

**Philosophical Grounding For the Moral Law: In Defense of  
Kant's *Factum der Vernunft* (Fact of Reason)**

***Fundamentos Filosóficos de la Ley Moral: En Defensa del  
Factum der Vernunft de Kant (Hecho de la razón)***

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**Abstract**

In this paper, I first explain Slavoj Žižek's analysis of the grounds of Kant's categorical imperative. I show how Žižek considered the grounds of the categorical imperative to be an example of irrationalism that ran counter to the spirit of the Enlightenment, of which Kant was, ironically, a major proponent. The irrationalism in Kant's moral law makes him vulnerable to moral skepticism. I go on to counter this interpretation by drawing from Kant's practical philosophy. I counter the moral skeptic by arguing from moral phenomenology to the existence of a reason that is independent of empirical motivations and so objectively determining. Whatever is objectively determining logically supersedes that which is based on a particular context. The moral law is rooted in the ontology of an independent faculty of reason capable of issuing a universal law. The union of ontology and ethics means that the categorical imperative is not irrational.

**Keywords**

Žižek, Kant, fact of reason, moral skepticism

**Resumen**

En este documento, primero explico el análisis de Slavoj Žižek sobre los fundamentos del imperativo categórico de Kant. Muestro cómo Žižek consideraba que los fundamentos del imperativo categórico eran un ejemplo de irracionalismo que iba en contra del espíritu de la

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Ilustración, del cual Kant era, irónicamente, un defensor importante. El irracionalismo en la ley moral de Kant lo hace vulnerable al escepticismo moral. Continúo para contrarrestar esta interpretación basándose en la filosofía práctica de Kant. Contrario al escéptico moral argumentando desde la fenomenología moral hasta la existencia de una razón que es independiente de las motivaciones empíricas y que es tan objetivamente determinante. Lo que sea que esté determinando objetivamente, lógicamente, reemplaza lo que se basa en un contexto particular. La ley moral está arraigada en la ontología de una facultad de la razón independiente capaz de emitir una ley universal. La unión de ontología y ética significa que el imperativo categórico no es irracional.

### Palabras Claves

Žižek, Kant, hecho de la razón, escepticismo moral.

## I. Introduction

Slajov Žižek's work, "The Sublime Object of Ideology," is a major philosophical work emerging from the Slovenian Lacanian school (Laclau 1989, p. ix-xi). Though obviously informed by the work of Lacan, Žižek refers broadly to a host of thinkers, including Immanuel Kant (Laclau 1989, p. xii). In this paper, I will focus specifically on Žižek's analysis of Kant's categorical imperative. The categorical imperative is, for Kant, the fundamental moral law that is universally applicable (*KpV* 5:31). Žižek seems to align himself with other very reputable commentators on Kant by affirming the view that there are no philosophical grounds for the categorical imperative. It is simply dogmatically asserted. Kant tells us that the moral law is a *fact of reason* (*KpV* 5:31, 5:47). The only response, therefore, that Kant has to the challenge of a moral skeptic, who would question whether the moral law is more than a mere fiction, is to simply restate that the moral law is a fact of reason. Next, I will refer to the work of two Kant scholars, Karl Ameriks and Allen Wood, who agree that Kant's notion that the fundamental moral law is a fact of reason amounts to mere dogmatism, lacking in philosophical development. I will then develop my own account of how the fundamental moral law in Kant actually does have a philosophical basis—i.e. it is more than just a dogmatic claim.

## II. Grounds for the Categorical Imperative in Žižek

In this section, I will explain in more detail how Žižek understands the epistemic grounding of the categorical imperative. In his analysis of Kant's categorical imperative, Žižek focuses on the fact the categorical imperative is a sort of brute fact of moral philosophy. The categorical imperative has unconditional authority. Its authority is therefore intrinsic to it, and not dependent on something else.

Kant has grand ambitions for his moral philosophy. He seeks not merely provisional rules of prudence, applicable only in certain contexts, or a relativistic acquiescence to the presence of a plurality of conflicting moral views. Instead, Kant seeks

a practical law that has universal application. The existence of practical law, that does not permit exceptions, presupposes something that is valuable in itself. The practical law has to be an implication, in other words, of something the value of which is absolute, and so does not vary according to context. That which has absolute value, for Kant, is rational nature. The fact that rational nature has absolute value means that one can never treat it as a means. To treat rational nature as a means would be to violate its absolute value—one would, in this case, be treating rational nature as a mere tool to obtain something that is valued more highly. So, the implication of the absolute value of one's rational nature is the practical law that one can never treat rational nature as a means. In the formulation of this practical law, Kant conflates rational nature with humanity, since a rational nature is an essential and uniquely differentiating feature of humanity:

So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means. (*GMS* 4:428-429)

The fact that Kant deals in absolutes in his formulation of the moral law—a formulation which presupposes the existence of *absolute* value, and issues in a practical *law* that does not permit exception—is what drives Žižek's to make the accusation of dogmatism. Žižek describes Kant's moral philosophy as formalistic. Seeing as the moral law is based on that which has absolute value—i.e. rational nature—the moral law's power to compel is intrinsic to it. The intrinsic, unconditional worth of rational nature leads to the stipulation that we are to always respect rational nature as an end, and never use it as a means to some other end. We are to follow this practical law regardless of our circumstances, and regardless of the outcome of following it. To try to argue for exceptions, and to make obedience to the practical law conditional on some other factor, would be to deny the absolute foundations on which the practical law is built. This is, then, what Žižek means by formalism: it is the form of the law that compels obedience, not some possible outcome of obedience to the law. We are to follow the practical law *because it is the law* (Žižek 1989, p. 80). In other words, Kantian formalism consists in a stark dualism between the moral law and associated incentives that might lead us to behave in accordance with the moral law. The absolute authority of the moral law gives it an intrinsic power, and so forces one to disregard extrinsic incentives, which are only contingently associated with following the moral law.

