

*Abstract*

The place of evidence regarding joint commitment and plural action is mostly reserved for documents and explicit linguistic expressions. This paper considers the problem of evidence in cases of engaged (jointly committed) social acts where there is no explicit expression or binding document, yet can still be ascribed to a plural subject. The argument rests on the double meaning of the term *factum* as fact (*factum brutum*) and deed (*factum practica*), as well as contemporary debates about the topic of fact of reason in Kant. The text seeks to show that in certain cases, the execution of an act or the obligation produced by it can be considered evidence of a plural subject. Thus, these facts deserve a special position in relation to scientific evidence.

*Introduction*

In the last few decades, the debate regarding the plural subject, collective intentionality, or about so-called philosophy of the social, has developed considerably in philosophical circles, thanks to the work of Margaret Gilbert, Raimo Tuomela, John Searle and many others.

In this paper, we will attempt to offer a more “practical” understanding of the plural subject, consisting in the fact that the plural subject primarily announces itself in deeds, that is, in how members of a group *de facto* act, how they establish their will, how they subordinate their actions to their obligations produced by the plural subject, and how they influence change in those obligations. We thus offer a certain alternative to the cognitivist conception of the plural subject.

<sup>1</sup> Institute for Philosophy and Social Theory, University of Belgrade, [bojanic@instifdt.bg.ac.rs](mailto:bojanic@instifdt.bg.ac.rs).

<sup>2</sup> Institute for Philosophy and Social Theory, University of Belgrade, [cvejic@instifdt.bg.ac.rs](mailto:cvejic@instifdt.bg.ac.rs).

The cognitivist approach can in part be found in Gilbert when she cites the primary significance of beliefs and common knowledge for the achievement of joint commitment, as well as in Searle when discussing the general formula that belief and knowledge are necessary for collective intentionality (Searle 2010: 46-54).

Our paper is inspired by the debate about “fact of reason” [*Faktum der Vernunft*] in Kant’s practical philosophy. For a long time, the dominant interpretation of “fact of reason” was that Kant meant evidence, that is, “matter of fact” [*Tatsache*], and the idea was not given much attention within Kant’s critical consideration. However, a novel interpretation was offered by Marcus Willaschek, claiming that fact of reason, as a *factum practica*, must be understood above all as deed [*That*] of reason. Willaschek’s main intention was to show the significance of the mind as practical, its role consisting of determining will. The fact of reason in that regard ought to be understood as practical evidence, avoiding the reduction of the practical mind to the theoretical one in practical application (Willaschek 1991: 466). This fits with the understanding of a plural subject we will put forth here. To that end, we would like to draw some implications from this discussion.

Although we take social facts in this paper to be primarily deeds, it does not mean that they, just like facts, do not offer certain evidence of the existence of a plural subject. Just like the fact of reason, as the deed of reason, offers, that is, at the same time is the awareness of the moral law and a certain practical proof of freedom. The deeds of the plural subject, as social facts, also announce the obligations produced by the plural subject, providing simultaneously proof of its existence.

The first part of the paper deals with the understanding of facts of reason in Kant and relevant interpretations, with particular attention paid to the consideration of facts as “deed of reason”. In the second part, we will present the basis of the understanding of the plural subject and certain problems tied to the question of how we can have awareness of a plural subject, obligations it produces, and our own belonging to one. The third part of the paper will present the implications of previous considerations of how we can understand social facts as “deeds” that offer evidence of a plural subject. In the last part of the paper, we will compare briefly the relation of social facts as a kind of evidence with empirical evidence.

### 1. *Fact of Reason*

Kant’s designation in *Critique of Practical Reason* of the consciousness of the basic law [*Bewusstsein des Grundgesetzes*] as the fact of reason, about which no further deduction can be made, stands as one the most controversial places in his ethics. Kant himself is aware of the peculiarity of this term:

The thing is strange enough and has no equal in all the rest of our practical cognition. For the *a priori* thought of a possible universal legislation, a thought which is therefore merely problematical, is commanded unconditionally [*unbedingt geboten*] as a law without borrowing anything from experience or from any external will (Kant 2002: 45, KpV, AA 05: 31.)

