

CHAPTER 9

Moral Autonomy as Political Analogy
Self-Legislation in Kant's Groundwork and the
Feyerabend Lectures on Natural Law (1784)

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I. Introduction

During the very months in which Kant was writing the *Groundwork of the Metaphysics of Morals*, he was also lecturing on legal and political theory. The moral theory developed in the *Groundwork* is replete with legal terminology and political analogies. Few interpreters, however, have explored the extent to which these lectures, known as the *Feyerabend Lectures on Natural Law*, shed light on core elements of Kant's moral theory. In this essay, I focus on the notion of autonomy and argue that these lectures shed new light on the meaning of this core concept of Kant's ethics.¹

The introduction of the idea of autonomy is one of the most important philosophical innovations of the *Groundwork*. Its significance is indisputable. Kant designates autonomy as the “principle of morality,” calls one of the versions of the Categorical Imperative the “Principle of Autonomy,” identifies autonomy with freedom of the will, and argues that conceiving of morality in terms of autonomy is the only way to account for the unconditionality of moral obligation. Clearly, an idea that plays all of these roles is hugely important – yet *how* the idea of autonomy plays these roles is a matter of much dispute, and many commentators argue that Kant's arguments are ultimately unsuccessful.

¹ Several interpreters note that Kant introduces autonomy as an analogy, and some elaborate the political analogy in more detail (e.g., O'Neill 1989:3–50; Reath 2006:92–120; Korsgaard 2009:154–158). They do so by drawing on Rousseau, on their own understanding of political self-legislation, or on Kant's *Metaphysics of Morals*. The political theory that Kant defended while he was writing the *Groundwork*, however, is a much more appropriate point of reference than the conceptions of others (such as one's own or Rousseau's). Furthermore, the *Metaphysics of Morals* is not a reliable guide to Kant's 1784 understanding of autonomy, since Kant's political theory underwent profound changes during the intervening period. Kant even seems to drop the Principle of Autonomy in the 1790s (see Kleingeld 2018).

Kant's concept of autonomy does indeed raise many difficult questions. On the face of it, the notion of autonomy – or “self-legislation”² – seems to be a rather infelicitous metaphor, if not a deeply incoherent idea.³ The notion tends to invite voluntaristic misunderstandings, since “legislating” or “lawgiving” generally means enacting a law that was not in force until that very moment. Speaking of “self-legislation” or “autonomy” in relation to morality and the will may therefore evoke the idea that one puts oneself under moral obligation by an act of will.⁴ This in turn seems to suggest that one can repeal the law or enact a different law if one wants to. Yet it is clear that Kant regarded neither the validity nor the content of the highest moral principle as being up to the agent. As a result, many authors consider Kant's conception of moral autonomy paradoxical and deeply problematic,⁵ or at least in need of careful qualification.⁶

We might therefore wonder why Kant made the notion of autonomy central to his moral theory in the first place. He certainly does not argue that particular agents decide at some point in time to enact the Categorical Imperative, specific moral laws, or both. But then, what does “autonomy” *mean*, and how could Kant possibly have considered the idea of autonomy *apt* for expressing the principle of morality? These are the main questions I address in this essay.

I shall take as my point of departure Kant's statement that the different formulas that follow his articulation of the Formula of Universal Law each involve the use of “a certain *analogy*,” and that they are different ways “to *represent* the principle of morality” (G 4:436, emphasis added; also 437).⁷ The first is the Formula of the Law of Nature, the second is the Formula of

² In Greek, the adjective *αὐτόνομος*, which derives from the words for “self” and “law,” means “independent” or “living under one's own laws.” It should also be noted that Kant himself does not use the German counterpart of the English noun “self-legislation” (“*Selbstgesetzgebung*”).

³ For further explanations of the interpretive difficulties, see, e.g., Reath 2006: chapter 4; Wood 2008: chapter 6; Ameriks 2013; Sensen 2013a:1–3.