The formalism of Kant's moral philosophy, according to Žižek, is essential to its irrationality. Absolute value, and unexceptionable practical laws, do not permit derivation from higher principles. If that which is alleged to have absolute value in fact derives its value from something else, it does not really have absolute value. Similarly, if a practical law alleged to be unexceptionable is derived from another law, it actually is *exceptionable* insofar as it would not have universality were it not for the existence of the law from which it is derived. Kant's practical law is built in such a way that, at some point, we have to identify certain principles as axiomatic. These principles are true, that is, *because they are*

*true*. To attempt to derive them from other principles would be to compromise the absoluteness that Kant seeks in his formulation of the moral law.

Žižek sees this strategy of grounding one's moral philosophy in brute absolute facts as a form of irrationalism. He writes that the

categorical imperative is precisely a Law which has a necessary, unconditional authority, *without being true*: it is—in Kant's own words—a kind of 'transcendental fact,' a given fact the truth of which cannot be theoretically demonstrated; but its unconditional validity should nonetheless be presupposed for our moral activity to have any sense. (Žižek 1989, 81)

Kant, the way Žižek interprets him, ends up in irrational formalism in virtue of the methodology by which he tries to arrive at universal moral principles. I have already noted that a universal moral principle cannot follow from that which has only conditional worth. Objects of desire, for example, have conditional worth, since their worth is dependent on the presence of the desire for them. However, it is precisely in virtue of appeals to things of conditional worth that Kant's moral philosophy can escape its irrational formalism. One might justify obedience to the practical law by pointing to some desirable end one might obtain by obedience. For instance, one might argue that one should obey the moral law because it will improve one's reputation. But, reputation is an object of conditional worth. If there is no one present to desire a good reputation, it has no value. Reputation, at least, is not something to which we can assign an intrinsic positive value. A good reputation may, in fact, be morally suspect, insofar as person with ill-intentions may cultivate a good reputation in order to escape scrutiny. A good reputation is an object of conditional worth just like intelligence, or personal charm, which may be abused by someone with a malign will (*GMS* 4:393). Since goods like reputation and intelligence have only conditional worth, the only way to reach that which has unconditional value is to take the will in isolation from any objects it may have, which only have conditional worth. It is the will in isolation from any conditionally valuable objects, and therefore obedient to the law *for its own sake*, that is the only proper location for unconditional value (*GMS* 4:394). The problem for a thinker like Žižek, though, is that demanding obedience to the law for its own sake, in order to secure some vaunted unconditional status, precludes any chance of justifying such obedience, and so amounts to a form of irrationalism.

Justification of obedience, which would consist in an appeal to some object of conditional worth, would undermine the universality of the moral law. Another way of putting this is that only an *a priori* law can be universal—a priori means independent of any experience. Experience consists in objects that have conditional worth, since whatever is in experience are contingent sets of particular circumstances.

A universal moral law, then, has to reject any sort of justification by appeal to particular circumstances in order to remain universal. By dispensing with such justification, though, the moral law is merely axiomatic, a fundamental first premise of practical reasoning that is simply assumed as true. This accounts for Žižek's interpretation

of the Kantian moral law as truth-less and nonsensical (Žižek 1989, p. 81). Indeed, Kant himself speaks in ways that lend some credence to Žižek's interpretation. Kant describes the moral law as a "fact of reason." One does not have to justify or defend what is obviously and simply a fact. Kant writes,

Consciousness of this fundamental law may be called a fact of reason because one cannot reason it out from antecedent data of reason...and because it instead forces itself upon us of itself as a synthetic a priori proposition that is not based on any intuition..." (GMS 5:31)

Ultimately, an objection to the claim that there is an axiomatic moral law, that dispenses with any justificatory data, is that the claim is vulnerable to moral skepticism. What is to stop someone from denying another person's perception of what the axiomatic moral law is? This perception is put forth as axiomatic and so groundless. If there are differing perceptions with respect to the nature of the axiomatic moral law, they can only end in permanent impasse. Without grounds, there can be no adjudication.