Kant introduces the term fact of reason as consciousness of the basic law in §7 of *Critique of Practical Reason*:

The consciousness of this basic law [*Das Bewußtsein dieses Grundgesetzes*] may be called a fact of reason [*Factum der Vernunft*], because one cannot reason it out from antecedent data of reason, e.g., from the consciousness of freedom (for this is not antecedently given to us) – and because it, rather, thrusts itself upon us on its own as a synthetic *a priori* proposition not based on any intuition, whether pure or empirical. This proposition would indeed be analytical if the freedom of the will were presupposed; but for this, as a positive concept, an intellectual intuition would be required, which certainly cannot be assumed here at all. However, in order to regard this law – without any misinterpretations – as *given*, one must note carefully that it is not an empirical fact but the sole fact of the pure reason [*kein empirisches, sondern das einzige Factum der reinen Vernunft*], which thereby announces itself as originally legislative (*sic volo, sic iubeo*) (Kant 2002: 46, KpV, AA 05: 31.)

As justification of the fact's actuality, Kant offers precious little. The Latin proverb at the end only indicates the pure possibility of reason to command what it wills. Further, on the following page, Kant introduces the argument that this fact is self-evident: "The previously mentioned fact is undeniable. One need only dissect the judgement which human beings make about the lawfulness of their actions" (Kant 2002: 46; KpV, AA 05: 32). However, Kant thus only indicates the assumed *consensus omnium*, and not necessity (*a priori*) that he requires in this place. Finally, Kant points to the similarity of the fact of reason with principles of reason in theoretical philosophy, by which he insists that this is indeed part of the critical procedure. "We can become conscious of pure practical laws [*praktischer Gesetze*] just as we are conscious of pure theoretical principles [*theoretischer Grundsätze*], by attending to the necessity with which reason prescribes them to us, and to the separating [from them] of all empirical conditions, to which that necessity points us" (Kant 2002: 43, KpV, AA 05:30).

### 1.1 Interpretations

*Fact of reason as "matter of fact"*. For a long time, the leading interpretations took fact of reason in its common sense meaning, as "something that has actual existence" [*Thatsache*]. Thus, many readers thought that Kant, without further explanation, assumes the existence of certain moral experience. In that way, L.W. Beck imputed to Kant a kind of moral intuitionism. (Beck 1961: 278) Authors like Ameriks were of the opinion that this is a step back in comparison

to *Groundwork of the Metaphysics of Morals*, in which Kant attempted to demonstrate the deduction of the categorical imperative. These authors ascribe this to Kant seeking to bestow practical reason with immediate efficient causation (Ameriks 2002: 103). Other authors still ascribe this move to Kant's desire to show that the moral law is something we encounter in daily life, in the sense of what the ordinary person immediately grasps (O'Neill 2002: 95). Although there is unequivocal textual evidence to back the claims of all these readers, they diminish the significance of facts of reason within the critical procedure as such.

*Fact of reason as a technical term.* Ian Proops defended a different approach. He thinks that the fact is a technical term, the main role of which is so-called legal metaphor that ought to serve as that which is provided simultaneously with the justification of a theoretical claim. In the specific case of consciousness of the basic law, it is the fact that has a pure origin, and should provide justification for the deduction of freedom. However, Proops himself says that as such, Kant's argument was unsuccessful, and is inappropriately confused (mixed up, conflated) with an understanding of fact as deed (Proops 2003: 215).

