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The Lawgiving Self: Kant on the Natural Law Tradition and the Dignity of Others

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Abstract

In his moral philosophy, Kant argues that rational beings are dignified ends in themselves because of their capacity to give law through the will, that is, their capacity for autonomy, making all rational beings moral lawgivers. With this argument, Kant rejects the natural law tradition. According to the natural lawyers, knowledge of the moral law follows from an *a posteriori* examination of the human condition. However, for Kant, this methodology can only account for hypothetical imperatives, not a categorical imperative. Instead, Kant argues that moral philosophy must proceed from basic principles that are known *a priori*. He restricts his analysis of the foundational concepts at work in morality to what can be known about rational nature in general, excluding all distinctively human features. In doing so, Kant breaks with natural law theory and its *a posteriori* method, allowing him to navigate around

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the fundamental flaws of natural law theory and establish a true moral philosophy grounded in autonomy, from which the strict duty to treat others as ends in themselves follows.

Keywords: Kant, autonomy, dignity, categorical imperative, natural law theory, *a priori*, rational nature

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I. Introduction

In his 1785 *Groundwork of the Metaphysics of Morals*[1], Kant defines morality as "the relation of actions to the autonomy of the will, that is, to a possible giving of universal law through its maxims."[2] The moral law, *qua* law, is universally prescriptive. As such, all rational beings are subject to the law and to the duties it places upon them. However, with the principle of autonomy, Kant argues that the moral law (or categorical imperative) also enjoins rational beings to act on maxims that are apt for a universal law *giving*. In abiding by the categorical imperative, then, one conceives of oneself as not only subject to law but as giving law to all rational beings. As Lewis White Beck puts it, Kantian autonomy holds that the rational being

[1] *Grundlegung zur Metaphysik der Sitten.*

[2] Kant, *Groundwork of the Metaphysics of Morals* [GMS] 4:439: "Moralität ist also das Verhältniß der Handlungen zur Autonomie des Willens, das ist zur möglichen allgemeinen Gesetzgebung durch die Maximen desselben" (Gregor's translation).

"can be both obligation-creating and obligation-executing" and that this "is one of the most dramatic theses in Kant's philosophy."[3] The categorical imperative is not an external command that is imposed upon the rational being, but instead is a principle that arises from the will itself. Thus, Kant defines autonomy as "the characteristic of the will by which it is a law to itself"[4]; it is the capacity of the rational agent to give law, or to self-legislate. In this paper, I will examine Kant's doctrine of autonomy, with a particular focus upon autonomy's foundational role in establishing the universal dignity of human beings as ends in themselves. I will then contrast Kant's views with those put forward in the early modern natural law tradition and explore Kant's critique of natural law theory in view of the latter's incapacity to establish a categorical imperative and the *a priori* dignity of the human being. I will demonstrate how this critique leads Kant to propose an alternative methodology for moral philosophy that attempts to side-step what he takes to be the primary shortcomings of natural law theory.[5]

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[3] Beck (1960: 199).

[4] Kant, GMS 4:440: "Autonomie des Willens ist die Beschaffenheit des Willens, dadurch derselbe ihm selbst…ein Gesetz ist" (Gregor's translation).

[5] For a discussion of Kant's critique of early modern natural law theory and alternative methodology that touches upon aspects of the topic that I am not able to discuss in this paper, such as the distinction between a law of nature and a law of freedom and a discussion of Kant's Doctrine of Right, see Fiorella Tomassini's article "Kant's Reformulation of the Concept of *Ius Naturae*". In the present paper, I add to the scholarly discussion of Kant's critique of the natural lawyers by connecting this to Kant's derivation of the dignity of the rational being, which, I argue, only follows if the moral law can be given autonomously by the will.

II. Autonomy and Human Dignity

In both the *Groundwork* and the *Critique of Practical Reason* (1788)[6], Kant argues that the principle of autonomy is not simply one feature of morality among many. Instead, it is *the* fundamental grounding principle of morality itself. That is, autonomy is the condition for the possibility of morality, leading to the definition of morality given above as "the relation of actions to the autonomy of the will."[7] In order to see why this is the case, it is necessary to briefly discuss Kant's distinction between hypothetical and categorical imperatives. Both kinds of imperatives issue commands, i.e., they furnish "representation[s] of an objective principle insofar as it is necessitating of a will."[8] Both prescribe what ought to be done. However, a hypothetical imperative only binds the will on the condition that the agent desires some particular end, and is thereby a conditionally prescriptive imperative.[9] A categorical imperative, on the other hand, is necessarily and unconditionally binding. As Kant explains, a categorical imperative is a command that "[represents] an action as objectively necessary of itself, without reference to another end."[10]

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6 *Kritik der praktischen Vernunft.*

7 See note 2.

8 Kant, GMS 4:413: "Die Vorstellung eines objectiven Princips, sofern es für einen Willen nöthigend ist" (Gregor's translation).
Note well Kant's formulation of "necessitating a will." This is problematic in view of the principle of autonomy in which the will is not necessitated at all but instead is itself lawgiving and thereby necessitates. Although Kant fails to distinguish the will from the power of choice here, it is clear that a formulation such as this should read "necessitating *the power of choice*." See note 12 for a brief discussion of the distinction that Kant draws between the will and the power of choice.
For a discussion of Kant's understanding of an imperative, see Schwaiger (1999: 164-168).

