it seems to me that, in contrast to outer/physical actions, the distinction between action types and tokens does not play any role in the case of the version of OIC that concerns inner/volitional actions. The ability for inner determination of the power of choice that is linked to the moral “ought” also concerns inner volitional action *tokens*, since contingency and lack are ruled out as possible factors in the *Willkür*’s inner determination. Moreover, as we saw above, the moral “ought” as the fact of reason appears to the common human being in the form of particular moral “oughts” that are products of the same power that also performs the inner volitional acts - I will return to this point below. Given that Kant’s ethics could be characterised as an “ethics of disposition” (*Gesinnungsethik*), in which morality concerns the maxim of action and the inner determination of the will, moral agency, which certainly needs action tokens for its actuality, consists precisely in these inner volitional action tokens. As such, they are not threatened by the agent’s possible physical inability to perform the outer action tokens that correspond to them. And it is in such inner volitional acts that the very goodness of good will consists:

⁶¹ “Specific” in the meaning of being adapted to the specific empirical circumstances in which a particular action takes place.

⁶² In CR, A548/B576, shortly after the lines I have already cited above, Kant explicitly refers to the *causality* that reason *presupposes* in relation to actions according to its ideas; and in CR, A549/B577 he even links causality of reason with the human being’s empirical character: “every human being has an empirical character for his power of choice, which is nothing other than a certain causality of his reason”.

⁶³ This terminology (type - token) is used by Kohl and not by Herman. Herman herself (1993, p. 163 f.) makes this distinction in terms of a “wide” and a “narrow” sense or interpretation of OIC.

⁶⁴ See Herman 1993, p. 163.

⁶⁵ See Kohl 2015, p. 701.

⁶⁶ In this respect, Kant’s account significantly differs from some contemporary accounts of OIC. For instance, consider the formulation “obligations correspond to ability plus opportunity” (Vranas, 2007, p. 167). The Kantian account rules out opportunity as a presupposition of moral obligation.

Even if, by a special disfavor of fortune or by the niggardly provision of a stepmotherly nature, this will should wholly lack the capacity to carry out its purpose - if with its greatest efforts it should yet achieve nothing and only the good will were left (not, of course, as a mere wish but as the summoning of all means insofar as they are in our control) - then, like a jewel, it would still shine by itself, as something that has its full worth in itself. (GMM, IV:394)⁶⁷

Thus, in contrast to opponents of OIC, whose starting point is a heterogeneity between “ought” and “can”,⁶⁸ a tight link emerges in Kant between moral “ought” and “can” in terms of inner volitional acts *precisely on the basis of their homogeneity*. It is this point that allows us to focus specifically on Kant’s notion of autonomy⁶⁹ as self-legislation, that is, “the will’s property of being a law to itself” (GMM, IV:447). If the rational will lacked the ability to obey the law it makes for itself, then this would ensue from a misconstruction of its capacities and –first of all– of its identity, since in such a hypothetical case it would be alienated from itself and through its very autonomy become heteronomous; and this is certainly inconsistent, because, given the concept of autonomy, the powers on the basis of which it obeys its own law are at the same time the powers on the basis of which it makes this law.⁷⁰ “Ought” and “can” have the same root and, thus, in the context of OIC, one refers to the other. As I see it, Kant’s notorious “Reciprocity Thesis”⁷¹ has its deeper foundation here. In the *Groundwork*, Kant maintains that “freedom and the will’s own lawgiving are both autonomy and hence reciprocal concepts” (GMM, IV:450) insofar as freedom is conceived in its positive sense, as “the will’s property of being a law to itself” (GMM, IV:447); this thesis is also clearly formulated in the CP (V:29): “freedom and unconditional practical law reciprocally imply each other”.

According to the above analysis, on the basis of the concept of autonomy we could argue that Kant endorses OIC in a somewhat neutral form, in the sense that this principle

⁶⁷ This independence of the moral quality of the will from specific physical capacities and circumstances is made clearer if we compare the presuppositions of morality with the presuppositions of prudential rationality: “to satisfy the categorical command of morality is within everyone’s power at all times; to satisfy the empirically conditioned precept of happiness is but seldom possible and is far from being possible for everyone even with respect to only a single purpose. The reason is that in the first case it is a question only of the maxim, which must be genuine and pure, whereas in the latter case it is also a question of one’s powers and one’s physical ability to make a desired object real” (CP, V:36 f.).

⁶⁸ Kohl (2015, p. 703) refers to White (1975, p. 148), who argues that “the characteristics in virtue of which something is what ought to be done are different from the characteristics in virtue of which it is something which can be done”.

⁶⁹ For the view that OIC is central to understanding the way in which Kantian moral autonomy, as a principle that concerns all rational beings, is connected with the personal perspective of the individual agent and expresses her/his autonomy, see the comprehensive analysis of Deligiorgi (2018).

⁷⁰ In this sense, I agree with Rödl (2013, p. 45 f.), when he argues: “Kant describes a metaphysical unity of knowing oneself to be under the moral law and having the power to act according to it. [...] For, if my knowing myself to be under the moral law is an act of my power to act according to the law, then my knowledge shows that I possess this power”.