Žižek's questions about the grounding of the categorical imperative, which lead to worries about moral skepticism, are echoed and even more precisely framed in Lewis White Beck's 1960 essay, "Das Faktum Der Vernunft: Zur Rechtfertigungsproblematik In Der Ethik." In this essay, Beck distinguishes between internal and external forms of justification. Internal forms of justification draw upon the resources internal to a certain conceptual space. For instance, one may be confronted with the ethical question of whether or not one should tell the truth. This question can be adjudicated according to some foundational moral principle that is internal to the conceptual space of ethical questions. For instance, one might appeal to a principle of utility, that mandates seeking the greatest good for the greatest number, to resolve the question of whether or not one should tell the truth. In the case of Kant, of course, one would appeal to the categorical imperative to resolve this question, since the categorical imperative serves as the supreme moral dictate in light of which all particular maxims ought to be evaluated. These foundational ethical principles are internal to the universe of discourse involving particular ethical questions. Beck points out, however, that a problem of justification arises in ethics when we ask for justification of foundational ethical principles like the categorical imperative. It may be the case that we should tell the truth because of the categorical imperative, but we may still ask for justification for obedience to the categorical imperative itself. In seeking justification of the categorical imperative, we venture outside of the conceptual space of moral questions, towards the very grounding of this conceptual space. We cannot ground the categorical imperative in some fact, because it seems as though we can never derive an evaluative principle from a mere fact. It seems impossible, that is, to identify an entailment relationship between what is the case and what should be the case. If we appeal to an even higher evaluative principle to justify the categorical imperative, then we have to seek some external justification for this higher principle as well. Žižek and Beck, then, note a similar problem related to the seeming groundlessness of the categorical imperative in Kant. If we are to obey the categorical imperatives with entirely pure motives, because it is our duty to

do so, then it seems our obedience is groundless, because there can be nothing external to the categorical imperative that justifies it.

### III. Agreement with Other Interpretations of Kant

In this section, I will show how Žižek's interpretation of Kant's moral law is far from singular in contemporary Kantian scholarship. Karl Ameriks, for instance, states, of Kant, that there are only some technical oddities that prevent it from being an intuitionistic system (Ameriks 1982, p. 218). Intuitionism about the moral law consists in both a metaphysical and an epistemological thesis. The metaphysical thesis is that there are evaluative properties, indicating the goodness or badness of a state of affairs, that are not reducible to naturalistic properties. These properties are also objective, attaching to the object and so independent of any subjective feelings. The epistemological thesis of intuitionism is that we are able to have direct perception of these evaluative properties, even though we cannot access them through any of our five senses, since they are not naturalistic. So, we do not need empirical calculations—e.g. calculation of pleasure—to identify evaluative properties (Huemer 2005, p. 6). Ameriks describes Kant's moral philosophy as embracing a

non-naturalistic ultimacy that is found explicitly and typically in intuitionistic systems.  
(Ameriks 1982, 218)

These non-naturalistic facts are ultimate insofar as rightness and wrongness just characterize an act as properties of it—it is not the case that we consider the acts to be right or wrong via a reasoning process, and/or through appeal to sources of evidence independent of the act. Instead, we perceive the evaluative property as attaching to the act *directly*. Also, it is important to note that, in intuitionism, the property of rightness or wrongness has to be non-natural. How could rightness or wrongness characterize an act as an empirical property? Rightness or wrongness are qualities that are not—at least not obviously—measurable, quantifiable, or even identifiable with some observable property.

Seeing as moral intuitionism dispenses with empirical evidence and even reasoning in establishing moral principles, it is vulnerable to the charge of dogmatism. The only argument for moral principles in moral intuitionism is the discernment of them, a process which is mysterious, since moral properties are non-empirical.

There is an agreement of sorts, then, between the interpretation of Žižek and that of Ameriks. Both see the fact of reason in Kant as just having unconditional authority—the unconditional authority does not have grounds in empirical data or reasoning (*KpV* 5:47).

Allen Wood, another respected Kant scholar, also is critical of Kant's proposal that the moral law is a fact of reason. Wood also thinks that the doctrine of the fact of reason lacks a sufficient answer to the moral skeptic. A moral skeptic might deny the authority of the moral law. There may be a moral law present to consciousness, but perhaps it is a mere delusion, an error that prevents us from behaving freely. Seeing as the moral law is just a

fact of reason, and cannot be proved by any deduction, there is no answer to the moral skeptic. The only possible response is “moralistic bluster”—that is, the dogmatic insistence that the moral law is a fact (Wood 2008, p. 135).

In the following section, I will defend Kant’s doctrine of the fact of reason against these charges of dogmatism.

#### **IV. Grounds for the Categorical Imperative**

In this section, I will reveal a method in Kant’s practical philosophy for grounding the moral law that differs from the mere dogmatic assertion one finds in the interpretations of Žižek, Ameriks, and Wood. The method begins with a distinction between empirical and formal motivations.<sup>1</sup> Empirical motivations are driven by contextual factors in a particular situation. Formal motivations, on the other hand, are independent of any contextual factors in a particular situation. One acts on a formal motivation when one acts out of obedience to a moral rule that has universal applicability. Since the moral rule has universal applicability, it cannot include in its formulation any particular contextual factors. So, for example, one may remain placid in traffic because one should always treat other people the way one would wish to be treated, and not because of a specific advantage one might obtain through remaining placid (*KpV* 5:27).

Kant is firm that moral laws can only be formal motivations. Empirical motivations cannot ground moral laws because they have to do only with particular situations. Even a law to the effect that one should always pursue one’s own happiness fails to establish itself as a law of universal applicability. One’s own happiness is grounded in one’s particular context. Far from establishing a universal moral law, grounding a principle on individual pursuit of happiness would lead to chaotic fragmentation. Since each individual’s happiness is differentiated according to subjective factors peculiar to him or her, making happiness central to a practical principle would lead to infinite variation according to the particular situation of each individual. Speaking of a practical law based on happiness, Kant writes,

For then the will of all has not one and the same object but each has his own (his own welfare), which can indeed happen to accord with the purposes of others who are likewise pursuing their own but which is far from sufficing for a law because the exceptions that one is warranted in making upon occasion are endless and cannot be determinately embraced in a universal rule. (*GMS* 5:28)

Real lawfulness, therefore, does not permit any admixture of empirical motivations. Empirical motivations inevitably introduce particular contextual factors that compromise

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<sup>1</sup> I am using the word ‘formal’ here in the same sense as I used it when I described how Žižek criticized Kant’s moral philosophy as formalistic. Someone with a formal motivation to adhere to one’s duty so adheres only because it is one’s duty. Formal motivations do not include factors in one’s situation that may incentivize one’s adherence to duty.

the universality of the moral law. Formal motivations, on the other hand, *can* ground a universal moral law, since formal motivations are independent of empirical factors.