9 See Kant, GMS 4:414.

10 Ibid: "Der kategorische Imperativ würde der sein, welcher eine Handlung als für sich selbst, ohne

Consequently, Kant concludes that a categorical imperative qualifies as a practical law, whereas a hypothetical imperative issues a conditional practical principle, but not a law.[11]

In willing autonomously, the rational being gives law to itself through the will.[12] It follows from this that nothing other than the act of willing law, such as an object of desire or an external lawgiver, is required to ground the law's prescriptive force. Instead, law follows immediately from the will of the agent. Indeed, if this were not the case, that is, if something external to the will's lawgiving was required to ground the law's obligatory force, then it would be this additional object that would obligate the agent to act upon it.[13] However, this would render the imperative merely hypothetical because it would prescribe a duty only in view of the object of desire or the command of the lawgiver, and the agent's inclination to obtain the former or obey the latter. The form of willing in this case would not be autonomous but heteronomous. As Kant says, "If the will seeks the law that is to determine it *anywhere else* than in the fitness of its maxims for its own giving of universal law – consequently

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Beziehung auf einen andern Zweck, als objectiv-nothwendig vorstellte" (Gregor's translation).

[11] See Kant, *Critique of Practical Reason* [KpV] 5:20. See also Tomassini, "Kant's Reformulation of the Concept of *Ius Naturae*", 259-60.

[12] Although I cannot offer a detailed analysis of it here, it is important to mention Kant's late distinction in *The Metaphysics of Morals* (*Die Metaphysik der Sitten*; 1797) between the will (*Wille*) and the power of choice (*Willkür*). It is with respect to this distinction that Kant clarifies his view of autonomy. The will is the ground of the categorical imperative since it is the power of legislation. Kant argues that the will is autonomous but not free. The freedom to execute the categorical imperative belongs not to the will but to the power of choice. It is through the power of choice that one chooses to adopt a maxim, and to do so either in a conditioned or unconditioned manner. Thus, the claim that the will is a self-lawgiving power can be further specified. The rational being gives the categorical imperative autonomously through the will, and by the power of choice one either acts in accordance with the categorical imperative or fails to do so. See Kant, *The Metaphysics of Morals* 6:213-14 and 6:226.

[13] See Tomassini (2018: 261-262).

if, in going beyond itself, it seeks this law in a property of any of its objects – *heteronomy* always results. The will in that case does not give itself the law; instead the object, by means of its relation to the will, gives the law to it."[14] Hence, no practical principle prescribed by something other than the will can be a categorical imperative.[15] In other words, heteronomous willing can only take place in accordance with hypothetical imperatives. Given this, Kant argues that autonomy (as the only alternative to heteronomy) is the sole grounding principle of the categorical imperative.[16] In the absence of autonomy, there can only be heteronomy and, consequently, there can only be hypothetical imperatives. Therefore, because the moral law is a categorical imperative, autonomy is the condition for the possibility of morality. Having established this essential point, I will now turn to Kant's account of the human being as an end in itself.

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[14] Kant, GMS 4:441: "Wenn der Wille irgend worin anders, als in der Tauglichkeit seiner Maximen zu seiner eigenen allgemeinen Gesetzgebung, mithin, wenn er, indem er über sich selbst hinausgeht, in der Beschaffenheit irgend eines seiner Objecte das Gesetz sucht, das ihn bestimmen soll, so kommt jederzeit Heteronomie heraus. Der Wille giebt alsdann sich nicht selbst, sondern das Object durch sein Verhältniß zum Willen giebt diesem das Gesetz" (Gregor's translation).

[15] One may object that a divine command represents an exception to my conclusion, for God has the power to command a categorical imperative. Indeed, Kant himself conceives of religion in precisely this way, as a set of divine commands that are also duties, defining religion in the *Critique of Practical Reason* (and again in the *Religion within the Boundaries of Mere Reason*) as "the recognition of all duties as divine commands" (Kant, KpV 5:129: "zur Erkenntniß aller Pflichten als göttlicher Gebote" [Gregor's translation]); see also Kant, *Religion within the Boundaries of Mere Reason* 6:84. However, God's commands qualify as categorical imperatives not because God is a lawgiver who places obligations upon rational beings in view of God's power to reward and punish, or in view of God's status as creator. Instead, Kant argues that God has the capacity to give a moral law because God is a rational being. As such, God's will is the autonomous ground of categorical imperatives, just as a finite rational being's will is. Thus, it is only insofar as God is understood as a rational being that God's will can be considered the source of a moral law.

[16] For analyses of the connection that Kant draws between autonomy and a categorical imperative, see Allison (1990), Guyer (2000), and Wood (1999).

As is well known, one of the formulations of the categorical imperative that Kant presents in the *Groundwork* is the so-called Formula of Humanity, wherein Kant states: "*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.*"[17] If we consider this formulation in light of the principle of autonomy, we can see that autonomy is foundational not only for the possibility of a categorical imperative but also for the dignity of the rational being as expressed in this formula.

Because the categorical imperative holds that one only has a duty to act upon a maxim if it is apt for a universal lawgiving, maxims are only obligatory if they can be thought of as being given by a rational being to both themselves and to all other rational beings. From this, it follows that a maxim to treat others as a mere means (i.e., as subordinate to an end) is not apt for a universal lawgiving because the agent(s) whom the maxim subordinates to the end cannot be thought of as giving this law through *their* will. That is, it is incoherent for an agent to will in accordance with a maxim that requires all rational beings (themselves included) to treat them in such a way that denies the respect owed to them as ends in themselves. For Kant, the dignity of the rational being is the supreme limiting condition of all maxims. Consequently, any maxim that is universally prescriptive must be consistent with the injunction to respect the rational being as an end in itself.[18]

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[17] Kant, GMS 4:429: "Handle so, daß du die Menschheit sowohl in deiner Person, als in der Person eines jeden andern jederzeit zugleich als Zweck, niemals bloß als Mittel brauchst" (Gregor's translation).
See Guyer (2000: 148-155) for a detailed analysis of what exactly Kant means by treating human beings as ends in themselves and not *merely* as means.

