

### 3. The Blind Spot of the Fact and the Second Person

*'Imagine closer the place where he lies. Within reason.  
To its form and dimensions a clue is given by the voice afar.'*  
Samuel Beckett, *Company*<sup>99</sup>

#### 3.1. Interpreting the Fact of Reason – Highlighting the Blind Spot

The 'fact of reason' doctrine constitutes Kant's final response to the problem of grounding morality and vindicating freedom. Its reception by the scholarly audience has generally been inversely proportional to the confidence with which the German philosopher purports to provide closure to the enterprise of practical reason and preclude any further debate on whether the moral law is a *high-flown fantasy*. If Kant's effort to justify morality in the *Groundwork* is almost unanimously conceived as obscure<sup>100</sup> and abandoned by Kant himself on the grounds that we cannot deduce morality from the non-moral route of transcendental freedom, the reversal attempted in the second *Critique* has sparked less than flattering comments: Paul Guyer sees the

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<sup>99</sup> Samuel Beckett, 'Company', in *Nowhow On* (John Calder, 1989), 25–26.

<sup>100</sup> L.W. Beck for instance calls the deduction 'the most obscure part of Kant's ethical theory'. Lewis White Beck, 'The Fact of Reason: An Essay on Justification in Ethics', in *Studies in the Philosophy of Kant* (Bobbs-Merrill, 1965), 202. In similar fashion, Henry Allison has characterised it as 'one of the most enigmatic of the Kantian texts' noting that, despite the 'unanimity that the attempt fails, there is little agreement regarding the actual structure of the argument that Kant advances'. Henry E. Allison, 'The deduction in Groundwork III', in *Kant's Theory of Freedom*, 214. Both of the above references are cited in Michael Kryluk, 'Gallow's Pole: Is Kant's Fact of Reason a Transcendental Argument?', *The Review of Metaphysics* 70, no. 4 (2017): 695, n. 1, <https://www.jstor.org/stable/44806981>.

strategy as relying on a good deal of ‘foot-stamping’,<sup>101</sup> Gerold Prauss did not hesitate to call it a philosophical ‘act of desperation’ (*Verzweiflungstat*),<sup>102</sup> whereas Allen Wood described it as a ‘moralistic bluster’ that makes Kant’s position ‘significantly weaker’ than the argument advanced in the *Groundwork*.<sup>103</sup>

The aforementioned critical voices arise from different philosophical frameworks and seek to unveil different weak points of the Kantian argument, but begin from a common premise: that Kant indeed purports the factum theory to serve as a theory of justification, but fails to meet the standards he has set for himself. Such an interpretation of the Kantian intentions – and the corresponding centrality of the factum thesis within his argumentative line – is nevertheless not self-evident. Onora O’Neill and Paweł Łuków, for instance, de-emphasise its centrality or relocate its significance, interpreting it as offering an account of how practical reason – in the words of O’Neill – registers in ‘ordinary lives and daily practice’,<sup>104</sup> without it being part of the second *Critique*’s main argument. On this view, Kant’s argument does not deliver less than it promises, simply because it does not promise at all to provide a theory of justification. Łuków similarly holds that reading the fact of reason as a justification thesis would be equivalent to trying to find a quasi-metaphysical, arbitrary foundation – an Archimedean point on which Kant can rest his moral architectonic. Since this would constitute an unfriendly gesture towards Kant’s critical enterprise to the extent

101 Paul Guyer, ‘Naturalistic and Transcendental Moments in Kant’s Moral Philosophy’, *Inquiry: An Interdisciplinary Journal of Philosophy* 50, no. 5 (2007): 462, <https://doi.org/10.1080/00201740701612309>. Cited in Pauline Kleingeld, ‘Moral Consciousness and the “fact of reason”’, in *Kant’s Critique of Practical Reason: A Critical Guide*, ed. Andrews Reath and Jens Timmermann (Cambridge University Press, 2010), 61.

102 Gerold Prauss, *Kant über Freiheit als Autonomie* (Vittorio Klostermann Verlag, 1983), 67. Cited in Dieter Schönecker, ‘Kant’s Moral Intuitionism: The Fact of Reason and Moral Predispositions’, *Kant Studies Online* 1 (2013): 5.

103 Allen W. Wood, *Kantian Ethics* (Cambridge University Press, 2008), 135. Cited in Kleingeld, ‘Moral Consciousness and the “fact of reason”’, 61.

104 Onora O’Neill, ‘Autonomy and the Fact of Reason in the *Kritik der Praktischen Vernunft* (§§ 7–8: 30–41)’, in Immanuel Kant, *Kritik der Praktischen Vernunft*, ed. Otfried Höffe, (Akademie Verlag, 2011), 71.

that ‘Kant would not then be able to provide any critique of reason’,<sup>105</sup> Łuków suggests that what Kant actually does is adopt a philosophical approach which we may call ‘philosophy as defence’; if seeking a secure foundation for morality is beyond what we can actually achieve, the impossibility of giving prominence to the ground of its legitimacy shall not lead us to an abandonment of our acceptance of the moral law. What is crucial is that as ordinary people we can hear the voice of the moral law within us, that we have consciousness of it as authoritative and binding, regardless of how or whether it is or can be justified.<sup>106</sup> O’Neill’s vivid supportive example sets the tone: ‘to see what makes some episode of life or literature hilarious may require subtle analysis, but people constantly see jokes without any analysis.’<sup>107</sup>

The perception of the factum thesis as a passage to ordinary moral knowledge, instead of a justification theory, is undoubtedly intriguing and potentially elucidating. The problem lies in the fact that it explicitly misreads the letter of the Kantian text. In attempting to provide textual evidence for his argument, Łuków claims that the doctrine of the fact of reason is introduced for the first time as a Remark only after Kant – as he sees it – has shown how pure reason can be practical, i.e., how it can determine action independently of any empirical considerations.<sup>108</sup> This suggests that ‘the doctrine of the fact of reason supplements rather than constitutes the main argument of the second *Critique*’.<sup>109</sup> This line of textual interpretation suffers from a fatal problem: as Pauline Kleingeld has accurately pointed out,<sup>110</sup> the fact of reason is actually introduced before the claim that pure reason can be practical,<sup>111</sup> and this latter claim is introduced as a ‘Corollary’ following the introduction of

105 Paweł Łuków, ‘The Fact of Reason: Kant’s Passage to Ordinary Moral Knowledge’, *Kant-Studien* 84, no. 2 (1993): 208, n. 10, <https://doi.org/10.1515/kant.1993.84.2.204>.