It is notable, at this point, that Kant and Žižek have opposite views on the relationship between formalism and justification. For Kant, it is only by appealing to formal motivations, entirely grounded in reason, that one can justify a moral law. For Žižek, though, formalism undermines justification. Formalism requires an obedience to the law because it is the law. Formalism cannot permit any appeal to empirical benefits that might accrue from following the law. But, formalism for Kant is actually a bulwark against moral skepticism, or at least a weak relativism. It is an insistence on formal motivations that functions to save a moral law from being distorted and fragmented according to subjective peculiarities of different individuals. If, for instance, we are to be moral because it makes us happy, morality becomes subject to the different possible definitions of happiness that vary by individual.

Thought experiments show that, in the midst of empirical motivations, there are also motivations that are purely formal and rational. Kant asks us to imagine someone who has been asked by a prince to provide false testimony against a good man, or face death by hanging. This individual, Kant argues, would admit that it is possible for him to refuse to provide false testimony, even if it meant he would end up dead (*KpV* 5:30). This thought experiment provides evidence of a rational principle that has the power to motivate—a purely formal principle that contains no admixture of empirical factors. The individual in the thought experiment feels called to tell the truth *because he ought to*, and not because of any gain he might accrue. Kant's reasoning is that all empirical motivations push one towards providing the false testimony. Even so, all would acknowledge that there is a powerful motivation to tell the truth. Since this motivation flies in the face of one's empirical motivations—telling the truth could only lead to death—it must be purely formal (*KpV* 5:30).

The only way to account for this phenomenon, according to Kant, is by assuming that there is a rational principle at the basis of our behavior that is independent of all empirical motivations. In other words, we are to assume that there is *pure practical reason*, i.e. practical reason which has an aspect that is independent of experience, and so independent of the arena of empirical motivations.

For, pure reason, *practical of itself*, is here immediately lawgiving. (*GMS* 5:31)

Pure practical reason is able to issue an imperative to the individual in the thought experiment that is compelling independently of any empirical objectives that individual might obtain.

The idea that such a rational principle, which is the source of an unconditional imperative that transcends all empirical factors, exists, is consistent with Kant's transcendental idealism. Kant's transcendental idealism divides the human person into two aspects: an empirical aspect, which figures in experience, and an intelligible aspect, which cannot figure in experience. The fact that we cognize the human person through structures



of consciousness that we bring to cognition means that there is an aspect of it, i.e. the intelligible aspect, that is unavailable to our cognition. We can never know what the human person is in itself, apart from the structures of consciousness, because we can only experience through these structures of consciousness. Transcendental idealism, with its distinction between the intelligible and empirical aspects of the person, nicely frames the moral phenomenology in which there is a rational principle that is independent of any empirical motivation. The rational principle is able to be independent of empirical motivations, which figure in our experience, because it is part of a layer of reality that is permanently independent of our experience, in which empirical motivations exclusively figure (*GMS* 4:452).

All maxims—i.e. principles upon which we act in a particular situation—therefore must come under examination from this independent rational principle. Individual maxims mediate between empirical factors in particular situations and the rational principle that is independent of all empirical factors and so serves as the “supreme maxim” (*GMS* 5:31).

There is a logic, therefore, to which the consideration of individual maxims is subject that will make it clear why accusations against Kant of dogmatism are not fair. The logic has to do again with the distinction between formal and empirical motivations. For a maxim to be truly formal, it must be a law for all rational beings, and so serve as the supreme maxim. Having abstracted from all empirical motivations, one is dealing with reason in its pure state. If a maxim truly is rooted in reason in its pure state, then there is no reason why the maxim is not applicable to all other rational beings. It is the inclusion of empirical motivations that make a maxim peculiarly applicable to only one individual, or a group of individuals. The rational or formal motivations of one’s behavior, then, have a corollary call to objectivity and universality. If a maxim is not objectively applicable—i.e. it applies regardless of the empirical circumstances in which one finds oneself—then it is not really rationally motivated. A maxim that is not objectively/universally applicable must be compromised in some way by the admixture of some empirical, non-rational, motivation.

Empirically-based maxims are, in fact, logically incoherent in so far as they are not generalizable. The inclusion of some empirical objectives makes empirically-based maxims perspective-dependent in their validity. For instance, if the individual in the thought experiment provides false testimony, he would escape with his life. However, the reputation of an honorable man would be ruined. If one were to think of the situation from the perspective of the honorable man, one would demand honest, not false, testimony. By rooting one’s maxims in particular empirical circumstances, one ends up in logical incoherence that involves an ambiguous application depending on perspective.