[18] See Allison (2010: 135).

However, with the Formula of Humanity, Kant merely asserts the dignity of the rational being but offers no justification for it. In order to establish his conclusion, Kant invokes the principle of autonomy as the condition for the possibility of dignity. As we have seen, in willing and acting upon maxims that are fit for a universal lawgiving, one conceives of oneself as not only subject to law but as giving law. The capacity to give law is a necessary condition for a categorical imperative, and it is precisely this capacity that grounds the rational being's dignity. Kant tells us quite straightforwardly in the *Groundwork* that "every rational being, as an end in itself, must be able to regard himself as also giving universal laws with respect to any law whatsoever to which he may be subject; for, *it is just this fitness of his maxims for giving universal law that marks him out as an end in itself*" [emphasis added].[19] Hence, all rational beings are obligated to respect the dignity of all other rational beings insofar as every rational being can be considered a moral lawgiver through their maxims, and is thereby owed the respect due to a lawgiver.

It is with regard to autonomy, and the dignity that follows therefrom, that we can understand another central idea of Kant's moral philosophy – the kingdom of ends. Because of the reciprocity that subsists among rational beings both as lawgivers and as subjects of the law, the realm of rational beings' mutual relations must be structured according to the conception of every individual as the source of our duties and obligations, thereby requiring

[19] Kant, GMS, 4:438: "…jedes vernünftige Wesen als Zweck an sich selbst sich in Ansehung aller Gesetze, denen es nur immer unterworfen sein mag, zugleich als allgemein gesetzgebend müsse ansehen können, weil eben diese Schicklichkeit seiner Maximen zur allgemeinen Gesetzgebung es als Zweck an sich selbst auszeichnet" (Gregor's translation).

us to treat all rational beings (ourselves included) as ends in themselves that can never be used as mere means for some other end. All are subject to the will of the lawgiver, but because every rational being can be thought of as a lawgiver, all are subject to the will of all, giving rise to the idea of a universal brotherhood of rational beings, which Kant calls the kingdom, or realm (*Reich*), of ends.[20]

Therefore, because the principle of autonomy is the condition for the possibility of a categorical imperative, the dignity of the rational being, and the kingdom of ends, it is clear that Kant understands autonomy as the supreme principle of morality, stating unequivocally in the *Critique of Practical Reason* that "*Autonomy* of the will is the sole principle of all morals and of duties in keeping with them."[21] However, if we expand our analysis beyond Kant's explicit arguments, it is evident that there is a further argument embedded within his account of autonomy. That is, Kant's insistence upon autonomy's centrality signals an important methodological shift in moral philosophy. Kant is convinced that if a moral philosophy is to be capable of providing the conceptual foundation for a categorical imperative, then it must be one that proceeds "*a priori* simply [by means of] concepts of pure reason."[22] Consequently, Kant argues that the philosopher must bracket any account of morals that is founded upon an empirical analysis of the human being. If we place this argument within Kant's philosophical context, we see that, in arguing for an *a priori* method in moral philosophy, Kant rejects the methodology employed

[20] See Ibid, 4:437-39.
[21] Kant, KpV 5:33: "Die Autonomie des Willens ist das alleinige Princip aller moralischen Gesetze und der ihnen gemäßen Pflichten" (Gregor's translation).
[22] Kant, GMS 4:389: "...sondern *a priori* lediglich in Begriffen der reinen Vernunft" (Gregor's translation).

in the early modern natural law tradition. Therefore, in order to properly contextualize Kant's arguments, I will now briefly explore the constitutive features of natural law theory, particularly its 17th and 18th century instantiations with which Kant was familiar.

III. Early Modern Natural Law Theory

Moral philosophy in the early modern period arguably begins with the writings of Hugo Grotius (1583-1645). In 1625, Grotius published his magnum opus, *On the Law of War and Peace.*[23] Against the backdrop of the Protestant Reformation and the Thirty Years' War, Grotius argues for a moral law that transcends the differences among the constitutions of rival nation states and religious confessions. It is a law that governs personal, international, and ecclesiastical relations. In order to establish the law's applicability to all human beings, and thereby rescue morality from nationalistic and theological squabbles,[24] Grotius argues that the moral law is a natural law. As such, the moral law follows from our common human nature and can be known by reason alone. He writes that "the law of nature is a dictate of right reason, which points out that an act, according as it is or is not in conformity with rational nature, has in it a quality of moral baseness or moral necessity."[25] With this, Grotius transposes medieval natural law theory, such as we find in the writings of Thomas Aquinas, into a distinctively early modern context,

[23] *De jure belli ac pacis*
[24] See Schneewind (2003: 88-89).
[25] Grotius, *On the Law of War and Peace*, Book 1: Chapter 1, Section 10 §1: "Jus naturale est dictatum rectae rationis, indicaks actui alicui, ex ejus convenientia aut disconvenientia cum ipsa natura rationali, inesse moralem turpitudinem, aut necessitatem moralem" (Kelsey's translation).

inspiring numerous natural lawyers, such as Thomas Hobbes (1588-1679), Samuel Pufendorf (1632-1694), John Locke (1632-1704), Richard Cumberland (1632-1718), Gottfried Wilhelm Leibniz (1646-1716), and Christian Wolff (1679-1754). Hence, Grotius sets the stage for natural law theory to become a dominant school of moral philosophy in the 17th and 18th centuries.[26]