106 Ibid., 221.

107 O’Neill, ‘Autonomy and the Fact of Reason in the *Kritik der Praktischen Vernunft*’, 72.

108 See Kant, *Critique of Practical Reason*, 5:42.

109 Łuków, ‘The Fact of Reason: Kant’s Passage to Ordinary Moral Knowledge’, 210.

110 Kleingeld, ‘Moral Consciousness and the “fact of reason”’, 61.

111 See Kant, *Critique of Practical Reason*, 5:31.

the fact of reason.<sup>112</sup> If the practicality of reason can be established only through the facticity of the moral law, then the latter cannot simply be seen as a complement to the former.

Besides, this approach by Łuków and O'Neill ignores an important passage in the 'Critical Elucidation of the Analytic of Pure Practical Reason' that affirms Kant's intentions:

But that pure reason, without the admixture of any empirical determining ground, is practical of itself alone: this one had to be able to show from the *most common practical use of reason*, by confirming the supreme practical principle as one that every human reason cognizes – a law completely a priori and independent of any sensible data – as the supreme law of its will. It was necessary first to establish and justify the purity of its origin *even in the judgement of this common reason* before science would take it in hand in order to make use of it, so to speak, as a fact that precedes all subtle reasoning about its possibility and all the consequences that may be drawn from it. But this circumstance can also be very well explained from what has just been said; it is because practical pure reason must necessarily begin from principles, which must therefore, as the first data, be put at the basis of all science and cannot first arise from it. But for this reason the justification of moral principles as principles of a pure reason could also be carried out very well and with sufficient certainty by a mere appeal to the judgement of common human understanding, because anything empirical that might slip into our maxims as a determining ground of the will *makes itself known* at once by the feeling of gratification or pain that necessarily attaches to it insofar as it arouses desire, whereas pure practical reason directly *opposes* taking this feeling into its principle as a condition.<sup>113</sup>

Here Kant speaks three times of the justification of the moral law: first, he insists that the practicality of pure reason, without the admixture of any empirical data, could be shown by confirming the moral law as a priori cognised. Then he stresses the necessity of establishing and justifying the purity of the CI's origin, and, finally, he refers to the justification of moral principles as principles of pure reason. In all three cases he appeals to the presence of the moral law within common reason or common human understanding; the intention behind the reference, however, is much weightier than the one attributed to Kant by Łuków and O'Neill. Perhaps the fact of reason is indeed, as Łuków

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112 Ibid.

113 Ibid., 5:91–92.

claims, ‘the link’ which shows how ‘actual finite rational beings have ground for trust in moral law’,<sup>114</sup> but the invocation of its residence within the consciousness of ordinary people is intended, as per the aforementioned passage, a) to justify the purely rational origin of morality (there can be non-rational conceptions of morality as well), and b) to show that pure reason is practical of itself alone and that theoretical reason as well (what he calls ‘subtle reasoning’) is preceded by and grounded in this fact. From this perspective, we can think of the factum doctrine as the Archimedean point for a rational vindication of practical reason and so, given Kant’s claim of the primacy of practical over theoretical reason, for his entire philosophy.<sup>115</sup>

Dispelling any doubts about the centrality of the factum thesis in the Kantian argument is of utmost importance. It is only through the justification of the moral law that the conceptual possibility of freedom becomes an ontological reality, and, if we recall Simon Critchley’s schema as presented in our introduction, it is precisely the address of this fact that makes us aware of our freedom and endows us with our subjective status. The possibility of the Kantian architectonic is contingent upon the justification that the empty concept of the unconditional has an actual ontological weight. Hence, we need to be prepared: the most central passages of a philosopher’s thought are necessarily the most difficult and resistant to interpretation – the fact of reason being no exception to this rule. Yet, they are also the passages most fertile for future philosophical developments.

The articulation is elusive, enigmatic, carrying the magnetic allure that every oxymoron entails: *a fact of reason*. In terms of philosophical

114 Łuków, ‘The Fact of Reason: Kant’s Passage to Ordinary Moral Knowledge’, 216.

115 A counterargument can be formulated based on the passage where Kant claims that ‘the moral law has no need of justifying grounds’. See Kant, *Critique of Practical Reason*, 5:47. Dieter Schönecker disputes this possibility by explaining that ‘these grounds that the CI is said not to require should be understood as *deductive* grounds’: the moral law cannot be deduced from another idea, it is firmly established of itself as a fact. According to Schönecker, this passage can be interpreted as an implicit self-critique by Kant of his earlier attempt to deduce the moral law from the idea of freedom in the *Groundwork*. See Schönecker, ‘Kant’s Moral Intuitionism’, 8, n. 10.

precision and coherence with his critical endeavours, Kant really walks a tightrope here. Consciousness of the moral law may be called a fact, but it must be noted carefully that its facticity is not empirical. In what sense is it, therefore, a fact? Kant explains that it is a fact in the sense that one cannot reason it out from antecedent data of reason (such as freedom) and because it forces itself upon us as a synthetic a priori proposition. This *givenness* of the moral law shall not, however, lead us to think that it is based on any intuition, either pure or empirical: ‘the moral law is the sole fact of pure reason<sup>116</sup> which, by it, announces itself as originally lawgiving’.<sup>117</sup> We, therefore, have two kinds of definition: a negative one, in the sense that it is not an empirical fact, nor based on any pure intuition, and a positive one: it is the sole fact of pure reason.

The positive definition, far more obscure and elusive than the negative one, is the one we will seek to shed light on. If the Kantian fact is neither an empirical one nor based on any pure intuition, how exactly are we to interpret it? The path we will follow towards elucidating its meaning consists in firstly exploring the linguistic use of the term ‘factum’, which, as the perfect participle of the Latin verb ‘facere’ (meaning ‘to do’ or ‘to make’), can refer to both what was done (‘the deed’) and what was made (‘the product’ of the deed). As Kleingeld notes, the first meaning of ‘Faktum’ in Zedler’s *Universalexikon* (1732–54) is ‘That’ (deed), followed by ‘das geschehene Ding’ (the thing that happened) and other ways of referring to the product of the deed.<sup>118</sup> By the end of the eighteenth century ‘Faktum’ was translated either as ‘That’ (deed) or ‘Thatsache’, a term that appeared after the second half

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116 In some passages Kant speaks directly of the moral law as a fact of reason, instead of the consciousness of it. See, for instance, Kant, *Critique of Practical Reason*, 5:47. Pauline Kleingeld claims that ‘the designation of the law itself as a fact is best explained by pointing out that, insofar as the law is given to us, it is of course given in the form of our consciousness of it’. Kleingeld, ‘Moral Consciousness and the “fact of reason”’, 60.