⁴ According to one important tradition of interpretation, Kant indeed claims that we impose moral obligation on ourselves. To quote just one representative statement, from Jerome Schneewind: “[Kant] held that we are self-governing because we are autonomous. By this he meant that we ourselves legislate the moral law” and that we “impose morality on ourselves” (Schneewind 1998:6 and 13).

⁵ Pinkard 2002:59; Wood 2008:106–122.

⁶ For example, Onora O'Neill emphasizes that the “self” of which Kant speaks should not be understood as referring to a particular individual, but rather to an “impersonal” self qua rational being. She rightly emphasizes that Kant asserts that the moral criterion is reason's *own* criterion (e.g., O'Neill 2013).

⁷ Translations are my own, but I have benefited from the translations available in the *Cambridge Edition of the Works of Immanuel Kant*.

Humanity as End in Itself, and the third is the Formula of Autonomy, which Kant subsequently develops into the Formula of the Realm of Ends (cf. G 4:421, 429, 431, 436, 437, 439). With the third, Kant introduces an analogy with political legislation. He initially refers to this formulation as “the third” principle, but towards the end of his discussion he labels it the “Principle of Autonomy” (G 4:433). Given that this is where Kant introduces the notion of autonomy, the political analogy at issue in the third Formula seems to be the natural point on which to focus if we wish to gain a clearer understanding of this notion.

The “Principle of Autonomy,” Kant writes, is the “idea of the will of every rational being as a will giving universal law” (G 4:431). Kant also formulates it as the “principle of every human will as a will that is universally legislating through all its maxims” (G 4:432; original emphasis). It is the command to “regard” oneself as giving universal laws through one’s maxims, for the purposes of evaluating oneself and one’s actions (cf. G 4:433). In imperatival form, it reads as follows: “act as if your maxim were to serve at the same time as a universal law (of all rational beings)” (G 4:438).

These formulations raise a number of questions. The first concerns the nature and content of the universal legislation at issue. Does the “universal law” of which Kant speaks here refer to the principle of morality (Categorical Imperative) or to substantive moral laws (duties), such as the law that one ought not to lie (cf. G 4:389) and the “law to promote the happiness of others” (KpV 5:34)? The second question is why Kant would refer to the principle as the principle “of autonomy” at all. “Autonomy” does not appear in the formulation of the principle, nor does it include any explicit reference to the self. Instead, the principle emphasizes *giving universal law*. Why does Kant call this *autonomy*?

Given that Kant explicitly presents the Principle of Autonomy as an analogy, I will begin by examining the set of ideas that serves as the basis of the analogy in order to see what clues this yields when it comes to answering the above questions. I therefore turn to the political theory Kant defended during the very months in which he was writing the *Groundwork*. I first provide some of the relevant background information about the Feyerabend lectures (Section 2). Following a brief introduction of Kant’s notion of analogy (Section 3), I show that his conception of moral autonomy has close parallels in his account of just political legislation – parallels that are crucial for understanding his *Groundwork* conception of moral autonomy. I focus on Kant’s two-tiered conception of political and moral legislation to determine the

nature of the law at issue (Section 4). I then consider the sense in which this law is *self*-legislated (Section 5). In the final section, I show how this analysis of Kant's "Principle of Autonomy" can help us to understand what Kant means when he designates autonomy as a "property" of the will (Section 6).

2. The Feyerabend Lectures: A Neglected Resource for Understanding the *Groundwork*

As the standard picture has it, Kant developed his conception of moral autonomy in the *Groundwork* on the basis of the political conception of autonomy that Jean-Jacques Rousseau had developed in *The Social Contract*. Kant's publication record might seem to provide support for this thesis, since he did not publish any detailed and systematic discussions of legal and political philosophy of his own until the 1790s.

However, this standard picture entirely overlooks the fact that Kant was lecturing on legal and political theory while he was writing the *Groundwork*. It is no coincidence that his very first documented public reference to the idea of moral autonomy is found in the introduction to the 1784 Feyerabend lectures.⁸ More importantly, Kant's account of moral autonomy parallels his own account of just political legislation (and more closely than it does Rousseau's).