On the other hand, by rooting a maxim in reason, independently of any empirical circumstance, one develops a maxim that has objective applicability. Telling the truth, in the situation involving the honorable man and the prince, is one’s duty because it is consistent with what can be universally affirmed. A purely formal law, rooted in reason, is a universal law and the supreme maxim because by definition it is independent of any

particular empirical circumstances. Empirical motivations cannot be the basis of establishing one's duty, since empirical motivations arise only from particular contexts. Any maxims arising from particular contexts cannot be shared by those not in those particular contexts.

So, from the experience of situations in which we are aware of a motivation that is purely rational and so independent of any empirical circumstances, and the fact that any purely rational/formal maxim is objectively applicable, we can formulate a fundamental moral law. This moral law is fundamental insofar as it applies to any situation which involves a rational agent.

So act that the maxim of your will could always hold at the same time as a principle in the giving of a universal law. (*GMS* 5:30)

There is a rational motivation, then, at the basis of our behavior that is call to universalizability. This is the categorical imperative—a call to be motivated by an objectively applicable rule. The categorical imperative is purely formal, insofar as it does not depend on any empirical motivations, peculiar to specific circumstances. The categorical imperative, in fact, represents the fulfillment of any purely formal motivation. The categorical imperative represents the *logical entailment of any formal motivation*. To be truly formal, a maxim has to be universal, since a formal maxim has to abstract from any empirical considerations that variously characterize different individuals. The categorical imperative is therefore the logical entailment of the pure practical reason of the human person, which it has in virtue of an intelligible aspect that is independent of any empirical circumstances. The categorical imperative is the demand of pure practical reason to fulfill its purity, so to speak, in the sense that it issues an injunction that transcends all empirical contextual factors.

The fact that pure practical reason is by nature capable of issuing universally applicable moral dictates gives it a special moral status. Accordingly, the law that we are to act only on maxims that are universalizable can be reformulated in the form of a ban on treating any rational being as a means, and not as an end (*GMS* 4:428). In other words, we are not to exploit another person for an objective of ours, but instead treat the welfare of the person as itself an intrinsically worthy objective. The rational nature is of absolute worth. That which is a mere object of desire has only conditional worth, since it lacks the worth once the desire is gone. The distinction between empirical and formal motivations undergirds the conditionality of the worth of objects of desire and the absolute worth of rational nature. Objects of desire figure in empirical motivations. Objects of desire cannot figure in formal motivations which abstract from all empirical content. Since it is one's rational nature that can impart value absolutely—it alone has the power to generate universal rules that apply independently of any empirical circumstances—one cannot treat it as a means. To treat a rational nature as a means is to subordinate to an object of desire, which can only have conditional worth, that which alone can generate absolute worth. To use, for example, a human being as a slave is to subordinate his or her rational nature for

the sake of some object of desire—i.e. money—which only has conditional worth (*GMS* 4:428).

Again, in the second formulation of the categorical imperative, the imperative is not dogmatically issued but has a logical basis that is in accord with a distinctive ontology of the person. Rational nature, which transcendental idealism tells us is independent of the empirical aspect of the person, is the only possible source of unconditional worth. It alone can issue rules that transcend any empirical factors peculiar to an individual. We therefore cannot subordinate rational nature, which is the source of an unconditional value, to some empirical objective, which only has conditional worth. The upshot of my analysis is that there is a marriage of ontology and ethics that grounds the fact of reason, and redeems it from the accusations of circular arbitrariness with which Žižek, and other commentators, smear it. It is the rational nature of the person which issues an objectively valid principle that transcends empirical motives and external pressures that affect the person. The rational nature is able to issue such a principle because it is independent of these empirical objectives and the causal network that unites empirical motivations and forces. To treat a human being, i.e. a rational being, as a means to some empirical objective, therefore, is to subordinate something of absolute worth to what only can have conditional worth. It is also to surrender the privileged independence from empirical motives which is unique to the rational nature of human beings. Surrendering to empirical motives means surrendering rational agency itself. It is the nature, therefore, of rational agency (an ontological position) that makes it wrong to treat it as a means (an ethical position).<sup>2</sup>

At this point, a distinction can be established between Žižek's interpretation of the categorical imperative, and the interpretation I have developed. In Žižek's interpretation of the categorical imperative, it has an unconditional authority that is nevertheless nonsensical. This authority is nonsensical because the categorical imperative is purely formal. What Žižek means by formalism is that the only motive for obedience to the categorical imperative is the categorical imperative itself. There is no justification for following the categorical imperative other than an empty circular one.

The moral Law is obscene in so far as it is its form itself which functions as a motivating force driving us to obey its command—that is, in so far as we obey moral Law because it is law...(Žižek 1989, 81).

The categorical imperative, for Žižek and commentators like Ameriks and Wood, is understood in an intuitionist manner. It is based in a property of acts, that is merely perceived through some mysterious non-sensible mode of perception. Evaluative properties are not justified, but simply happen to characterize certain acts.

<sup>2</sup> See Dieter Heinrich's piece, "Der Begriffe der sittlichen Einsicht und Kants Lehre vom Faktum der Vernunft," for more on the relationship between ontology and ethics. Heinrich traces the relationship between these subdisciplines of philosophy back to the ancient Greeks. Dieter Heinrich, "Der Begriffe der sittlichen Einsicht und Kants Lehre vom Faktum der Vernunft," in *Kant: Zur Deutung seiner Theorie von Erkennen und Handeln*, ed. G. Prauss, (Köln: Kiepenhauer and Witsch, 1973): 223-256.