Although there is a myriad of distinctions among the early modern natural lawyers, there are multiple points of agreement in view of which they can be considered as representative of a single school of thought, two of which are of particular importance for our concerns. First, the natural lawyers argue that obedience to the natural law is the conceptual ground of one's own happiness, such that they understand moral virtue to be the means to happiness.[27] To use Kant's terminology, natural law theory proposes an analytic relation between virtue and happiness.[28] For example, according to Pufendorf, the natural law commands us to live sociably, which requires us to promote the good of others and to exercise control over our anti-social tendencies. Pufendorf

[26] While it lies beyond the scope of this paper, it is important to note that, although early modern natural law theory functions according to the same basic philosophical framework as its medieval predecessor, there are distinctions between the two approaches. For an overview of the movement from medieval to early modern natural law theory, see the introduction and first part of J.B. Schneewind's *Moral Philosophy from Montaigne to Kant*, especially pages 3-10, 21-22, 67-68, and 88-90. I focus exclusively on early modern natural law theory in this paper because it is the form of natural law theory with which Kant was familiar and to which he was responding.

[27] For further discussion of this topic, and its connection with Kant's critique of political *eudaimonism*, see Tomassini (2018: 263-265).

[28] In this respect, Kant would associate natural law theory with both Stoicism and Epicureanism since, as he argues in the Dialectic of Pure Practical Reason in the *Critique of Practical Reason*, these schools also hold an analytic relation between virtue and happiness. This also sheds light on Kant's choice to classify Wolff and the Stoics under the same heading (that of moral perfectionism) in the table of schools of thought that propose what he calls "practical material determining grounds in the principle of morality" ["praktische materiale Bestimmungsgründe im Princip der Sittlichkeit" (Gregor's translation)] at KpV 5:40. For Kant's discussion and critique of the analytic connection between virtue and happiness, see KpV 5:110-13.

argues that sociability is necessary for happiness because human beings are self-interested yet not self-sufficient.[29] Consequently, human beings are only capable of pursuing their self-interested ends through mutual cooperation. As he explains in his 1673 text *On the Duty of Man and the Citizen*,[30]

> Every man ought to do as much as he can to cultivate and preserve sociability. Since he who wills the end wills also the means which are indispensable to achieving that end, it follows that all that necessarily and normally makes for sociability is understood to be prescribed by natural law. All that disturbs or violates sociability is understood as forbidden.[31]

The same theme is at work in Leibniz's writings on moral philosophy. That is, if one obeys the natural moral law, then one will attain happiness. Leibniz argues that the law commands human beings to perfect themselves, especially regarding the powers of reasoning and willing. Because pleasure follows

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[29] Some nuance is required here because, although Pufendorf concludes that sociability is necessary for earthly happiness, he argues that the correspondence between obedience to the natural law and our happiness is not the ground of moral obligation. Instead, Pufendorf thinks that moral obligation follows from the fact that a superior (God) commands it. This sets Pufendorf apart from other natural lawyers, such as Leibniz and Wolff, who argue more explicitly that obligation follows from the fact that obedience leads to happiness. Nonetheless, it is the case for Pufendorf that virtue (i.e., living sociably) will result in happiness, although this is not the precise reason for why the natural law obligates in the first place. For more on this topic, see Pufendorf, *On the Duty of Man and the Citizen* [DOH] I.II §5, *Of the Law of Nature and of Nations* I.VI §9, and Schneewind (1998: 134-135). For further discussion of Pufendorf's moral philosophy in general, see Schneewind (1987), Bach (2015), and Mihaylova (2015).

[30] *De officio hominis et civis*

[31] Pufendorf, *On the Duty of Man and Citizen* I.III §9: "His positis adparet, fundamentalem legem naturalem esse hanc: Cuilibet homini, quantum in se, colendam & servandam esse socialitatem. Ex quo consequitur, quia qui vult sinem, vult etiam media, sine quibus finis obtineri nequit; omnia, quae ad istam socialitatem necessario & in universum faciunt, jure naturali praecepta; quae eandem turbant aut abrumpunt, vetita intelligi" (Silverthorne's translation).

from the perception of perfection, the greatest and most lasting state of pleasure (i.e., happiness) is accomplished through one's own perfection as a rational being.[32] He tells Wolff in a letter from May, 1715: "In morals I set up our *happiness* as an end; this I define as a state of enduring joy. Joy I define as an extraordinary predominance of pleasure… [pleasure being] the sensation of perfection."[33] Happiness is the end towards which morality is oriented. Therefore, the moral law commands us to strive for a "serenity of spirit, [in] which [one] would find the greatest pleasure in virtue and the greatest evil in vice, that is, in the perfection or imperfection of the will."[34] Wolff makes this point even more explicitly, claiming in the *Latin Ethics* (1753)[35] that "the end of ethics is human happiness,"[36] making ethics "the science of happiness."[37] Thus, according to natural law theory, moral virtue results in happiness.

A second major point of agreement among the natural lawyers concerns methodology. Because the moral law is a natural law, the natural lawyers conclude that the basic principles of morality can be deduced from an investigation of human nature. Returning to Grotius's conception of the law,

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[32] For a detailed discussion of Leibniz's understanding of perfection, see Blumenfeld (1995: 393-398).

[33] Leibniz (1989: 233): "Finem in moralibus constituo (ut nostri) Felicitatem, quam definio statum laetitiae durabilis. Laetitiam definio praedominium insigne voluptatum…Voluptas porro est sensus perfectionis" (Ariew and Garber's translation). See also Schneewind (1998: 245), and Rescher (1967: 141-142).