Kant taught this course during the Summer Semester of 1784, from April 29 to September 24.⁹ This was the very period in which he was writing the *Groundwork*. A letter from Johann Georg Hamann, dated April 30, 1784,¹⁰ reports that Kant was working on a "precursor" to his moral theory ("*Prodromus der Moral*"). Another letter from Hamann, dated September 19–20, 1784, reports that Kant had sent the manuscript to the publisher.¹¹

⁸ For further discussion of Kant's reference to autonomy in the Introduction to the Feyerabend lectures, see Marcus Willaschek's essay in Chapter 8 of this volume.

⁹ The manuscript states that the lectures were held during the winter semester, but the lectures were actually held during the summer semester. This mistake seems to be attributable to the copyist (see Gerhard Lehmann's introduction to the Academy Edition of the Feyerabend lectures, AA 27:1053).

¹⁰ At this point, Kant had been working on a book on moral philosophy for some time. In the *Vorarbeiten* for the *Prolegomena* (1783), he writes that he will soon present the solution to the problem of the possibility of the Categorical Imperative (cf. AA 23:60). Initially, however, he had been planning to write a critical discussion of a work by Garve. In the spring of 1784, it seems, the project transformed into the project of the *Groundwork*. See Paul Menzer's introduction to the *Groundwork* in the Academy Edition, AA 4:626f.

¹¹ Both letters are quoted in Menzer's introduction, at AA 4:627 and AA 4:628 respectively.

This suggests that the standard account of the emergence of Kant's notion of moral autonomy needs revising. Rather than assuming that Kant borrowed the notion of autonomy from Rousseau in the absence of any developed political theory of his own, we should examine his notion of moral autonomy in light of his own political theory.¹²

The Feyerabend lectures are the only available student transcript of Kant's lectures on natural law, despite the fact that he taught the course 12 times between 1767 and 1788. The transcript was rediscovered in the 1970s and was then hastily included in the Academy Edition as an appendix to the 1979 volume that contained Kant's lectures on moral philosophy. Their inconspicuous location, the absence of scholarly apparatus, the edition's reputation as being unreliable, and the fact that there is still no translation of the Latin textbook that Kant assigned for this course – Gottfried Achenwall's *Ius Naturae* (Achenwall 1763)¹³ – all help to explain why these lectures have received relatively little attention in the world of Kant scholarship.¹⁴ This may soon change, thanks to the recent critical edition by Delfosse, Hinske, and Sadun Bordoni (2010, 2014), the publication of an English translation by Frederick Rauscher (2016),¹⁵ and the forthcoming English translation of Achenwall's textbook (Achenwall [forthcoming]).¹⁶ Of course, there is good reason to use caution when taking a student transcript as a basis for reconstructing Kant's own views. As becomes clear below, however, Kant's own notes and published texts from the same period provide independent confirmation of the accuracy of the transcript. For example, he defends the same views in the essay "What is Enlightenment?," which he finished only weeks after he had completed the *Groundwork* manuscript.¹⁷

¹² To recommend that we read Kant's conception of moral autonomy in light of his own political theory is not to deny or diminish Rousseau's importance for Kant, of course, since Kant's political philosophy itself owes a considerable debt to Rousseau.

¹³ On Achenwall's textbook and Kant's use of it, see Byrd and Hruschka 2010:15–19.

¹⁴ Notable exceptions include Hirsch 2012 on Kant's legal philosophy in the Feyerabend lectures and its relation to the *Metaphysics of Morals*; Guyer on Kant's discussion of freedom in the introduction to the Feyerabend lectures (e.g., Guyer 2000); Zöllner 2015 on the notions of bindingness and obligation; and Rauscher 2015 on Kant's conception of sovereignty in relation to his later assessment of the French Revolution.

¹⁵ In the volume of the Cambridge Edition of the Works of Immanuel Kant titled *Lectures and Drafts on Political Philosophy*, eds. Frederick Rauscher and Kenneth Westphal.