⁷¹ For the Reciprocity Thesis, see Allison 1990, pp. 201-213.

denotes a tight link between “ought” and “can”, without at the same time containing an indication of a fixed direction from one to the other. If “ought” and “can” have the same root, then one can refer to the other in such a way that it does not make sense to say that one unidirectionally presupposes or entails the other; rather, the relation between them holds for both directions.

Consider now again the distinction between actuality and reality of freedom, which we examined in section 4.1 of the present paper. The reality of freedom, its *quidditas*, consists in being a mode of causality under the moral law and the moral law is the law of that causality: this seems to be a reformulation of the Reciprocity Thesis. Thus, in its neutral form, OIC is a valid principle in the context of the deduction of the reality of freedom. However, since, as we saw, the deduction of the reality of freedom already implies the deduction of its actuality from the consciousness of the moral law as the fact of reason, even the principle CBO* is in place. Consequently, both CBO* and OIC (in its neutral form) are valid and jointly constitute what I have called CBO**. Thus, CBO (in the form of CBO**) is the prevailing principle, and it can be argued again⁷² that the second-order principle “CBO implies OIC” more accurately explains the Kantian situation.

6. Concluding Remark

In the present paper I examined the place of moral obligation and human ability in Kant’s ethics, starting from his moral anthropology and arriving at the justification of morality and freedom in the second *Critique*, with a special focus on the issue of the deduction of freedom from the moral law as a fact of reason. The latter issue, which is divided into two parts, namely the deduction of the actuality of freedom and the deduction of its reality, appeared as the culminating point in this examination. It turned out that the principle “you can because you ought” (CBO) rather than “ought implies can” (OIC) prevails in Kant’s endeavour in this context. Why is this so?

To be sure, freedom is the *ratio essendi* of the moral law –it constitutes its essence–, and this is already contained in the conception of the reality of freedom (as contrasted to its actuality), which, as we saw, defines the latter’s *quidditas* or *essentia*. In this respect, the fact that freedom is the *ratio essendi* of the moral law is *already presupposed by the Reciprocity Thesis*. Yet, as Kant makes clear in a well-known passage from the second *Critique*, his main question does not concern the ontological basis of the Reciprocity Thesis insofar as the latter refers to a conceptual relation between freedom and the moral law. His main concern is rather epistemic in nature, as he wants to break the circularity of the Reciprocity Thesis in order “to show *that there is pure practical reason*” (CP, V:3). And to this aim, he searches for a starting point regarding the “*cognition of the unconditionally practical*”:

⁷² See section 2 in the present paper.

[F]reedom and unconditional practical law reciprocally imply each other. Now I do not ask here whether they are in fact different or whether it is not much rather the case that an unconditional law is merely the self-consciousness of a pure practical reason, this being identical with the positive concept of freedom; I ask instead from what our *cognition* of the unconditionally practical *starts*, whether from freedom or from the practical law. (CP, V:29)

Since the answer to this question consists in the fact that the moral law is the *ratio cognoscendi* of freedom, CBO, rather than OIC, is the prevailing Kantian principle.⁷³

Bibliography

References to Kant's works are from the English translations of *The Cambridge Edition of the Works of Immanuel Kant*, general editors: Paul Guyer and Allen W. Wood, Cambridge University Press, as contained in the following volumes: (a) *Practical Philosophy*, translated by Mary Gregor, Cambridge 1996, (b) *Religion and Rational Theology*, translated by Allen W. Wood and George di Giovanni, Cambridge 1996 and (c) *Critique of Pure Reason*, translated by Paul Guyer and Allen W. Wood, Cambridge 1998. All references follow the pagination of the standard German edition of Kant's works (*Kants Gesammelte Schriften*, edited by the Royal Prussian [later German] Academy of Sciences [Berlin: Georg Reimer, later Walter de Gruyter & Co., 1900 ff.], which is included (by means of marginal numbers) in the above-mentioned English translations.

The following abbreviations have been used: CP (*Critique of Practical Reason*), CR (*Critique of Pure Reason*), CS (*On the common saying: That may be correct in theory, but it is of no use in practice*), GMM (*Groundwork of the Metaphysics of Morals*), MM (*The Metaphysics of Morals*), PP (*Toward Perpetual Peace*), Rel (*Religion within the Boundaries of mere Reason*).

Allison, H. E. (2020), *Kant's Conception of Freedom: A Developmental and Critical Analysis*, Cambridge University Press, Cambridge.

----- (2013), "Kant's Practical Justification of Freedom", in M. Timmons and S. Baiasu (eds.), *Kant on Practical Justification: Interpretive Essays*, Cambridge University Press, Cambridge, pp. 284-299.

----- (1990), *Kant's Theory of Freedom*, Cambridge: Cambridge University Press.

Ameriks, K. (2002), "'Pure Reason Alone Suffices to Determine the Will' (42-57)", in O. Höffe (ed.), *Immanuel Kant, Kritik der Praktischen Vernunft*, Klassiker Auslegen, 26, Akademie Verlag, Berlin, pp. 99-114.