*Fact of reason as deed.* Marcus Willaschek suggested an interpretation, according to which fact of reason precisely ought to be understood as deed [*That*] of reason (Willaschek 1991). This understanding of the term *factum*, is indeed founded upon the term's literal meaning – “something done” – derived from the participle of the verb *facere* (to do something). In fact, this is the main use of this term in legal terminology until about the 17<sup>th</sup>, 18<sup>th</sup> centuries. *Factum* primarily referred to deeds (of the accused) to be examined, that is, deeds, the subject of the legal examination that require evidence. Only later does this term begin to be used in the scientific world, designating natural phenomena, primary effects of experiments, and later as what anyone can observe and of which there is no doubt.<sup>3</sup>

The question is, of course, what kind of use of the term can we assume in Kant. Fact can be understood as scientific fact. In §13 of *Critique of Pure Reason*, when he distinguishes the question of fact (*quid facti*) from the question of what is lawfull (*quid iuris*), Kant introduces the term *factum*, to designate facts about the existence of certain concepts which we know through experience (KrV, AA 03:100). Then, in §14, Kant uses that term in order to designate facts of pure mathematics and natural science in general. (KrV, AA 03:106)

In aiming to show that we should understand fact of reason as deed, Willaschek primarily draws on a sentence from the introduction of *Critique of Practical Reason*: “For if as pure reason it is actually practical, then it proves its reality and that of its concepts through the deed [*durch die That*]” (Kant 2002: 4; KpV, AA 05: 3).

<sup>3</sup> For more, see Ware (2014: 2-4).

If we look at Kant's manuscripts and lecture notes, it becomes clear that Kant uses this term very carefully in both senses, but also that he is entirely conscious of their difference. In the preparatory notes for *The Metaphysics of Morals*, Kant writes: “*res facti physice tale est per experientiam (testimonio sensuum) cognoscibile (cognitum) – huc pertinet eventus. Factum practica tale est euentus ex causa libera s. qui arguit auctorem*” [The physical fact is cognizable/knowable by experience (perceptual evidence) – and concerns the event. The practical fact is an event freely caused, and it announces the agent]. Elsewhere as well, Kant defines *factum* within the domain of practical philosophy, either as a free action or action subsumed under the moral law. For example, when speaking of free action: “A free action, if it can be subsumed under the moral law, is a *factum*” [*Die freye Handlung, so fern sie unter einem moralischen Gesetze subsumirt werden kan, ist ein factum*] (R 7131, AA 29:225). Or else, in a different place, as action subsumed under the moral law: “*Factum* is an action that falls under the law, indeed, the moral law” [*Factum ist eine Handlung die unter einem Gesetz, eigentlich unter einem moralischen Gesetz steht*] (V-Mo/Mron II, AA 24:641). Kant defines deed in almost the exact same way: “A deed is what we call an action insofar as it falls under laws of obligation, thus also insofar as the subject is regarded in it in terms of the freedom of his power of choice” [*That heißt eine Handlung, sofern sie unter Gesetzen der Verbindlichkeit steht, folglich auch sofern das Subject in derselben nach der Freiheit seiner Willkür betrachtet wird*] (Kant 2002: 4n; MS, AA 06:22). Given that at issue is practical philosophy, it stands to reason that we are dealing with *factum practica*, that is, the deed of a free agent.

All of which has several implications for the understanding of the role of facts of reason in Kant's practical philosophy. The main consequence of the reading Willaschek offers is that it allows us to understand reason in facts of reason as truly practical. What is important is practical proof (*praktische Beweis*) that reason does indeed, through deed, determine will (Willaschek 1991: 466). Thus, in the strict sense, it is not crucial for the consciousness of the basic law that one learn it, but rather that it be applied, through deed in which will is determined by the moral law. As we shall see, this also allows for a more immediate explanation of the connection of fact of reason with the notion of freedom.

However, that fact of reason ought to be understood as deed does not mean that it or its product should not be taken to be something with actual existence. Accordingly, this means that it could also serve as evidence. We cannot wade into various interpretations<sup>4</sup> in this paper; however, it is important to indicate the possibility that fact of reason as deed figures as evidence that is demonstrated as practical proof of freedom.

