

Commentary on Fremaux's “The Lawgiving Self: Kant on the Natural Law Tradition and the Dignity of Others”

Chih-Sheng Yang*

In this paper, the writing is neat and tidy, the citations are ample and adequate, and the arguments are persuasive. I am persuaded as well as surprised to find that the early modern natural lawyers, for Kant, do not afford real law to us, as Fremaux puts it: “This renders 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.” At the same time, the continental rationalists, like Leibniz and Wolff, are not so ‘rational’ on moral philosophy, because they established 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.” These moral principles were for Kant conditioned by empirical factors. I agree with Fremaux when he says: “Besides being *a priori*, Kant holds that moral philosophy must proceed according to an account of rational nature, not

* Associate Professor, Department of Philosophy, National Taiwan University

merely human nature. This is a subtle yet highly consequential methodological shift from natural law theory.” This rational nature is for me the key concept of this paper.

As I am totally persuaded by the arguments in the paper, I have only one small question. In section IV., ‘Kant’s Critique of Natural Law Theory and His Alternative Methodology,’ according to Fremaux, there seems to be three objections to natural law theory from Kant’s principles. The first is that Kant rejects the natural lawyers insofar as they draw an analytic connection between morality and happiness. These are, for Kant, heterogenous concepts. In the footnote, Fremaux says: “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 in which the former is the ground for the latter.” I would like to know what this ‘some third concept’ would be. Is it God? How does this third concept connect morality and happiness? When it does, would morality and happiness - or something like *Glückseligkeit würdig zu sein* - become homogenous concepts?