Beck, L. W. (1960), *A Commentary on Kant's Critique of Practical Reason*, University of Chicago Press, Chicago.

⁷³ I would like to thank the two anonymous reviewers from *Con-textos Kantianos* for their valuable comments. – Many points included in the present article (but not the main argument regarding the deduction of freedom) are also treated in my "'Ought implies can' or 'you can because you ought'? On the relation between moral obligation and ability in Kant", *Deucalion* 35/1-2 (2021), pp. 77-100 (in Greek). I would like to thank the editor, Stelios Virvidakis, for encouraging me to work further on this topic.

- Bojanowski, J. (2017), "Kant on the Justification of Moral Principles", *Kant-Studien*, 108, 1, pp. 55-88.
- (2006), *Kants Theorie der Freiheit. Rekonstruktion und Rehabilitierung*, Kantstudien-Ergänzungshäfte, 151, De Gruyter, Berlin / New York.
- Brown, S. M., Jr. (1950), "Does Ought Imply Can?", *Ethics* 60/4, pp. 275-284.
- Deligiorgi, K. (2018), "The 'Ought' and the 'Can'", *Con-Textos Kantianos. International Journal of Philosophy* 8, pp. 323-347.
- Gillessen, J. (2016), "Kants ethischer Kohärentismus. Zur Rechtfertigung des kategorischen Imperativs", *Kant-Studien*, 107, 4, pp. 651-680.
- Graham, P. A. (2011), "'Ought' and Ability", *The Philosophical Review* 120/3, pp. 337-382.
- Grenberg, J. (2013), *Kant's Defense of Common Moral Experience. A Phenomenological Account*, Cambridge University Press, New York.
- Griffin, J. (2011), "'Ought' Implies 'Can'. The Lindley Lecture", *The University of Kansas*, 2010, pp. 1-18.
- (1996), *Value Judgement. Improving our Ethical Beliefs*, Clarendon Press Oxford, New York.
- Henrich, D. (1960), "Der Begriff der sittlichen Einsicht und Kants Lehre vom Faktum der Vernunft", in *Die Gegenwart der Griechen im neueren Denken*, Festschrift H. G. Gadamer, Tübingen, pp. 77-115.
- Herman, B. (1993), *The Practice of Moral Judgment*, Harvard University Press, Cambridge, Massachusetts, London.
- Kohl, M. (2015), "Kant and 'Ought Implies Can'", *The Philosophical Quarterly* 65/261, pp. 690-710.
- Kühler M. (2016), "Wollen, Sollen und Können", in N. Roughley and J. Schälike (eds.), *Wollen: Seine Bedeutung, seine Grenzen*, Brill / Mentis, pp. 303-318.
- Rawls, J. (1989), "Themes in Kant's Moral Philosophy", in E. Förster (ed.), *Kant's Transcendental Deductions. The Three Critiques and the Opus postumum*, Stanford University Press, Stanford, pp. 81-113.
- Rödl, S. (2013), "Why Ought Implies Can", in M. Timmons and S. Baiasu (eds.), *Kant on Practical Justification. Interpretive Essays*, Oxford University Press, Oxford and New York, pp. 43-56.
- Sargentis, K. (2007), "'Fact of Reason' and 'Natural Human Reason': On Kant's Notion of Moral Experience", in I. Patellis, K. Goudeleli, P. Kontos (eds.), *Kant: Making Reason Intuitive*, Palgrave Macmillan, Houndmills, Basingstoke, Hampshire and New York, pp. 113-128.
- Schönecker, D. (2013 [1]), "Das gefühlte Faktum der Vernunft. Skizze einer Interpretation und Verteidigung", *Deutsche Zeitschrift für Philosophie* 61/1, pp. 91-107.
- (2013 [2]), "Kant's Moral Intuitionism: The Fact of Reason and Moral Predispositions", *Kant Studies Online*, pp. 1-38.

- Sinnott-Armstrong, W. (1984), “‘Ought’ Conversationally Implies ‘Can’”, *The Philosophical Review*, 93/2, pp. 249-261.
- Stern, R. 2004. “Does ‘Ought’ Imply ‘Can’? And Did Kant Think It Does?”, *Utilitas* 16/1, pp. 42-61.
- Sussmann, D. (2008), “From Deduction to Deed: Kant’s Grounding of the Moral Law”, *Kantian Review*, 13/1, pp. 52-81.
- Timmermann, J. (2007), “Das Creditiv des moralischen Gesetzes”, *Studi Kantiani*, 20, pp. 111-115.
- (2003), “Sollen und Können. ‘Du kannst, denn du sollst’ und ‘Sollen impliziert Können’ im Vergleich”, *Philosophiegeschichte und Logische Analyse* 6, pp. 113-122.
- Vranas, P. B. M. (2007), “I Ought, Therefore I Can”, *Philosophical Studies* 136, pp. 167-216.
- White, A. R. (1975), *Modal Thinking*, Blackwell, Oxford.