<sup>4</sup> Cf. Willaschek 1991: 460; Kleingeld 2010: 65; Ware 2014: 2n.

## 1.2. The structure of facts of reason

In order to say something more about the structure of the fact of reason, we will draw on Michael Wolff's claim from "Warum das Factum der Vernunft ein Factum ist". According to him, fact of reason is based on a synthetic act, which immediately connects (synthesizes) thought and the faculty of desire (Wolff 2009: 235). Kant defined the faculty of desire by way of causality of representations: "The faculty of *desire* [*Begehrungsvermögen*] is the being's faculty to be through its representations the cause of the actuality of the objects of these representations" (Kant 2002: 14; KpV, AA 05: 9.). And he also defined will as a higher faculty of desire: "A faculty to determine (...) causality by the presentation of rules" (Kant 2002: 47; KpV, AA 05: 32). In the case of fact of reason then, the will is determined by the representation of the general form of the law. Therefore, this is the synthesis of the representation of the idea of the fundamental law with the faculty of desire, that is, with the causality of this representation regarding the reality of its object.

We should mention that causality in this context cannot be understood according to the "event-event" model, as two separate events, but rather the way Eric Watkins explained (Watkins 2005), as "exercise of causal power".<sup>5</sup> Thus, fact of reason can be understood as deed of synthesizing the fundamental law with the manifestation of its causal power, making the fundamental law itself an objective principle of causality [*objectiver Grundsatz der Causalität*], much as Kant says in *Critique of Practical Reason*<sup>6</sup> (Kant 2002: 133; KpV, AA 05: 105).

To better understand all of this, we must look at the nature of this relation (of causality). In the *Critique of Power of Judgement*, Kant indirectly says that the nature of this relation is internal [*innere*] (KU, AA 05: 222). By relation, Kant here means the relation between the predication and its reason or ground. That the relation is inner means that the reason of predication is contained in the (logical) subject.<sup>7</sup> In this specific case, this means that the reason of the connection of the representation of the law with the causality of this representation is contained in the very law, by a necessity with which it determines the will.

This also allows us to better understand the connection between the fact of reason and the notion of freedom, although we will not be able to pay more attention to this question in our paper. Kant tells us that fact of reason is really identical with the consciousness of freedom: "This fact is inseparably connected with the consciousness of freedom of the will – indeed, that it and this consciousness are one and the same" (Kant 2002: 60; KpV, AA 05: 42). This position

<sup>5</sup> Kant draws attention to this very problem in connection with the understanding of the faculty of desire in both (published and unpublished) introductions to *Critique of the Power to Judgment* (KU, AA 05:177-8; EEKU, AA20: 230).

<sup>6</sup> Cf. Wolff (2009: IV, 532).

<sup>7</sup> Cf. Longuenesse (2003: II, 155).

can be better understood if we accept that fact of reason is directly connected to causality manifested by the basic law. And given that freedom, according to Kant, consists precisely of the determination of causality not bound by empirical conditions, “as a causality of pure reason” (Kant 2002: 67; KpV, AA 05: 48), fact of reason can be understood to be identical to the consciousness of free determination of the will.

### 1.3. Imputatio facti/imputatio legis

In his lectures on the philosophy of morals, Kant mostly considers the term *factum* in the context of the difference between *imputatio facti* and *imputatio legis*, taking care to make a careful distinction between them. *Imputatio facti* refers to judgement of imputation [*Zurechnung*] of deed to an agent, freely chosen. The question to ask would be whether the action is done by this agent? *Imputatio legis* refers to the consideration whether an action is in accordance with the law, that is, whether it is *meritus* or *demeritus*. The question would then be whether the action falls under this or that practical (legal) law (V-Mo/Mron, AA 27: 1438)?