117 Kant, *Critique of Practical Reason*, 5:31.

118 Kleingeld, ‘Moral Consciousness and the “fact of reason”’, 62–63, citing Johann Heinrich Zedler, *Grosses vollständiges Universalexikon* (Johann H. Zedler, 1732–54).

of the century and referred either to ‘res facti’<sup>119</sup> – that ‘which actually exists as a result of the activity of humans or nature’ (according to Zedler’s definition which predates the term ‘Thatsache’) – or ‘factum’ in its meaning as ‘product’. We can actually find evidence of the interchangeability between ‘Faktum’ and ‘Tatsache’ in the second edition of the first *Critique*, in which Kant claims twice that our possession of synthetic a priori cognition is a fact, using the term ‘Tatsache’ in the first passage and ‘Faktum’ in the second.<sup>120</sup>

One might think that, in interpreting the fact of reason, we would need to follow one of the aforementioned semantic paths, either that of *deed* (Tat) or that of *matter of fact* (Tatsache). This would treat the two terms as contradictory, whereas they can be synthesised: something might have actual existence because it has been created. Such a synthesis constitutes the first (and most solid) way of interpreting the fact of reason. According to the approach proposed by Markus Willaschek, the ‘Faktum’ is both deed (Tat) and fact (Tat-sache) insofar as ‘it is a fact solely as the outcome of an act of reason’.<sup>121</sup> Following Willaschek’s insight, Kleingeld similarly reads the factum thesis as a consciousness that reason produces in rational agents; as she strikingly explains, ‘the fact is then a fact of “reason” just as a decision can be “a decision of a king” or a painting, “a painting of Rembrandt”’.<sup>122</sup>

119 Kleingeld, ‘Moral Consciousness and the “fact of reason”’, 63, citing Jacob Grimm and Wilhelm Grimm, *Deutsches Wörterbuch*, 16 vols. (Hirzel, 1854–1960).

120 Kant, *Critique of Pure Reason*, B5 and B127–128. In the first passage, the pure use of our cognitive faculty is described as a *Tatsache*, whereas in the second as a *Faktum*. The reference to this important equation is due to Owen Ware, ‘Rethinking Kant’s Fact of Reason’, *Philosopher’s Imprint* 14, no. 32 (2014): 6, <http://hdl.handle.net/2027/spo.3521354.0014.032>.

121 Markus Willaschek, ‘Die Tat der Vernunft: Zur Bedeutung der Kantischen These vom „Faktum der Vernunft“’, in *Akten des Siebenten Internationalen Kant-Kongresses*, ed. Gerhard Funke, (Bouvier, 1991), 460. A similar approach has been adopted by David Sussman who also reads the fact as a deed of reason, even though his reading stands closer to Łuków’s position. See David Sussman, ‘From Deduction to Deed: Kant’s Grounding of the Moral Law’, *Kantian Review* 13, no. 1 (2008): 76–77, 81, n. 31, <https://doi.org/10.1017/S1369415400001096>.

122 Kleingeld, ‘Moral Consciousness and the “fact of reason”’, 65.

Admittedly, the perception of reason as actively producing consciousness of the moral law is the most consistent one, considering the evidence found in the Kantian text. We can indicatively highlight the passage where Kant mentions that the categorical imperative as a principle of morality is ‘declared by reason’<sup>123</sup> or, most importantly, the famous passage at the beginning of the second *Critique’s* chapter ‘On the deduction of the Principles of Pure Practical Reason’, in which Kant states that, by the fact, pure reason ‘proves itself actually practical’ or ‘determines the will to deeds’.<sup>124</sup> Hence, Kant is consistent in justifying the validity of the moral law as a product of reason, in line with the endeavours of his critical project. Consistency is, nevertheless, not equivalent to convincingness; nor is it an unconditional philosophical virtue, especially if achieving it requires repressing those elements that do not fit with the coherence of the system.

In the first *Critique*, Kant opens the conceptual possibility of freedom and its analytic equivalent, morality, a possibility that could not be converted by theoretical reason into an ontological reality. What Kant claims in the second *Critique* through the factum thesis is that morality and freedom are not a mere possibility; moral consciousness is actual as a result of practical reason’s activity. This way of grounding the ontological reality of morality seems insufficient to meet our expectations, especially given the central position that the fact of reason holds within Kant’s critical enterprise, both practical and theoretical. In order to better grasp its insufficiency, let us briefly (if somewhat crudely) recapitulate the development of the Kantian argument so far: in the first moment of his argument, Kant proves that empirical reason, with its supposedly inescapable principle of self-love, constitutes a terrain inadequate to provide us with a law of absolute practical necessity. In the second moment, he shows that if every sensible object of our desire is ostracised as a ground of legislation, all that remains is the universal form of the law, which, as an object of non-sensible intuition, can only be represented by the faculty of reason; only such an imperative can

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123 Kant, *Critique of Practical Reason*, 5:32.

124 Ibid., 5:42.



determine the will categorically. So far, we still find ourselves within the plane etched by the first *Critique*: if there is such a law, it originates in reason; its existence, therefore, remains in suspense. In the third and final moment, Kant confirms its ontological reality by claiming that the (consciousness of the) moral law is indeed actual as a fact of reason. We can see that the transition from the second to the third moment of Kant's argumentation is a bit abrupt and not entirely convincing, since the latter simply begs the question that looms over the former. If the moral law's binding character remains in question throughout the second moment, Kant's justification in the third verifies its bindingness as a fact (in the sense of *deed/product*) of reason, whereas reason's activity in producing it is left unaddressed by the text: it is an undeniable fact (in the sense of a *Tatsache*).<sup>125</sup> This is precisely the moment where the final curtain falls for the Kantian argument, without any further explanation.