In my interpretation, though, of the Kantian moral law, its grounds are not merely circular and dogmatic, and we can account for it in a more sophisticated way than the seemingly arbitrary attribution of intuitionistic evaluative properties. The argument that concludes with the moral law begins with a fact of moral psychology, namely, that we experience a principle in our moral decisions that is independent of any empirical factors. The way to account for this call that is independent of any empirical motivations is to posit an independent reason, i.e. *pure* practical reason. The independent reason is principled. The empirical circumstances in which one finds oneself do not sway that which reason affirms. It is of the essence of pure practical reason, in fact, not to take directions from empirical circumstances that are independent of it, and which moreover are non-rational (e.g. a mere impulse is non-rational). Instead, reason must be the author of its own judgments, otherwise it would be subject to the shifting pressures of empirical circumstances that would lead it to contradiction and so to violate its nature (*GMS* 4:448).

At the fundamental level of our moral experience, then, is a rational nature that generates universal principles. Again, these principles are not answerable to the shifting empirical circumstances in which one may happen to find oneself. Abstracting, then, from all empirical circumstances leaves us with this *call for consistency*. The categorical imperative is a call for consistency. It has no empirical content. The categorical imperative does not recommend any concrete objective—it is not a call for universal happiness, pleasure, avoidance of harm, etc. It merely mandates that one's maxims be universalizable. Since one's rational nature can rise above any change in one's empirical circumstances, such that it upholds duty even if all empirical motivations go against it, one's rational nature has to have built into it a mandate for consistency. Otherwise, one's rational nature would shift according to changing empirical circumstances. The call for consistency that is the categorical imperative is the very extension of reason's non-empirical nature.

In sum, there is an argument for the fact of reason, i.e. the moral law, that takes the form of an inference to the best explanation. We are aware of a call to behave in ways that are wholly independent of empirical circumstances. We can assume, therefore, to account for this call of conscience, an independent, principled reason.<sup>3</sup> Reason has to be principled, otherwise it would sway according to empirical circumstances. Having abstracted all empirical circumstances, there must be, as part of the nature of reason, a mandate for universalizability. Universalizability is a corollary of abstraction from empirical circumstance. If I am abstracting from empirical circumstances, then I am making a universal rule that applies regardless of empirical circumstances. The categorical imperative is simply a call for the rational principle to realize itself, in the form of a universal principle that recognizes its independence from empirical factors.

In sum, the best way to explain our experience of a call of conscience that goes against all empirical motivations is to posit the presence of an independent and autonomous rational principle within us. The categorical imperative is a mandate issued by

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<sup>3</sup> Kant actually infers the independence, or autonomy, of reason from the moral law. The man who thinks he should tell the truth in spite of the prince's threat to execute "cognizes freedom within him, which, without the moral law, would have remained unknown to him." (*KpV* 5:30).

this autonomous rational principle that embodies the independence of the rational principle from empirical circumstances.

To surrender one's reason to empirical circumstances is, in fact, to surrender one's capacity to change empirical circumstances. To surrender one's reason is to concede a privileged place in the context of empirical circumstances. A moral imperative, therefore, emerges from the fact that to allow oneself to be subject to whatever impulses one may have, and so fall into contradictions that offend against reason's mandate to universalizability, amounts to a concession of one's rational agency (Korsgaard 1996, p. 168-169). Again, the categorical imperative emerges from the nature of pure practical reason, which as an independent faculty resists assimilation into its empirical context which would limit it to maxims that have only particular, and not universal, validity. The categorical imperative, then, is really a call for pure practical reason to protect its own nature as an independent faculty.

The mandate of a pure practical reason, that is independent of any empirical context, supersedes any judgment that is based on a certain empirical context. By its nature, pure practical reason issues rules of universal applicability, because it is not tied to any empirical context. Judgments having to do with an empirical context are, by their nature, only of limited relevance. The moral imperative of pure practical reason, therefore, arises from the logical principle that context-independence always trumps context-dependence (Sussman 2008, p. 76). That which is universally true is more logically fundamental than that which is only contextually true.

There is the further consideration that one's rationality is corollary to one's autonomy. To be rational, one cannot be subject to mere empirical motivations—impulses, desires, etc. A being entirely at the mercy of empirical motivations is entirely subject to non-rational drives. To be rational is to be able to exert some pushback against these non-rational drives, and so rationality is essential to one's autonomy.

To treat another rational being as a means is to hinder their autonomy. Such treatment subordinates the rationality of the exploited being to some empirical motive. In a case of exploitation, then, the autonomous exercise of one rationality hinders the autonomous exercise of another. The negation of autonomy by autonomy is always logically superseded by the exercise of autonomy that respects the autonomy of others. This is because the former presupposes a maxim that can only have limited validity. The expansion of the exploiter's autonomy devours the autonomy of another, and so in exploitative situations autonomy is both affirmed and denied. Exercise of autonomy that respects the autonomy of others, on the other hand, can have objective validity, since it consistently affirms autonomy. Objectively valid presuppositions always trump maxims of limited, or subjective, validity, when considering logical status (Guyer 2007. 450-451).