If we attempt to apply these terms to fact of reason, we encounter an awkward situation that shows its exceptionality. Ordinary attribution of a deed takes place through a judgement whether an action is committed through free will, in the compatibilistic understanding of the term. For example, in the case of someone crossing the street, if they were not pushed, if there was no compulsion, etc./ However, as fact of reason is, according to Kant, directly tied to the notion of freedom, it is obvious that Kant’s intention was to claim that in this case, within this action, the status of fact is attributed immediately. Meaning that there is direct certainty that it is a question of an action of a free agent. Kant thought that he demonstrated the argument because it is entirely clear that the reasons for this procedure are pure, that is a pure form of the law, with no reference to the empirical. As our goal is only to delineate the general structure of the argument, we will not wade into the question of whether this “specific” part was executed successfully.

In the case of *imputatio legis*, we further find something else unusual. Ordinarily, the case with *imputatio legis* is to submit the action to existing laws – whether it falls under the existing laws and which ones? On the example of jay walking, for example, there would be a question whether it is allowed to cross the street at that spot, in that specific manner, etc. However, in the case of the fact of reason, it obviously does not need to be compared to another (existing) law; on the contrary, it is in the fact of reason that the basic law is announced, in relation to which all other actions will be considered. Thus, in the case of the (moral) fact of reason, we are not dealing with an (indirect) judgement used to determine whether an action does or does not fall under the law, but with a deed of subsuming will to law, announced in that very deed.

#### 1.4. Argument Revisited

A portion of Kant's argument is directed at showing that fact of reason, as deed determined by the mere form of the law, is at all possible. The second part of the argument is certainly directed to showing that the mere form of the law is necessarily imposed as the imperative of the action, but we will not be touching on this question in this paper.

For our present purposes, what is particularly important in the understanding of fact of reason is the immediacy Kant gives it. First, in contradistinction to actions for which we ask whether such and such an action falls under a law, in the case of the fact of reason, it, on its own, announces the law according to which other actions ought to be considered. It thus is, on its own, consciousness of the law. In addition, consciousness of the determination of will by law, based on its pure origin – not borrowing anything from experience – points to freedom. Thus, Kant offers practically proof of freedom: while we usually ascribe some action the status of *factum practica* by establishing that the action has been committed through free choice, fact of reason ought on its own to announce that the action was free.

#### 2. Plural Subject

By “plural subject” we broadly here borrow the term from Margaret Gilbert. According to Gilbert, we can speak of a plural subject of a goal when there is joint acceptance of a (single) goal, which constitutes joint commitment (Gilbert 1989: 163, 164, 199, 200; Gilbert 1999: II, 146).

We also take the basic modifications to the understanding of the plural subject made by Bennet W. Helm. He differentiated between two protocols: *plural intentional system*, in which many have the same goal-directedness that each has for themselves, and they coordinate to achieve this goal. Helm used the phrase coordinated we-commitments to designate Gilbert's theory (Helm 2009: 266); *plural robust agency*, on the other hand, is briefly when something carries import<sup>8</sup> for an individual because it carries import for “us”. As opposed to Gilbert, this conception allows an understanding of a discussion about what obligations are produced by a plural subject, giving more significance to deliberation in general, which in turn implies a more dynamic and processual understanding of plural agency.

Can we bring anything from the discussion about fact of reason to bear on the discussion about the plural subject? Certainly, a portion of Kant's argument

<sup>8</sup> Helm borrows the use of this term from Charles Taylor (Taylor 1985: 48) to designate the intentional character of an object (or event), to be viewed as worthy of pursuit or avoidance (see also Helm 2001: 32).



can be left out. A plural subject we will be discussing here refers, above all, to an empirical case, rendering useless the apriority and necessity that form part of Kant's argument. Further, Kant's proof of freedom is not relevant here. However, it is not a coincidence that many authors think that morality is a kind of social action, that has as its specificity universal laws.<sup>9</sup> The structure of plural agency, based on certain obligations and shared values is similar in this case too, and we will therefore attempt to draw from it certain implications.