Kant's *petitio principii* – his justification of the moral law as a fact of reason, whereas this is precisely what he ought to be proving,<sup>126</sup> how reason is actually practical in producing this principle – brings us back to the analysis of the factum thesis posed by Łuków and O'Neill, according to which Kant does not intend and maybe cannot ground the authority of the moral law, but this shall not stop us from accepting its bindingness: the so-called '*philosophy as defence*' approach. This approach indeed provides some important insights regarding the path Kant follows; it is no wonder, for instance, that Kant articulates in the second *Critique* the categorical imperative in the formula of universality<sup>127</sup> and grounds it as a fact of reason<sup>128</sup> only after he has tried to show through the gallows example that the moral law lies within us, humiliating our inclinations – even our self-preservation instinct – through the feeling of respect. This might be the path that Kant actually follows, but it is neither the one he should nor the one he intends to:

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125 Ibid., 5:32.

126 As Kant emphasises in the 'Preface' of the second *Critique*, this work 'has merely to show that there is pure practical reason'. Ibid., 5:3.

127 Ibid., 5:30.

128 Ibid., 5:31.

the fact that the hero of the example has a voice within him that tells him not to lie against the honourable man, even if such an omission might cause his own execution, does not prove that the voice echoing in his ears is that of a rational principle. It might well be an internalised code of honour, the voice of God, or even a powerful death drive pulsating within him (to which, for instance, Žižek attributes the sacrifice of Antigone).<sup>129</sup> An invocation of ordinary moral consciousness is not sufficient, and this is what Kant explicitly recognises by repeating, as we pointed out earlier, that he needs to justify moral principles as originating in reason. The truth is that he just does not succeed in doing so, failing to tell us anything substantial about why reason even bothers to unfold its practicality, how it does so, or what the origin of its inspiration is.

The last point, reason's origin of inspiration, is actually one that Kant addresses in the second *Critique*. In various passages, Kant affirms that reason receives no inspiration in order to produce the moral law; it is practical of itself alone.<sup>130</sup> This is Kant's way of safeguarding his critical project from the danger of presupposing as a groundwork of reason's activity either sensible motives or any mystical intuition, such as God's will,<sup>131</sup> something that would imply a bastardisation of morality's rational origin and, hence, a heteronomy of motives. This is a pretty straightforward and firm response that intends to settle reason's self-sufficiency conclusively. At the same time, however, Kant cannot explain how reason's self-sufficiency arises: in his chapter 'On the Deduction of the Principles of Pure Practical Reason', when arguing about the vanity of seeking to deduce the idea of the moral law, vindicating simultaneously its self-establishment as a fact of reason, Kant admits that 'all human insight is at an end as soon as we have arrived at basic powers or basic faculties for there is nothing through which their possibility can be conceived, and yet it may not be invented

129 Slavoj Žižek, *Antigone* (Bloomsbury, 2016), xv.

130 See indicatively *Critique of Practical Reason*, 5:21, 5:31, 5:42.

131 Ibid., 5:70–71.

and assumed at one's discretion'.<sup>132</sup> Similarly, in one of the concluding chapters of the *Groundwork* ('On the Extreme Boundary of all Practical Philosophy'), the German philosopher emphasises that it is beyond our capacities to explain how pure reason can be practical.<sup>133</sup> If reason took it upon itself to attempt such an explanation and justify convincingly its activity in producing moral obligation, it would 'overstep all its bounds'.<sup>134</sup> The categorical imperative, as he adds in the 'Concluding Remark', remains 'incomprehensible' (unbegreiflich), and this is 'all that can fairly be required of a philosophy that strives in its principles to the very boundary of human reason'.<sup>135</sup>

For Kant, the fact of reason is found at the limit of human insight, the point, to borrow Wittgenstein's metaphor, 'at which the spade hits bedrock and turns back on itself'.<sup>136</sup> This limit delineates the space in which we can think of subjectivity, intersubjectivity, and what we owe to each other, creating a sense of *logocentric* conceptual closure. After the limit has been drawn, however, one not only sees the delimited area, but also guesses an exterior *beyond*, lying in the interspace between presence and absence. How shall we approach this *beyond*? Beyond that lies the unthinkable, what cannot be thematised or captured in the form of ideas, what remains transcendent to noesis and understanding. If, however, as we have been trying to demonstrate, Kant fails to convincingly show how morality is born as a product of pure reason's activity, if the autopoised rational subjectivity within his oeuvre remains in suspense, if the facticity of the fact remains in question, would it be vain to betray his spirit, make the salto mortale to the unthinkable, and seek inspiration for practical reason by 'a voice afar' – as Samuel Beckett's introductory phrase wonderfully encapsulates?

132 Ibid., 5:46–47.

133 Kant, *Groundwork of the Metaphysics of Morals*, 4:461.

134 Ibid., 4:458–459.

135 Ibid., 4:463. The incomprehensible character of freedom is also highlighted in the *Critique of Practical Reason*, 5:7.

136 Ludwig Wittgenstein, *Philosophical Investigations*, trans. G. E. M. Anscombe, P. M. S. Hacker, and Joachim Schulte (Wiley Blackwell, 2009), 91. Cited in Kryluk, 'Gallow's Pole: Is Kant's Fact of Reason a Transcendental Argument?', 723.

Would it be mad to explore this lieu of non-philosophy, to point to that which philosophy is unable to say, and question the boundary of logocentrism from a *spectral* point of exteriority? This is undoubtedly an attempt Kant would not appreciate, probably perceiving it as a symptom of mysticism of practical reason which ‘puts under the application of moral concepts real but not sensible intuitions and strays into the transcendent’.<sup>137</sup> Yet, this is a route Kant has flirted with (if not succumbed to), according to some of his interpreters.

Our attempt to reconstruct Kant’s argumentation regarding the justification of morality has focused so far on interpreting moral consciousness as actively produced by reason, an interpretation that seems to be the most plausible one based on the textual evidence provided. There are, however, certain passages in the second *Critique* that challenge its dominance. In his chapter ‘On the Deduction of the Principles of Pure Practical Reason’, after Kant has claimed that reason proves itself practical by the fact, i.e., by the creation of the moral law, he seems unexpectedly to reverse things: some paragraphs later, he claims that it is the moral law that ‘provides a fact absolutely inexplicable from any data of the sensible world.’<sup>138</sup> Here the moral law serves as the subject providing us with a state of affairs – a *fact* – and it is obvious that the term ‘fact’ cannot be translated here as product or deed, but as something that has actual existence, a matter of fact, a *Tatsache*. Even though we could claim that the moral law that provides (‘gibt an die Hand’) us with this *res facti* is per se an artifact of reason, its position in the aforementioned passage as the subject that brings about the factuality of morality is hardly compatible with the assumption of a background presence of reason as the originary power of its praxis – and, in any case, such a reduction is not self-evident given the semantic ambivalence. Our suspicions are further strengthened by evidence found later in the same text, particularly in the chapter ‘Critical Elucidation of the Analytic of Pure Practical Reason’, where Kant writes that ‘this principle (the moral law) has long been present in the reason of

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137 Kant, *Critique of Practical Reason*, 5:70–71.