Rather than a dogmatic insistence on some abstract principle that is contrary to the spirit of the Enlightenment, then, Kant's moral imperative actually represents the fulfillment of the Enlightenment's guardianship over human freedom. The moral imperative upholds the autonomous rational nature of the individual over all conditional

empirical objectives. We are not to subjugate another autonomous human being, because this involves an inappropriate subordination of that which issues objectively valid principles (i.e. autonomous human reason, which is distinct from empirical situations) to that which grounds only subjectively valid principles (i.e. principles that pertain only to a limited set of contingent circumstances). The centrality of human freedom to the moral imperative in Kant means that Kant is more of a so-called value theorist—i.e. his moral philosophy is centrally concerned with human value—than a moral theorist who emphasized a merely formalist devotion to moral principles that are detached from any source of human value (Pippin 2001, 387). That is, rather than a moral imperative that is predicated on an abstract motivation to conform to a merely formal rule on maxims that is detached from any account of the human good or human flourishing, the Kantian moral imperative is centrally concerned with protecting the *value* of human freedom.

Kant's fact of reason is not merely the byproduct of dogmatic circularity—i.e. the moral law is the law because it is the law. Instead, the fact of reason arises from a careful analysis of the faculties involved in moral decision-making. There is a way, then, for the Kantian moral philosophy to respond to the challenge of the moral skeptic, beyond mere bluster. A substantive response can be provided to those who claim that the fact of reason is

an empty delusion and a chimerical concept. (*GMS* 4:402)

The moral skeptic would find it difficult to deny the near universal—possible exceptions are people with mental handicaps—experience of a moral mandate that is independent any empirical motivations. Given this experience, it makes sense to posit that reason, the faculty from which this moral mandate emerges, is independent or autonomous. At the very least, we must say that we act *as if* reason is autonomous. Though it would go against Kantian epistemological limits to posit that we *are* free, it makes sense to claim that we act as if we are free. We conceive of ourselves as being able to make rational judgments that are not subject to shifting empirical circumstances. For example, though one is threatened with death if one does not spread a malicious lie, one would still, along with external observers, conceive of oneself as able to tell the truth in spite of the alignment of every empirical motive towards preserving one's life. To claim that empirical motivations are fully in charge, and that whatever rationality we may have can be led into contradiction because it is subject to shifting empirical pressures, is to deny the basic phenomenology of moral decision-making. This phenomenology indicates that we are free, and so our moral reasoning must be such as to appeal to a free being—i.e. universal rules that are independent of any empirical context and so objectively valid for any rational agent.

The independence of the rational principle means that it is not swayed by any empirical circumstances that may or may not happen to be present. The rational principle is objectively determining, precisely because it does not emerge from any circumstance that is peculiar to a particular person or group of people. It is of the essence of rationality to mandate consistency. A rationality that is schizophrenic, i.e. affirming contradictions, is not really rationality. At the bottom of every experience of moral decision-making, therefore, is a mandate for universalizability that is built into the nature of rationality and

which allows for the formulation of imperatives that are independent of any empirical context.

The moral skeptic cannot merely shrug off these points. The moral skeptic cannot merely abandon, as something of limited relevance, a mandate that stems from his or her nature as a rational agent. Donald Regan argues that Kant does not sufficiently justify the idea that our rational nature has value. Seen in light of my arguments in this paper, Regan's point would have to accept the radical idea that universally valid claims are interchangeable and have equal logical status to conditionally valid claims. Regan would also have to defend the equally radical idea that self-conscious deliberative agency, which seeks to square particular maxims with a call for universal validity, is indistinguishable in terms of value from blind surrender to empirical impulses (Regan 2002, 267). To abandon the universal principle of one's rational nature, in the name of some non-rational empirical motive, is actually to surrender one's rational agency to a mere impulse that is blind with respect any call to universalization. A nihilist might argue that surrendering one's rational agency and blind impulse are, in terms of value, indistinguishable. But, it is also the case that a moral philosophy that predicates itself on a distinction between rational agency and blind impulse, and makes protection of the former central to its development of moral principles, is not dogmatic. The idea that rational agency and blind impulse are evaluatively indistinguishable is a radical claim. This idea would entail that an individual on a drunken rampage, or having an acute psychotic episode, is evaluatively indistinguishable from a bioethicist in a hospital, or a philosopher writing about the ethics of divorce. If there is dogmatism in grounding the fact of reason, there is no more dogmatism than in any human epistemological achievement, the finitude of which mandates the presence of axiomatic first principles. To return to Beck's problem of external justification of the foundational principle of an ethical system, I have shown how the categorical imperative rests on foundational logical and evaluative principles. Objectively valid judgments supersede those that are subjectively valid, and deliberate agency has higher value than blind impulse. We can ask for justification of even these fundamental principles, but the fact that a moral theory relies on them does not make it dogmatic. Similarly, a proof in geometry is not dogmatic because it relies on fundamental definitions and principles, such as the idea that the angles of a triangle add up to one hundred and eighty degrees or that a line is the shortest distance between two points.

One might account for the accusation of dogmatism that Žižek levels at Kant by noting that he fails to appreciate the kind of argument Kant is using. Žižek notes that Kant, in his doctrine of the fact of reason, strayed from the spirit of the Enlightenment. He writes,

The ultimate paradox of Kant is this priority of practical over theoretical reason: we can free ourselves of external social constraints and achieve the maturity proper to the autonomous enlightened subject precisely by submitting to the 'irrational' compulsion of the categorical imperative. (Žižek 1989, 81)

In other words, the moment we begin to legislate maxims for our own behavior, rather than accept the norms of our society, we surrender to a new kind of irrationality. In realizing ourselves as agents who legislate maxims from our own reason, we begin to act from a moral law that compels obedience not because of any consequence associated with it but because of itself—i.e. its own intrinsic and mysterious power to compel.