[34] Leibniz (1988) II: "On peut dire que cette serenité d'esprit qui trouveroit le plus grand plaisir dans la vertu et le plus grand mal dans le vice, c'est à dire dans la perfection ou imperfection de la volunté seroit le plus grand bien d'ont l'homme est capable icy bas" (Riley's translation).

[35] *Philosophia moralis sive ethica, methodo scientifica pertractata*.

[36] Wolff (1753) I §8: "Finis Ethicae est felicitas hominis" (my translation).

[37] Ibid, V, Preface: "Ethica scientia feliciitatis est" (my translation). See Schwaiger (1995: 161-88) for a detailed discussion of the variety of terms Wolff employs throughout his corpus translated as "happiness".

he holds that reason determines which actions are prescribed and which actions are forbidden in view of the action's degree of conformity to rational nature. As he tells us, "…the law of nature…[proceeds] as it does from the essential traits implanted in man."[38] Hence, it is requisite to identify the morally-salient features of the human being in order to determine what the natural law commands and to deduce our duties therefrom. Pufendorf, for instance, adopts Grotius's methodology, claiming that the natural law "can be traced out and known by the light of man's native reason and by reflection on human nature in general."[39] Pufendorf concludes that sociability is necessary for happiness given our lack of self-sufficiency, which is a feature of the human being that he identifies in light of an empirical examination of human nature.

Another instance of this methodology is found in Wolff. Following Leibniz, Wolff argues that happiness is found in the perfection of the rational being, leading him to conclude in his 1720 text, the *German Ethics*,[40] that the fundamental command of the moral law is "Do what makes you and your condition, or that of others, more perfect; refrain from what makes it less perfect."[41] However, in order to determine what our moral duties are, Wolff must establish what constitutes the perfection of the human condition. Again echoing Leibniz, Wolff understands perfection in terms of harmony. The greater the harmony among a substance's powers, the more suitable the substance is

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[38] Grotius (1925) Prolegomena §12: "…naturale jus…ex principiis homini internis profluit" (Kelsey's translation).

[39] Pufendorf, DOH I.II §16: "Unde & illa per rationis homini congenitae lumen, & ex consideratione humanae naturae, in universum investigari & cognosci potest" (Silverthorne's translation). See also Pufendorf, DJN II.III §14 and Beck (1969: 247-248).

[40] *Vernünfftige Gedancken von der Menschen Thun und Lassen zu Beförderung ihrer Glückseeligkeit*.

[41] Wolff, *German Ethics* §12: "Thue was dich und deinen oder anderer Zustand vollkommener machete; unterlaß, was ihn unvollkommener machete" (my translation). See also Schneewind (1998: 438-439).

for fulfilling the end to which its nature directs it, and so the more perfect it is. Human perfection is that which allows human beings to attain their end of happiness by ordering their powers and activities in accordance with reason. Therefore, doing that which makes one most perfect amounts to choosing that which promotes a harmony between one's actions and one's nature as a rational being.[42] Josef Schmucker characterizes this conception of harmony as "the agreement of free action with all other free activity, and its agreement with the natural end of the capacities of our given human nature."[43] One must strive to perfect all of the powers that follow from one's nature, especially the powers of perceiving, understanding, judging, and choosing. It is only in doing so, Wolff claims, that one is capable of arriving at a clear and distinct idea of one's own happiness and of intentionally choosing and acting upon those things that do in fact promote happiness.[44]

Thus, it is clear that Wolff follows the methodology of natural law theory. Because the moral law is a law of human nature and is oriented towards happiness, it is requisite to determine what constitutes human nature and to offer a conception of happiness in view of that determination, from which one can understand the duties that the law prescribes as the necessary means

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[42] For Wolff's conception of perfection as harmony, see *German Metaphysics* (*Vernünfftige Gedancken von Gott, der Welt, und der Seele des Menschen, auch allen Dingen Überhaupt* [1720]) §§152, 192, 982, 1045, and 1049-51 and *Philosophia prima sive ontologia* §503. See also Rivero (2017: 48-49). Leibniz and Wolff exchanged a series of letters on the topic between October of 1714 and May of 1715. See Leibniz (1989: 230-234). See also Schwaiger (1995: 102-113) for more detail on the importance of this correspondence for the development of Wolff's conception of perfection.

[43] Schmucker (1961: 46): "die Übereinstimmung der freien Handlung mit aller übrigen freien Betätigung und ihre Übereinstimmung mit dem Naturzweck der Vermögen unserer uns vorgegebenen menschlichen Natur" (my translation).

[44] Schmucker concludes that Wolff's moral philosophy carries utilitarian, hypothetical, and eudaimonistic elements. He arrives at this conclusion in view of (1) Wolff's conception of perfection, (2) the pivotal role he gives to perfection, and (3) the identity he draws between human perfection and happiness (Schmucker, 38-39). See also Schwaiger (1995: 96-97).

to happiness. Therefore, Wolff concludes that "the essence and nature of man constitutes the natural law."[45]

Natural law theories like those discussed here establish moral principles *a posteriori*, or as Kant puts it in the *Groundwork*, with respect to "the nature of the human being or in the circumstances of the world in which he is placed."[46] From this, it follows for Kant that natural law theory establishes a moral principle that is conditioned by empirical factors. Hence, natural lawyers must appeal to the findings of what Kant calls empirical psychology and practical anthropology in order to deduce the dictates of the moral law.[47] However, Kant holds that several problems arise from this methodology that he thinks render natural law theory incapable of establishing a categorical imperative and, by extension, universal human dignity. Kant therefore proposes an alternative methodology that he thinks allows him to side-step these shortcomings, and it is to this topic that I will now turn.