One of the main problems considered by Margaret Gilbert emerges with the condition that the existence of a plural subject depends on the belonging of an individual to the plural subject. That is, the individual must be aware of belonging to a plural subject and only then can we speak of a plural subject (Gilbert 1989: 149). Gilbert resolves this problem by introducing the condition of *expression* on joint commitment, which justifies or grounds the belief of the plural subject, thus constituting *common knowledge*. Of course, we ought to mention that in later texts, Gilbert is more cautious with this cognitivist approach, emphasizing that it is not an expression of belief, but that "each one expresses, in effect, a conditional commitment of his will" (Gilbert 1989: 222). In this way, we arrive at the two conditions to at all be able to speak of a plural subject: "*Expression condition* (each must have manifested his willingness for unity openly to the others) and *common knowledge condition* (this manifestation of willingness must be a common knowledge)" (Gilbert 1989: 223.).

Although John Searle is much more cautious with the idea that this problem can in any way be reduced to cognition, in key moments, he clearly leans on common knowledge as a necessary condition of collective intentionality in the general formula: "when each intends, and each knows that the other intends and each knows that the other knows that, and each knows that each knows that other knows that, and so on indefinitely" (Searle 2010: 46.). Searle also indicated that the main avenue for deontic powers to act on us is to recognize them: "Once recognized, they provide us with reasons for acting, that are independent of our inclination and desires" (Searle 2010: 9).

Helm, in contrast, while generally advocating abandoning the cognitive-conative divide, criticizes the reductive cognitivist attempt at solving this problem. We are unable, of course, to present his critique in detail here, but we can briefly say that it draws on what Helm calls the deliberative problem. Namely, how is deliberation about values possible, because, on the one hand, when speaking of personal (not moral) values, we assume a certain autonomy: a person's values are at least in part up to her; on the other hand, in order for rational deliberation to be correct (or incorrect), we must assume at least a certain degree of objectivity. Presenting this problem is very important for understanding the functioning of the plural subject when we pose a few questions: in what way do we argue about

<sup>9</sup> Helm (2001: 250); cf. Gilbert (1989: 392ff).

the exact obligation produced or implied by the plural subject, and how do we change the content of joint commitment? Put simply, Helm's main problem with the cognitivist approach is that if we take values to be matters of belief, that is, an *object* of cognition, we leave very little room for the possibility of invention of values. The accomplishment of belief is ultimately none other than cognition, meaning that in this way cognitivist theories can show how we *discover values* as matter of fact; however, they cannot show how we determine what values shall be, which is necessary if we are to leave room for deliberation itself (Helm 2001: 14-16, 201-205). (We ought to mention that Helm applies similar reasoning in rejecting the reductionist conative approach, according to which values depend merely on desires.)

Our intention is neither to negate nor diminish the significance of belief and cognition in the constitution of the plural subject. In many cases, it is certain that they play a crucial role. In particular, this is the case when there is truly verifiable, empirical evidence in favor of belief. For example, "clear expression," of which Gilbert speaks, or certain kinds of "documented traces." Such evidence certainly comprises the bases of our institutionalized communal life. However, it is also certain that there are cases in which such traces cannot be found. These are, for example, precisely the cases Gilbert deftly avoids: among friends or lovers, or within small communities there is no need for explicit expression of joint commitment, and such "groups" function much more flexibly than institutional communities. Similarly, in cases of certain social unrest, when the obligations produced by a plural subject are only being articulated.

If we take the plural subject in a more practical sense, we can take into consideration the possibility that it is deeds that take place under (often not fully articulated) obligations (produced by the plural subject) that justify the plural subject, while at the same time ensuring awareness of the plural subject, which, in a practical way, allows for belonging to a group.