138 Ibid, 5:43.

all human beings and incorporated in their being.<sup>139</sup> Here the moral law seems to reside in the heart of reason, being embodied in the core of our subjectivity as a cryptic alterity within our identity, as an alien element which does not itself originate in the activity of our rational faculty, but is invaginated in it. How are we to approach these two passages, considering that they sketch an image of the moral law as a *factum brutum* that impinges on reason from the outside and the latter has to digest?

If we take the aforementioned passages seriously, we will conclude that Kant starts from a quasi-intuitionist claim to moral insight, employing the fact as an *Event*, an excessive imperative imprinted in the heart of reason which, as a condition, enables the possibility of its legislative activity. A similar perception of the moral law is taken up and developed by Jean-Luc Nancy in his noteworthy study on the categorical imperative, ‘The Kategorein of Excess’. According to Nancy, the imperative ‘befalls reason from the outside’ as ‘the practical mode of an a priori gift’ that ‘exceeds absolutely every self-positing act of reason’ and endows it with its practicality: reason is able to actively unfold as ‘affected’ only because it has been enjoined to do so by this quasi-intuitionist principle.<sup>140</sup> The fact of reason (or may we say fact *for* reason?) constitutes a ‘factuality heterogeneous to and incommensurable with reason’,<sup>141</sup> in the heart of which it nevertheless dwells. Under this reading, the fact of reason starts to look a lot like the ghostly presence of the stranger entering the noir setting in our introduction: residing at the innermost level of our existence, our *Heim*, the moral law is at once deeply proximal (heimlich) and disturbingly peculiar (unheimlich), an incomprehensible, untameable alterity within us: a *ghost*, an excessive alterity enjoining reason to unfold as practical.

We have strong reasons to believe that this is not the meaning that Kant wanted to give to the factum thesis; constructing an interpretive

139 Kant, *Critique of Practical Reason*, 5:105.

140 Nancy, ‘The Kategorein of Excess’, 142–145. As Nancy highlights, the factum rationis is not an intellectual intuition, rather it occupies the place of the a priori forms of intuition, being ‘the space-time of pure practical reason’. Ibid., 144.

141 Ibid., 145.

line on two passages, especially when those appear so contrary to the letter and spirit of his intentions, is not a philosophically responsible attitude. On the other hand, it is Kant's failure to show how reason can really be practical in producing the moral law that has led many philosophers to treat the fact as an intuition given to reason and, hence, as a betrayal of his austere critical philosophy. Karl Ameriks, for instance, holds the view that only 'some technical peculiarities' prevent us from labelling Kant's position in the second *Critique* as 'fundamentally intuitionistic'.<sup>142</sup> Schopenhauer sees the categorical imperative as a 'hyper-physical fact',<sup>143</sup> whereas Hegel characterises it as a 'revelation given to reason'.<sup>144</sup> The criticism that Kant has received for the aforementioned perception of his factum thesis has been vitriolic. Ameriks, following Schopenhauer who characterised the fact as a 'Delphic temple in the soul' that opened the door to 'philosophasters and fancy-mongers',<sup>145</sup> perceives it as a gateway to the 'mystical excesses' of Kant's idealist successors<sup>146</sup> and, therefore, as an encouragement to a kind of dogmatic metaphysics; Hegel famously described it as the 'last undigested lump in our stomach'.<sup>147</sup> If this quasi-intuitionist interpretation of the fact is correct, then, without a doubt, Kant's attempt to provide a groundwork for morality ultimately fails. But Kant's failure is not exactly the point we need to emphasise.

The point is that the factum thesis, whether we interpret it as a fact *of* reason (a product of reason's activity) or a fact *for* reason (an Event befalling reason from the outside), constitutes what Derrida would call

142 Karl Ameriks, *Kant's Theory of Mind: An Analysis of the Paralogisms of Pure Reason* (Oxford University Press, 2000), 218–219. Cited in Ware, 'Rethinking Kant's Fact of Reason', 1, n. 1.

143 Arthur Schopenhauer, *The Basis of Morality*, trans. Arthur Brodrick Bullock (S. Sonnenschein, 1903), 68–69.

144 G. W. F. Hegel, *Lectures on the History of Philosophy*, Vol. 3, ed. and trans. E. S. Haldane and F. H. Simson (The Humanities Press, 1974), 461. The passages of Schopenhauer and Hegel are cited in Henrich, 'The Concept of Moral Insight', 69.

145 Schopenhauer, *The Basis of Morality*, 68–69.

146 Karl Ameriks, 'Kant's Deduction of Freedom and Morality', *Journal of the History of Philosophy* 19, no. 1 (1981): 72, <https://dx.doi.org/10.1353/hph.2008.0501>.

147 Hegel, *Lectures on the History of Philosophy*, 461.

a ‘blind spot’<sup>148</sup> for the Kantian text: a term that Kant employs, but whose logic is *veiled* to him. Whereas Kant might think he has found in the fact the *philosopher’s stone* that will enable him to produce a closure to his critical enterprise, grounding morality and freedom within the space of reason, the fact itself is what proves impossible to be pacified within reason’s economy, resisting closure, exceeding the orbit of reason’s conceptual totality, constituting an alterity that runs counter to the text’s intended meaning.<sup>149</sup> If we interpret it as a product of reason’s activity, it demands of us a position of exteriority, one that inspires reason to unfold as practical. If we interpret it as an Event, it occupies the aforementioned position of exteriority. In both cases, reason is decentred by the *unthought*: not simply by what has not been thought, but by a radical Otherness which cannot be domesticated, which – with a single gesture – injures and inspires reason’s activity, without being sclerotised as an object of its formulating glance, i.e., constituted as an idea: this is why it is called a blind spot. This scar of alterity breathing within the Kantian text is not something we can ignore or renounce; it forces itself upon us as a categorical duty to vindicate morality and subjectivity beyond logocentrism. Our deconstructive ‘Yes’ to this injunction, a ‘Yes’ passively uttered to the unnameable calling us, motivates the challenge undertaken in this text: to re-interpret the fact, to unveil the repressed, cryptic secret that lies within it. This impossible challenge – for genuine secrets can never be betrayed – is the one we will undertake from this point on.