IV. Kant's Critique of Natural Law Theory and His Alternative Methodology

We are now in a position to make sense of why Kant rejects natural law theory. According to the Kantian principles discussed above, natural law theory fails to account for morality because it is only capable of establishing hypothetical imperatives, or, as Fiorella Tomassini puts it, "The error of many natural law

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[45] Wolff (1744) I §136: "essentia & natura hominis rerumque lex naturae constitinta" (my translation).
[46] Kant, GMS 4:389: "...der Natur des Menschen, oder den Umständen in der Welt, darin er gesetzt ist" (Gregor's translation).
[47] See Ibid, 4:389, 410-12.

theorists consists in having conceived imperatives of prudence…as moral laws."[48] This error results for two reasons: first, the analytic relation that they draw between virtue and one's own happiness, such that the latter follows necessarily from the former; and second, their method of deducing moral duties from an empirical examination of human nature.

Regarding the first point, Kant agrees with the natural lawyers that all human beings, by nature, desire and pursue happiness. He says that setting happiness as an end of action "can be presupposed surely and *a priori* in the case of every human being, because it belongs to his essence."[49] However, he argues that an imperative to pursue happiness does not constrain the will in a categorical manner. Because Kant presupposes that all human beings set happiness as an end by their nature, there can be no obligation to do so; no duty is at work here.[50] Furthermore, while the end of happiness is shared among humans, there is diversity in how happiness is specified and in the means of achieving it. This is because Kant thinks that happiness can only be defined in generic terms, as the "complete well-being and satisfaction with one's condition."[51] Kant closely associates happiness with the fulfillment of inclinations, and because inclinations vary from person to person, Kant concludes that there can be no determinate, universally applicable definition of happiness. He explains that "*giving counsel* does involve necessity, which, however, can hold only under a subjective and contingent condition, whether

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[48] Tomassini (2018: 260).

[49] Kant, GMS, 4:415-16: "…die man sicher und *a priori* bei jedem Menschen voraussetzen kann, weil sie zu seinem Wesen gehört" (Gregor's translation).

[50] See Kant, *The Metaphysics of Morals* 6:387.

[51] Kant, GMS 4:393: "das ganze Wohlbefinden und Zufriedenheit mit seinem Zustande unter dem Namen der Glückseligkeit" (Gregor's translation). See also Kant, KpV 5:124.

this or that man counts this or that in his happiness."[52] Imperatives that direct agents towards the promotion of their happiness are therefore hypothetical counsels of prudence, not categorical commands of morality.[53] Consequently, the natural lawyers are wrong to draw an analytic connection between morality and happiness. These are heterogenous concepts since a categorical imperative cannot command happiness, and any practical principle that directs one towards their happiness cannot be categorical.[54]

The second objection to natural law theory that follows from Kant's principles is that it fails to establish a categorical imperative because it deduces the moral law from human nature. This is a flaw because it requires an *a posteriori* account of the human being and of human volition, rendering the natural law a conditional practical principle, and therefore no law at all, insofar as it can only obligate on the condition that human nature and its myriad of empirical features obtains. The moral principle that the natural lawyers establish does not determine the will with *a priori* necessity because it does not constrain the will *qua* will, i.e., in an immediate, unconditional manner. Instead, it places an obligation upon the will in view of the particularities of the human condition. Thus, Kant tells us that a law

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[52] Ibid, 4:416: "Die Rathgebung enthält zwar Nothwendigkeit, die aber bloß unter subjectiver zufälliger Bedingung, ob dieser oder jener Mensch dieses oder jenes zu seiner Glückseligkeit zähle, gelten kann" (Gregor's translation).

[53] See Ibid. See also Kant, KpV 5:25-26.

[54] Because morality (or virtue) and happiness are heterogenous concepts, there can only be a synthetic relation between them, in which some third concept is required to establish a causal connection between them whereby the former is the ground for the latter. See Kant's discussion of the highest good in the Dialectic of Pure Practical Reason in the *Critique of Practical Reason* for more on this, especially KpV 5:110-13.

> if it is to be practical, must be independent of conditions that are pathological and therefore *only contingently connected with the will* [emphasis added] …It is requisite to reason's lawgiving that it should need to presuppose only *itself*, because a rule is objectively and universally valid only when it holds without the contingent, subjective conditions that distinguish one rational being from another.[55]

Given the contingent relation between the will and the distinctive features of human nature, Kant concludes that it is conceivable that a will may exist in a being for whom human nature does not obtain, rendering such a will exempt from any practical principle that follows from human nature. Hence, any imperative that human nature places upon the will is merely hypothetical.

Moreover, in view of natural law theory's inability to account for the human being as giving law through the will, Kant can evaluate the natural lawyers not only in terms of their failure to establish a categorical imperative, but also in terms of their incapacity to account for human beings as dignified ends in themselves. Because the natural law is a hypothetical imperative, it is no law at all. It is a conditional practical principle that lacks the requisite formal components of a law: universality and necessity.[56] Therefore, even if the natural lawyers were to argue that the human being gives the natural law

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[55] Kant, KpV 5:20: "...wenn sie praktisch sein soll, von pathologischen, mithin dem Willen zufällig anklebenden Bedingungen unabhängig sein muß…Zu ihrer Gesetzgebung aber wird erfordert, daß sie blos sich selbst vorauszusetzen bedürfe, weil die Regel nur alsdann objectiv und allgemein gültig ist, wenn sie ohne zufällige, subjective Bedingungen gilt, die ein vernünftig Wesen von dem andern unterscheiden" (Gregor's translation).