If one's view of Enlightenment thinking is limited to evidence-based inductive reasoning—i.e. gathering observational data and then making generalizations based on this data—then the doctrine of the fact of reason surely does introduce an element of irrationalism that departs from the spirit of the Enlightenment. The argument I have developed, from the work of Kant, for the fact of reason, does not rely on the sort of scrupulous gathering of empirical data, and the formation of beliefs that is strictly proportioned to this empirical data, that we find in the methodology, for instance, of Francis Bacon (Bacon 1995, p. 39). An empirical, or a posteriori, argument for the moral law would rely on observed psychological phenomena, and deal with contingent features of human psychology, rather than features that are necessarily associated with rationality (Guyer 1989, p. 55). It is worth noting, though, that even an empirical argument for the moral law would have to presuppose axiomatic value claims. If, for instance, one were to measure moral claims in light of the empirical fact of the amount of happiness they produced, this sort of measurement would presuppose the value of human happiness.

If the claim that the authority of the categorical imperative is nonsensical and dogmatic means that it lacks the sort of justification characteristic of an empirical argument, then this claim is correct. Žižek claims that the mandate of the categorical imperative is purely formal—that is, we are to obey the categorical imperative because it is the law, and not for reasons separate from the law itself (Žižek 1989, 82). An empirical argument would supply these reasons—for instance, by noting a correlation between obedience to the moral law and level of social cohesion.

But rejecting the categorical imperative because its authority is presented in a way that is purely formal fails to take into account the possibility of an argument that is not empirical. The argument I developed for the moral law did not deal with observed psychological facts that occur in specific situations, like the level of happiness or social cohesion. The presence of a call to duty that goes against empirical motivations is presented as a universal feature of human moral phenomenology. The fact that rationality, having abstracted all empirical motivations, prescribes a rule that is independent of any particular empirical context and so universal, is also not a mere observed feature of human psychology in a particular situation. These are not contingent matters, but are necessary features rooted in the very nature of reason. Reason cannot be reason if it is merely subject to whatever empirical motivations happen to be in play. If reason involves a recognition of necessary and universal logical truths, then it has to transcend empirical motivations, which align with logical truths only haphazardly. So, instead of collecting empirical observations to ground the moral law, Kant grounds the moral in an a priori way in the nature of rationality (*GMS* 4:412).



Though there is no empirical argument for the fact of reason, then, there is a philosophical and a priori, i.e. independent of empirical observation, argument available. In fact, my argument for the fact of reason can redeem Kant from the distortions of a certain interpretation of his moral theory that is vulnerable to objections of formalism and rigorism. In this distorted interpretation, obedience to the moral law is justified merely insofar as it conforms to a dry and technical universalizability test, without regard to any substantive account of human value.<sup>4</sup> We are to conform, moreover, to the dry logical demand of universalizability regardless of the particular contours of our individual situation. The moral law, in this distorted interpretation of Kant's moral philosophy, consists in a merely logical exercise that is supposed to serve as our primary motivation, regardless of any concerns about human happiness or flourishing. My account, though, shows instead that Kant's grounding of the moral imperative is centrally concerned with a substantive account of human value. The moral imperative represents, in my interpretation, a call to protect one's rational nature, and the rational nature of other human beings. The Kantian moral imperative gives a privileged place to reason's call to universalize its own judgments over the shifting and contradictory pressures of empirical motivations. We are not to subordinate our rational nature, or that of someone else, to some empirical objective, because it is rational nature that is the source of universal and objective worth, whereas empirical objectives can only have conditional worth. We are not to commit suicide, for instance, because suicide annihilates our rational nature for the sake of some empirical end, i.e. tranquility and/or cessation of pain. Suicide, then, gives a false priority to what has only conditional worth (cessation of pain is not an absolute good) over one's rational faculty, which alone can ground that which has unconditional worth (i.e. a supreme moral principle that transcends all empirical circumstances). I have shown, then, a way in which Kant's moral theory is *not* a merely abstract exercise in logic that is completely detached from a substantive account of human value. Instead, this moral theory is centrally predicated on an account of the value of the rational principle in human nature. This rational principle is, as I have stated, synonymous with human autonomy.

## V. Conclusion

In this paper, I explained Žižek's view of Kant's moral law. I then probed Kant's work on moral philosophy and identified there a philosophical, but not an empirical, argument for the fact of reason. The fact of reason consists in a moral imperative that is grounded in the idea that one's rational nature/autonomy ought to protect itself from being controlled by empirical motivations. One's rational nature, as essentially independent of empirical motivations, issues a call to universalize its maxims in a way that transcends empirical context. This call to universalize one's maxims is morally compelling because following it allows one to uphold the privileged independence one's rational nature has

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<sup>4</sup> Robert Pippin, "Kant's Theory of Value: On Allen Wood's *Kant's Ethical Thought*," *Inquiry* vol. 43, no. 2 (2000): 239.

with respect to empirical motivations. Not universalizing one's maxims is immoral *not* because the call to universalize is the law by an arbitrary fiat. Rejecting universalization, rather, is immoral because it involves surrendering one's autonomous agency, which alone is capable of generating universal judgments, to non-agential empirical motivations that can only generate maxims of subjective validity. I therefore reject the interpretation of the doctrine that the moral law is a fact of reason that holds that this fact of reason is dogmatic.

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