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148 On the concept of ‘supplement’ as a blind spot in Rousseau’s conceptual apparatus, see Jacques Derrida, *Of Grammatology*, trans. Gayatri Chakravorty Spivak (The Johns Hopkins University Press, 1997), 163.

149 The veiled logic of the fact as a blind spot might provide a response to Willaschek’s question, prompting us towards an orthodox reading of the factum thesis, even if such a reading is intrinsically destabilised: ‘If Kant meant only a fact for reason, why didn’t he say it clearly?’ Willaschek, ‘Die Tat der Vernunft’, 459.

### 3.2. The Primacy of the Self as a Kantian Symptom

In the last subchapter we attempted to demonstrate how Kant's project of grounding the validity of the moral law through the fact of reason doctrine a) is seemingly haunted by an element beyond the realm of reason, and b) ultimately fails. To avoid any confusion, it is not the *hauntedness* of the moral law that lies as the cause behind Kant's failure. Our argumentative line has rather been oriented towards the opposite direction: it is precisely the repression of this hauntedness that prevents Kant from convincingly showing how the voice of morality can truly echo within us. Failure, however, shall not be perceived as an intellectual death that numbs the movement of our thought; the challenge sketched at this point is to detect within Kant's justificatory failure any symptom that will allow us to overcome the impasse (formulated within the realm of reason) and revitalise morality and subjectivity.

As explained in the previous section, the *factum* thesis has been interpreted in two different – if not diametrically opposed – ways: a) as a principle actively produced by reason, and b) as an Event befalling reason from the outside, causing its unfolding. The reasons behind their failure are different: in the first case, Kant would need to show how reason becomes practical in producing the principle, a step he is unwilling to take since, on his account, practical reason would overstep its limits in doing so. In the second case, he seems to surrender to a metaphysical dogmatism, basing his critique of practical reason on a revelation reason has to digest. Admittedly, these interpretations (and the respective analyses of their failure) are incommensurable with one another. In juxtaposing them, however, we can monitor a common symptom, a symptom characteristic of Kantian morality: the centrality of the self as the *lieu* in which the game of morality is played. In the interpretation of the fact as reason's product, it is the noumenal self that actively produces this principle in her first-personal isolation, untouched by any exteriority. In the interpretation of the fact as an Event impinging on reason, it is again the rational self that acquires a first-personal, private, a-social access to an impersonal force residing



within her. As Nancy notes, the alterity of the law 'isn't the fact of some assignable other, whether a great Other or a small one, even though it determines the being-other of every other',<sup>150</sup> the encounter with any exterior other is conditioned on the self's encounter with the factual alterity of the law within.

Kant is adamant that the fact of reason allows us to find the unconditional without any need to go outside ourselves, by centring our attention on the 'supremely self-sufficient intelligence'.<sup>151</sup> This does not imply an image of the self as a continuous whole; rather, within the self we can identify the existence of a *second-personal structure*, consisting in the relation between the noumenal and the phenomenal, the legislating and legislated self, the self that critiques and the self-critiqued. As Korsgaard eloquently explains, 'duties must arise within one, rather than between two, and yet for them to arise, that one must be two'.<sup>152</sup> If morality is enclosed within the self, this means that all duties are fundamentally determined as duties imposed by and owed to my noumenal self,<sup>153</sup> namely, the voice of reason dwelling within me, which, in being universal, i.e., present in every rational human being, implies a duty to respect the noumenal self of every other human being. In simple words: the moral law within me and its analytic reciprocal, freedom, is taken as the starting point, whereas moral relations to others come as a result or expression of it. It is the first-personal summons (by the moral law within me) that stands as the transcendental condition of my responsiveness to any second-personal summons by the multiple others surrounding me. This is the strategy taken by Kant.

The problem is that this strategy does not pull off, since Kant fails to ground the moral law within the boundaries of the self and vindicate subjectivity as a transcendental condition of the relation to others. This is precisely the moment that encourages us to disturb the binary opposition between the *self* and the *other*, to overturn its poles, giving

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150 Nancy, 'The Katagorein of Excess', 147.

151 Kant, *Critique of Practical Reason*, 5:32.

152 Christine M. Korsgaard, 'The authority of reflection', in *The Sources of Normativity*, ed. Onora O'Neill (Cambridge University Press, 1996), 104, n. 16.

153 Kant, *The Metaphysics of Morals*, 6:417–418.

a temporary primacy to the subordinate term, only to ultimately forge them into a new conceptual logic in which the repressive hierarchy has been ostracised.<sup>154</sup> This liberating, deconstructive turn of the binary opposition allows us to set the questions that can potentially drive us out of the impasse in a more concrete way: can we imagine at the heart of subjectivity a pre-originary relationality so fundamental that it evades our conceptual glance (constituting a blind spot)? If yes, how can we speak of the modality of this relation, of its terms and their interaction? Most importantly: could it constitute the axis around which morality and subjectivity can be vindicated?

### 3.3. A Second-personal Interpretation of the Fact of Reason

Stephen Darwall's *The Second-Person Standpoint: Morality, Respect and Accountability* takes up the challenge of responding to the aforementioned questions in a way that, undoubtedly, constitutes one of the most stimulating reformations of Kant's moral theory. Darwall's entrance into the post-Kantian scene has been considerably invigorating, largely because of his subversive, quasi-deconstructive approach to Kantian deontology, an approach that emphasises the inherent relationality of subjectivity. According to Darwall, 'the very concept of person<sup>155</sup> is itself a second-personal concept',<sup>156</sup> in the sense that our standing in the realm of morality necessarily involves the relational address of claims both to and by a second person. To be a person means to be in relation (to a second person), and the perspective that we, as agents involved

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154 This is the way Derrida outlines the 'two-phased' deconstructive turn taking place towards disrupting the binary logic of a text. See Derrida, 'Positions', 41–42. Christie McDonald has comprehensively summarised this in an interview with the French philosopher, particularly in regard to the hierarchical binarism between man and woman. See Jacques Derrida and Christie V. McDonald, 'Interview: Choreographies', *Diacritics* 12, no. 2 (1982): 70–72, <https://doi.org/10.2307/464681>.