[56] See Kant, *Critique of Pure Reason* B3-4 for Kant's account of universality and necessity, and the conceptual relation between these formal components and an *a priori* proposition. See Kant, *Prolegomena to Any Future Metaphysics* 4:294-95 for a discussion of the *a priori*, and thereby universal and necessary, nature of a law. See also Kant, KpV 5:21-22.

to itself, what would follow from this self-legislation would not be a law in the precise sense, but what Kant calls a "practical precept."[57] Nevertheless, the natural lawyers do not conceive of the human being as giving law through the will. They argue that the will is an executive, but not a legislative, power. For the natural lawyers, the agent's will is determined by a principle that one comes to understand by reflecting upon human nature. In choosing to abide by a natural duty, the will executes an obligatory act, but it does not legislate the obligation. In this case, the will is determined by an object external to itself, namely the morally-salient features of human nature, making this an instance of heteronomous, not autonomous, willing.

Because natural law theory does not account for the will as a legislative power, it cannot conceive of the human being as a moral lawgiver. However, as we have seen, Kant argues that it is precisely the capacity to give law as an autonomous agent that is the basis of the dignity of the human being. This is what makes the human being an end in itself that is *a priori* worthy of respect. If one were to offer an account of human dignity upon some other basis, such as one's being a child of God, or one's capacity to experience pleasure and pain, or one's being a subject of natural rights, Kant could retort that such an account is *a posteriori*, conditioned upon particular empirical factors or theological claims, and thereby fails to ground the human being's dignity with *a priori* necessity. Hence, only a moral philosophy that establishes the agent's capacity to give law to oneself and to all rational beings, irrespective of any conditioning factor external to the will, is capable of accounting for the universality and necessity of human dignity.

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[57] Kant, KpV 5:20: "praktische Vorschrift" (Gregor's translation).

Now, it is with regard to Kant's critique of natural law theory, and indeed his critique of any moral philosophy that grounds the law upon something other than autonomy, that we can understand Kant's distinctive method, for it is precisely the shortcomings of any such moral philosophy that Kant's alternative methodology is designed to avoid. Specifically, I will focus upon Kant's insistence that moral philosophy must be an *a priori* science of rational nature, leading him to bracket any conception of human volition that follows from an empirical investigation thereof. To use Kant's preferred terminology, what is needed in moral philosophy is a metaphysics of morals.[58]

In the Preface to the *Groundwork*, Kant tells us that his account of the foundational principles of morality will proceed entirely *a priori*.[59] This is because only a moral principle derived *a priori* can obligate with universality and necessity and thereby qualify as a law. He explains:

> Since here my purpose is actually directed towards moral philosophy, I limit the question just to this: is it not thought to be of the utmost necessity to work out for once a pure moral philosophy, completely cleansed of everything that might be in some way empirical and belongs to anthropology? For that there must be such is of itself clear from the common idea of duty and of moral laws. Everyone must admit that a law, if it to hold morally, i.e., as the ground of an obligation,

[58] For Kant's discussion of this, see the Preface to the *Groundwork of the Metaphysics of Morals* (GMS 4:387-92). See also Tomassini (2018: 265-269).

[59] Note that Kant stresses the *a priori* method in his derivation of the grounding concepts of morality, but this is not to say that the entirety of his moral philosophy proceeds *a priori*, for Kant takes both human nature and the circumstances in which human beings find themselves into account in his discussions of particular duties and the matter of maxims. Nevertheless, concerning the fundamental principles upon which he bases his moral philosophy, his method is indeed meant to be entirely *a priori*.

> must carry with it absolute necessity…hence that the ground of the obligation here must not be sought in the nature of the human being, or in the circumstances of the world in which he is placed, but *a priori* solely in concepts of pure reason, and that any other prescription that is founded on principles of mere experience…can indeed be called a practical rule, but never a moral law.[60]

Kant argues that the only way to establish a moral principle *a priori* is to demonstrate that the principle follows immediately from practical reason itself.[61] If it is derived from a source distinct from this, if the principle is given to practical reason by something external to it, then the connection between the principle and practical reason can only be known *a posteriori* and is thereby not necessary but contingent. As contingent, it is conceivable that the connection between the principle and practical reason does not hold in some circumstances or for some rational beings and is consequently a hypothetical principle. Hence, the universality and necessity of the moral law

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[60] Kant, GMS 4:389: "Da meine Absicht hier eigentlich auf die sittliche Weltweisheit gerichtet ist, so schränke ich die vorgelegte Frage nur darauf ein: ob man nicht meine, daß es von der äußersten Nothwendigkeit sei, einmal eine reine Moralphilosophie zu bearbeiten, die von allem, was nur empirisch sein mag und zur Anthropologie gehört, völlige gesäubert wäre; denn daß es eine solche geben müsse, leuchtet von selbst aus der gemeinen Idee der Pflicht und der sittlichen Gesetze ein. Jedermann muß eingestehen, daß ein Gesetz, wenn es moralisch, d.i. als Grund einer Verbindlichkeit, gelten soll, absolute Nothwendigkeit bei sich führen müsse…daß mithin der Grund der Verbindlichkeit hier nicht in der Natur des Menschen, oder den Umständen in der Welt, darin er gesetzt ist, gesucht werden müsse, sondern *a priori* lediglich in Begriffen der reinen Vernunft, und daß jede andere Vorschrift, die sich auf Principien der bloßen Erfahrung gründet…zwar eine praktische Regel, niemals aber ein moralisches Gesetz heißen kann" (Gregor's translation).