### 3. *Social Facts as Deeds*

#### 3.1. Basic Examples of Social Facts as Deeds

If two people agree to travel from one place to another and acknowledge their joint plan by clear expression, then they have joint commitment. Each of them has a belief, justified by the evidence of expression of joint commitment and each their own belonging to it, as well as the belonging of the other. However, only if the two of them buy train tickets can we speak of a joint deed, executed jointly as a plural subject. This deed could be ascribed to them together, as a plural agent (rather than each individually), precisely because we possess knowledge about the agreement previously made. Further, by judging the action with regard to the agreed obligations, each of them, as well as a third party, could

show whether this deed was appropriate or inappropriate. Thus, for example, one could show the *meritus* of the actual meeting, collecting the money for the journey, etc. or else show the *demeritus* that they were unable to buy the tickets as they did not have enough money or did not come to the train station.

The given example is of a social fact as deed. However, it needs to be said that in this case, it was the belief based on empirical evidence that can be provided (by way of expression of joint commitment or a document confirming it) that is the basis of the obligations as well as the existence of the plural subject itself.

In that sense, the usual cases of social facts as deeds do indeed show the efficiency of the plural subject and maintain its existence. The social character of this fact can be gleaned from the attribution of the deed to the plural subject (*imputatio facti*) and from the judgement of the deed with respect to the obligation we are aware the plural subject is producing (*imputatio legis*). However, any evidence about whether these are truly social facts must be grounded in belief of obligation, simultaneously supported by documents and expressions that then constitute this plural subject.

Before we move on to more complex examples, let us take a look at the issue from the phenomenological perspective.

### 3.2. Rational Determination of the Will

For the consideration of the plural subject as a rational agent it is important to show that there is capacity to rationally motivate ourselves. Searle speaks about the motivation through recognition of desire-independent reasons, which can also be recognition of social obligations (Searle 2010: 127-131). Helm also points to the possibility of change in evaluative judgments, which is part of deliberation, thus directly affecting our motivation (Helm 2001: 177-189). Both authors consider the problem in a way similar to Kant, and are fundamentally answering the same (Humean) challenge as Kant himself. What is important for both authors is that there is capacity to determine our will in accordance with obligations (produced by a plural subject) independently from mere personal inclinations or desires.

It is not difficult to notice that the phenomenological structure of the rational motivation of which Searle and Helm speak is similar to the case of fact of reason, where we see the subsumption under the moral law. Certainly, these are obligations of the plural subject, of empirical character, and therefore they cannot be based in apriority, necessity, or universality.

Still, we must allow one “phenomenological difference” in kind of experience we have: (1) the experience when we *believe* that X is the case (such as that we have an agreement to travel jointly with another person) and (2) the experience when the will is actually *determined* by the rule (obligation). The previous phenomenological distinction implies various simultaneous ways in which we can be conscious of the obligations produced by the plural subject. One way is to

acquire belief based on empirical evidence. However, Kant's explanation of the "fact of reason" we presented above marks the possibility of consciousness being constituted by the will being determined through deed [*in der That*], because the fact announces the related obligation. This second case is of particular importance to us, because it indicates how members *de facto* have more practical consciousness of unity (see also Gilbert 1989: 222).

Instead of insisting that members, in one way or another, have a joint belief in the values or obligations produced by the plural subject or the significance of the belief of the other or other members, a more practical understanding of the plural subject emphasizes the significance in the members of a group *de facto* determining their own will under the obligations produced by the plural subject.

Thus far, we have assumed that the representation of the obligation produced by the plural subject is already given (from somewhere). Similarly, the deeds, which we have been calling social facts, were based on the previous belief about the existence of a specific obligation produced by the plural subject. In the further text, we will attempt to tease out a more interesting case, when the obligations of a plural subject are actually announced in the deed.

### 3.3. Basic Social Facts as Deeds

When we cited arguments about fact of reason, we said that one of its characteristics is that, as opposed other deeds, it does not undergo judgement based on a previously given law (*imputatio legis*), but rather, that it is will subsumed under the moral law, announced in that very fact.