155 The terms person and subject (and accordingly: personality and subjectivity) are used interchangeably.

156 Stephen Darwall, *The Second-Person Standpoint: Morality, Respect and Accountability* (Harvard University Press, 2006), 80.

in this relation, adopt in order to manage our reciprocal normative expectations – by making and acknowledging claims on one another’s conduct and will – constitutes the *second-person standpoint*.<sup>157</sup>

Our aim in this chapter is not to delineate a full outline of the second-person standpoint’s conceptual architectonic; that would be too ambitious – and unnecessary. We would rather give prominence to the way Darwall relocates the centre of his analysis from the first-personal Kantian consciousness of morality to the interpersonal encounter between rational and free agents and how this encounter leads to an elucidating re-interpretation of the fact of reason. The gallows example, employed by Kant in the second *Critique*, can prove to be a useful tool for navigating in the Darwallian system.

Most (if not all) of us will agree that the protagonist of Kant’s example has a moral duty not to lie against the honourable man. This is precisely Kant’s intention in employing the example: to affirm that the voice of morality does echo within us. What is not clear from the setting of the example, as demonstrated earlier, is how this duty arises – the reasons that constitute it. Could we, for instance, ground it in a utilitarian principle that, in pointing to an impersonal maximisation of happiness, would be agent-neutral and thus, as Rawls succinctly claims, ‘would not take seriously the distinction of persons’?<sup>158</sup> From Darwall’s perspective, moral obligations imply a distinct class of practical reasons – *agent-relative, second-personal reasons* – ‘whose validity depends on presupposed authority and accountability relations between persons and, therefore, on the possibility of their being addressed person-to-person’.<sup>159</sup> The protagonist of the gallows example has the obligation not to lie against the honourable man because, in looking into his eyes, he can recognise and respect the latter’s authority a) to demand that he refrain from doing so, and b) to hold him accountable (through the

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157 Ibid., 3.

158 John Rawls, *A Theory of Justice* (Harvard University Press, 1999), 24.

159 Darwall, *The Second-Person Standpoint*, 8.

relevant Strawsonian ‘reactive attitudes’)<sup>160</sup> should the former’s instinct of self-preservation ultimately prevail.

If we explore the structure of this imaginary *tête-à-tête* – between the honourable man as addresser and the man in the moral dilemma as addressee of the claim not to lie – we will quickly arrive at the conclusion that it takes place under the dome of a multilevel reciprocal recognition, a stance which, according to Darwall, can only be taken if we transcend ourselves and adopt the shared perspective of the *second-person standpoint*. In addressing a claim of honesty, the honourable man treats the man in the dilemma as a person who has the capacity to guide his will according to reasons stemming from the authority of all human beings to exact a minimum of respect, thereby transcending his own instinct of self-preservation. This capacity is defined by Darwall as *second-personal competence* and is equivalent to the Kantian autonomy of the will.<sup>161</sup> At the same time, in addressing a demand stemming from his practical authority as a free and equal member of the political community – an authority that, on Darwall’s account, corresponds to the person’s inalienable status of *dignity*<sup>162</sup> – a demand which can therefore be rationally acknowledged and accepted by the addressee, he also seeks to guide the latter through his own self-determining choice. This means that he refrains from any coercion by threats<sup>163</sup> and thereby

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160 In his famous essay ‘Freedom and Resentment’, P. F. Strawson describes reactive attitudes as emotional responses arising from our perception of how others conduct themselves towards us. P. F. Strawson, ‘Freedom and Resentment’, in *Freedom and Resentment and Other Essays* (Routledge, 2008), 1–28. Darwall is particularly interested in the reactive attitudes essential to human practices of moral accountability in response to an agent’s wrongful conduct (resentment on behalf of the victim or indignation on behalf of the political community, for instance). He reads them as entailing an intrinsically second-personal character insofar as they can be interpersonally addressed only within a framework in which both the addresser and the addressee of the attitude regard each other as free, equal, and mutually accountable for their actions. See Darwall, *The Second-Person Standpoint*, 67.

161 Darwall, *The Second-Person Standpoint*, 35.

162 Ibid., 119, 243.

163 This is, for instance, the attitude adopted by the prince in the example, who, by addressing this command to the citizen, suffers from the conceit that he has a

respects the addressee's standing as free and equal. Turning to the second pole of the tête-à-tête, the man confronted with the decision whether to obey the prince's command, by finding himself in the midst of a moral dilemma and considering sacrificing his life, acknowledges the honourable man's dignity and the valid demand stemming from this status. In acknowledging the demand as valid, he freely makes the same demand of himself. If, according to Darwall, to be a person is to have the competence and standing to address demands to other persons and be reciprocally addressed by them within a community of mutually accountable equals,<sup>164</sup> the roles of the addresser and the addressee of a normative demand are *interchangeable*;<sup>165</sup> the addresser of a claim can demand of another person only what she would second-personally demand of herself (noetically adopting the stance of the addressee), whereas the addressee can be put under obligation and be held accountable only if she rationally makes the same demand to herself (noetically adopting the stance of the addresser).

Darwall's reformation of the Kantian moral theory begins to take shape: whereas for Kant the scope of morality is located in the first-personal relation of the self to the moral law (that enables the relation to every other rational human being), Darwall describes morality as a circle of interdefinable, second-personal concepts (authority, competence, claim, reasons, accountability) whose transcendental condition is the encounter between agents possessing two symmetrical normative qualities: second-personal authority (dignity) and competence (autonomy). This shift towards an interpersonal perception of morality is obvious in the way Darwall reads the factum thesis. The American philosopher holds that the factum thesis does not rule out an intu-

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normative standing that others do not have just because of his power – a standing which, of course, cannot be rationally acknowledged and respected.