[61] By practical reason *itself*, I mean what Kant calls pure practical reason (i.e., the practical use of reason independently of anything empirical or otherwise external to itself). For my purposes in this paper, I have chosen to use the term 'practical reason' instead of 'pure practical reason' both for the sake of simplicity and because the latter is already implied in the autonomy of the former. See the Preface to the *Critique of Practical Reason* for a brief discussion of pure practical reason and Kant's choice not to identify his project as 'a critique of pure practical reason' (KpV 5:3).

depend upon the law being an *a priori* principle. As such, it cannot be a principle that is given to practical reason but must find its ground within practical reason itself. It must be a principle that practical reason gives to itself.

Furthermore, Kant argues that practical reason is the same as the will. He tells us in the *Groundwork* that "Only a rational being has the capacity to act *according to the representation* of laws, i.e., according to principles, or a *will*. Since *reason* is required for deriving actions from laws, the will is nothing other than practical reason."[62] He also makes this equation in the *Critique of Practical Reason*, saying simply that the "pure will…is the same thing [as] pure practical reason."[63] Thus, a moral law given *a priori* by practical reason is a law given autonomously through the will. It results from an act of self-legislation and is thereby a law *of* the will. Because the moral law is an *a priori* practical principle of the will, it necessarily applies to all rational beings, making the duties it prescribes universally and unconditionally prescriptive.

Therefore, the capacity for autonomy secures moral philosophy as an *a priori* science. Besides being *a priori*, Kant holds that moral philosophy must proceed according to an account of *rational* nature, not merely human nature. This is a subtle yet highly consequential methodological shift from natural law theory. As discussed above, Kant argues that the pathological features that are distinctive of the human being, and thereby distinguish the human being from other rational beings, such as God, subsist in a contingent relation

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[62] Kant, GMS 4:412: "Nur ein vernünftiges Wesen hat das Vermögen, nach der Vorstellung der Gesetze, d.i. nach Principien, zu handeln, oder einen Willen. Da zur Ableitung der Handlungen von Gesetzen Vernunft erfordert wird, so ist der Wille nichts anders als praktische Vernunft" (Gregor's translation).

[63] Kant, KpV 5:55: "…eines reinen Willens oder, welches einerlei ist, einer reinen praktischen Vernunft" (Gregor's translation).

to the will.[64] On the other hand, the will is an intrinsic feature of every rational being because the will is the same as practical reason. Because the moral law is given autonomously through the will, it does not apply in view of any specifically human feature. With this, Kant distances moral philosophy from an empirical, and therefore *a posteriori*, examination of human nature and restricts his analysis to what can be known *a priori* about rational nature. In doing so, Kant rejects natural law theory's methodology and thereby sidesteps the shortcomings that follow therefrom.

Lastly, we are now in a position to understand how Kant's alternative methodology bears on his demonstration of the universal dignity of human beings. The human being is an end in itself in light of the capacity for moral autonomy. The only way that Kant can argue that *every* human being is necessarily an end in itself is to hold that every human being can be thought of *a priori* as giving law, and this only follows if we locate the source of one's lawgiving in the will, which is a constitutive feature of human nature only insofar as human nature is an instance of rational nature.

Therefore, Kant is convinced that the only moral philosophy capable of accounting for the claim that every human being is an end in itself is a moral philosophy that brackets all empirically derived features of the human being, proceeds according to foundational principles known *a priori*, and nests its account of human nature within an analysis of rational nature. Insofar as early modern natural law theory fails to proceed in accordance with this methodology, Kant can conclude that it is incapable of establishing either a moral law as a categorical imperative or the universal dignity of the human

[64] See note 55.

being. The only moral philosophy capable of accomplishing these objectives is one that puts forward the autonomy of the will, i.e., the lawgiving self, as the fundamental principle of morality.

V. Conclusion

Thus, we see that two of the most distinctive features of Kant's moral philosophy – the sharp distinction he draws between morality and happiness on the one hand, and his insistence that moral philosophy be a science grounded upon an *a priori* examination of rational nature (hence a metaphysics of morals) on the other – are properly contextualized in view of his critique of both the substance and the method of early modern natural law theory. Kant's chief objection to the natural lawyers is that they fail to establish a moral law as a categorical imperative, and are consequently only able to account for principles of practical prudence but not moral commands that prescribe duties with universal necessity *a priori*. This is because natural law theory insists that happiness follows necessarily from virtue and engages in an *a posteriori* examination of human nature in order to determine the law's prescriptions.[65] I have demonstrated why these features of natural law theory led Kant to his chief objection and why he holds autonomy to be the fundamental grounding principle of morality, as this is necessary to secure the moral law *qua* law. Moreover, I have shown why Kant argues that autonomy is the foundation of the *a priori* dignity of rational beings, leading to his major conclusion that the categorical imperative requires us to treat all rational beings, including

[65] See Tomassini (2018: 269).

human beings, as ends in themselves. To the extent that the natural lawyers fail to account for the rational being as a lawgiving self in view of the capacity for moral autonomy, they also fail to establish the duty to treat others as ends in themselves. Therefore, it follows from Kant's principles that only a metaphysics of morals grounded upon the will's capacity to give law qualifies as a moral philosophy in the precise sense. Consequently, he must reject any moral philosophy that neglects autonomy as its fundamental principle. Insofar as natural law theory as articulated in the early modern period fails in this regard, Kant decisively breaks with this tradition and dismisses the natural lawyers from the realm of true moral philosophy.

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List of Abbreviations:

DOH: *On the Duty of Man and the Citizen*

GMS: *Groundwork of the Metaphysics of Morals*

KpV: *Critique of Practical Reason*

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