Our question is whether the analogous structure of this description could refer to the social act or social acts as well? Is it thus necessary for there to be a deed that consists of a subsumption of actions (will) under a certain obligation and in that way announces that very obligation as an obligation produced by a plural subject? In these cases it would indeed be necessary, if the deed could not be judged based on existing laws, but only according to the law or shared values this deed announces.

Indeed, many social actions have just such a character. In particular, we are referring to jointly committed acts related to social and political change, for example, attempts at establishing a potential alternative or "counter-institution". Let us take as an example social protest, more specifically, the so-called "new protest movements" or "pre-figurative politics", in which there is no given goal at the outset, but rather, the goal is jointly constituted in the very way the protests are conducted. Obviously, it would be inappropriate to judge the action of protesting according to existing laws (the protests are after all directed at them). However, if a group of people, jointly protesting, aside from its resistance to existing institutions, in their deed announce an obligation (or shared values) they jointly produce, then this is the very law according to which the actions of the protestors, current or those yet to join this community, ought to be subordinated. Movements that advocate

pre-figurative politics would be a good example, as obligations are produced and announced in the very deeds the protesters are conducting.

The structure of these basic social facts as deeds could thus be marked as twofold. On the one hand, they do indeed have the *fundametum in re*, the deed committed in the physical world (*factum brutum*). However, on the other hand, such a fact cannot be reduced to the physical state of affairs precisely because it, on its own, announces the obligation or shared values (produced by the plural subject), which is its other aspect. If we remained on the first aspect only, we could never explain how many individual actions of group members could be ascribed to the plural subject. However, the very obligations produced by the plural subject, announced in the very deed, mean that we can immediately attribute them to the plural subject (*imputatio facti*).

In the same way that fact of reason can serve as a practical proof of freedom, these social facts offer a practical proof of the plural subject. More specifically, the announcements of the obligations or shared values the plural subject is producing through deed comprise a certain practical proof and serves as evidence for plural agency, the ability of the plural subject to produce these obligations, which in turn obligate members of the group.

We cited a relatively extreme example (social change and pre-figurative politics) to all the better illustrate this kind of action. However, it would appear that a similar argument can be made in any kind of informal community, such as friends, lovers, etc. The content of the joint commitment is not established with a prior expression, document, or promise, but is constituted and announced in the joint actions themselves. However, the extent to which communities or groups function this way is a question that demands empirical investigation.

A potential criticism of this approach could be that the argument is cyclical, since it could be claimed that we must have prior knowledge or belief about what obligation is produced by the plural subject, in order for our actions to at all be able to subsume under these obligations. This looks like the usual criticism of the argument of collective intentionality: that collective intentionality must first be assumed in order for it to be possible. Gilbert solves this problem by showing that knowledge of Y (manifestation of willingness) constitutes X (existence of the plural subject) (Gilbert 1989: 223). In our argument this is not possible because there is no prior knowledge (expression or document). However, the only thing necessary for our present argument to function is that we abandon the usual causal-linear language. In brief, that something is an obligation of the plural subject and that members *de facto* act according to this obligation are not, and often cannot be, two different temporal events. On the contrary, the obligatory power of the subject occurs simultaneously with the members *de facto* acting for the sake of the obligation produced by the plural subject.<sup>10</sup>

<sup>10</sup> Cf. Helm (2009: 282).

#### 4. Conclusion

In this text, by presenting one viewpoint on the plural subject that places emphasis on practice, i.e. how members of a group *de facto* act and determine their will, we attempted to show the way in which the specific kind of social facts – deeds – can serve as evidence of a plural subject, that is, practical proof that the plural subject is capable of producing obligations or shared values. This is true in the case when the act performed jointly announces its own obligation produced by the plural subject.

Evidence of a plural subject, based on social facts as deeds, is indeed similar to empirical evidence, because it has its grounding in the state of affairs. However, if we ignore the second aspect of social facts as deeds – that these deeds announce obligations or shared values – we would neglect to notice their social character. Thus, this kind of fact, as deeds that on their own announce social obligation can indeed be held to be a specific kind of evidence.

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