164 Ibid., 126.

165 The interchangeability of the roles has been highlighted by Steven G. Crowell, 'Second-Person Reasons: Darwall, Levinas, and the Phenomenology of Reason', in *Levinas and Analytic Philosophy: Second-Person Normativity and the Moral Life*, ed. Michal Fagenblat and Melis Erdur (Routledge, 2020), 6.

tionist interpretation<sup>166</sup> and sets the equal dignity of persons as the fundamental moral notion in which he attempts to ground the moral law: if dignity is a status universally possessed by every human being we encounter, a status that allows us to exact respect from one another, then the only reasoning process that allows us to orchestrate our duties in a way that respects the dignity in the face of each human being is the categorical imperative as articulated within the formula of humanity: ‘So act that you use humanity, whether in your own person or the person of any other, always at the same time as an end, never merely as a means’. As Darwall claims, ‘it is a commitment to the equal dignity of persons in this irreducibly second-personal way that brings along with it a commitment to autonomy of the will and the CI, rather than vice versa’.<sup>167</sup> In view of this reading, dignity becomes the *ratio cognoscendi* of the moral law, whereas the moral law becomes the *ratio essendi* of dignity.

### 3.4. The (Im)possibilities of Darwallian Kantianism

Darwall’s second-personal interpretation of the fact of reason seems at first glance to provide a very convincing justification of how morality actually dwells within subjectivity. He designates that at the heart of the categorical imperative lies an encounter of the self with the second person whose status must be unconditionally respected; at the heart of the categorical imperative as a fact (in the sense of product/deed) of reason lies a summons by the second person, what we may call *fact of the other* (in the sense of an Event). This is precisely the point at which Darwall seems to abandon a fundamental tenet of Kantian morality, the fact that, in order to hear the voice of the moral law, we need not step out of ourselves. Without being able to delve deeply into the intellectual relation between Kant and Darwall, we can note the double bind marking it: Darwall ‘betrays’ Kant by analytically prioritising intersubjectiv-

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<sup>166</sup> Darwall, *The Second-Person Standpoint*, 239.

<sup>167</sup> *Ibid.*, 245.

ity over first-personal intelligence. This betraying move, however, is carried out with an eye to supporting Kant's compelling moral theory, which, according to Darwall, needs the second-personal account to be fully vindicated.<sup>168</sup> Darwall considers Kant a philosophical ally and it is no wonder that the second-person standpoint is primarily constructed from Kantian materials, something that also explains its robustness and philosophical tidiness: morality is conceived as 'equal accountability'<sup>169</sup> between agents who possess a symmetrical status, their dignity.

Dignity is the key concept around which the architectonic of the second-person standpoint is developed. The plausibility of Darwall's justification of the moral law lies precisely in his conception of it as the deliberative route employed to orchestrate the relations between agents who have the right to reciprocally demand a minimum of respect, a conception belonging to our most considered convictions about the nature of intersubjectivity. Even though, however, this justification appears tidy and satisfactory, the Kantian spirit of critical vigilance expressed in 'What is Enlightenment?' does not allow us to rest content. If dignity is the concept embodying the most significant normative weight, how are we to justify the validity of this moral quality? The first path that can be followed (the one actually followed by Darwall) is to classify it as a *fact* that requires no further justification, employing the strategy '*philosophy as defence*': since it belongs to our most considered convictions that human beings possess this status, we need not (and perhaps cannot) expand our argumentation beyond the horizon of this fundamental value. Our critical vigilance cannot rest on this assumption, nor does it need to, since Darwall himself provides a way to penetrate further into the concept: in two of his most central chapters, 'Respect and the Second Person'<sup>170</sup> and 'Dignity and the Second Person: Variations on Fichtean Themes',<sup>171</sup> Darwall establishes dignity as the key concept of his architectonic by citing the

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168 Ibid., 213–242.

169 Ibid., 101.

170 Ibid., 119.

171 Ibid., 243.

definition given by Kant in *The Metaphysics of Morals*: 'A human being regarded as a person, that is as a subject of a morally practical reason, ... possesses a dignity ... by which he exacts respect from all other rational beings in the world.'<sup>172</sup>

In this passage, it is clear that what makes us worthy of respect is our noumenal nature that allows us to transcend our inclinations and guide our will autonomously. According to the reciprocity thesis, however, to legislate autonomously is analytically equivalent to deliberating and acting in accordance with the moral law, which, on Kant's account, resides within us as a fact of reason. May we simplify the schema? We possess the status of dignity as noumenal beings only because the moral law is a fact. In view of this, dignity, the fundamental tenet of Darwall's justification, already presupposes the validity of the law it is meant to ground. We therefore have a vicious circle, for what needs to be proved is already smuggled into the premises of Darwall's argument. The intersubjective encounter he envisions takes place between agents who are autopoised, sovereign, already embodying a relation to the moral law, whereas it should be precisely their exposure to one another that leads to the formation of the rational principle. Even though the American philosopher makes a bold philosophical move by giving prominence to the intersubjective nature of morality, he proves reluctant to escape the outline of transcendental subjectivity and sketch an encounter constructive of responsibility and subjectivity (since, as we have tried to expose from the beginning of this text, it is responsibility that constitutes the very subjective material). Darwall's attempt to ground the moral law from the second-person standpoint fails – vindication of morality and subjectivity remains unsettled.

If Darwall's second-personal interpretation of the fact of reason fails, it remains unclear why it is employed as a moment in our argumentative line. The answer is pretty straightforward: because he fails better than Kant. Because he fails more revealingly, in the sense that

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172 Kant, *The Metaphysics of Morals*, 6:435.



he (temporarily) throws the Kantian blind spot into relief,<sup>173</sup> pointing to an interpersonal encounter as the cryptic groundwork of morality. Because he fails more inspiringly, to the extent that the impossibility of grounding morality in the relation between sovereign, autopoised agents sharing a symmetrical status (a status endowed by the presence of the moral law in them) simultaneously opens an exciting possibility: in order to avoid Darwall's circularity, we would need to think of an encounter that lies beyond the vicious circle, outside the totality of practical reason, an encounter not subject to any form, unmediated by the very principles we are seeking to justify. Would we dare to sketch an *ethical experience* prior to and beyond the transcendental predicates of the Enlightenment discourse and the architectonic symmetry they sculpt, an ultra-transcendental, pre-reflective summons that transforms the transcendently denuded self into subject by inscribing responsibility on her skin and mind? Would we dare to abandon all self-sovereignty, to passively surrender to a heteronomous, an-archic touch? That would be *madness*. But it is this madness, this anarchic tête-à-tête, that we will approach in the next chapter through the thought of Emmanuel Levinas and Jacques Derrida.

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173 I am indebted to Prof. Emiliios Christodoulidis for his observation that Darwall's 'better' failure actually constitutes a 'more revealing' failure.