¹⁶ There is a German translation of Achenwall and Pütter 1995 [1750], but this edition differs substantially from the 1763 edition assigned by Kant for his lectures.

¹⁷ Kant dates the essay September 30, 1784 (WA 8:42).

3. Analogies

Analogies play a very important role in Kant's philosophical work, in part because he regards them as indispensable for "representing" ideas or principles of reason. Unlike empirical concepts, for which one can give examples, and unlike concepts of the understanding, for which one can give schemas, ideas and principles of reason cannot be directly represented by sensible intuition. The only way to represent ideas and principles of reason is indirectly, via analogy (cf. *Prolegomena* 4:357–360; *KU* 5:351–354). Kant's use of analogies for representing rational ideas and principles, then, should not be misunderstood as a mere use of decorative metaphors to enliven his audience's reading experience. Rather, their use has the more important function of presenting *in concreto* what is meant by the idea or principle in the first place (cf. Kleingeld 1998).

Kant reflects on the methodological aspects of his use of analogy in relation to the idea of God, in the *Critique of Pure Reason* and in the *Prolegomena to Any Future Metaphysics*. He writes that an analogy "does not signify, as the word is usually taken, an imperfect similarity of two things, but a *perfect similarity of two relations* between entirely dissimilar things" (*Prolegomena* 4:357, emphasis added). Thus, in the case of the a priori idea of God, Kant argues that the nature of reason is such that we regard the sensible world as standing in a relation that is similar to the relation between a watch and its maker, a ship and its builder, and a regiment and its commander (cf. *Prolegomena* 4:357). In other words, we are rationally compelled to regard the sensible world as if it had been ordered by a supreme being. Positing an analogy between God and a watchmaker in this way does not amount to saying that God is similar to a watchmaker, nor does it mean that we must believe that God exists or that the world was indeed created by God. Rather, what it means is that we proceed, when investigating nature, in the manner in which we would proceed if we knew the world had been created by God. In the case of natural science, it means that we proceed as if nature had a rational order, and Kant traces our tendency to do so to the a priori idea of God. Our use of this idea involves "regarding" the world "as if" it were a systematic unity – that is, "as if it were the work of a highest intelligence and will" (*Prolegomena* 4:357; cf. *KrV* A700/B728).

In the *Groundwork*, Kant uses the same terminology of "regarding as" and "acting as if" when he claims that the different formulations of the Categorical Imperative involve the use of analogy. He also motivates his reformulation of the Categorical Imperative in the different formulas by

saying that these are different ways to “represent” the principle of morality and “bring an idea of reason closer to intuition” and thereby closer to feeling (G 4:436). In the case of the Principle of Autonomy, he argues that we are to “regard” (*ansehen, betrachten*) ourselves as giving universal laws through our maxims, or that we are to “act as if” we are (G 4:431, 433). All of this suggests that we should indeed interpret the Principle of Autonomy as involving the use of analogy in Kant’s technical sense.

4. Kant’s Two-Tiered Conception of Law in Politics and Morality

To determine what Kant means by the “universal law” mentioned in the Principle of Autonomy, we need to understand his account of political legislation. I first discuss the relevant aspects of his 1784 account of political legislation before comparing these to Kant’s discussion of the Principle of Autonomy. In particular, I argue that the relation between the Categorical Imperative and the “universal law” mentioned in the Principle of Autonomy (as described in the *Groundwork*) parallels the relation between the a priori constitutional law of the state and positive state laws (as described in the Feyerabend lectures).

A. A Two-Tiered Conception of Political Law

In the Feyerabend lectures, Kant argues that the aim of the state as such is not the general happiness but a general condition of justice (*Gerechtigkeit*), which he also calls a condition of “public freedom” (NF 27:1383). As he also puts it, “right concerns freedom” (NF 27:1329).¹⁸ Hence, the condition of freedom is to be brought about through just state legislation: “The state of a republic [*status rei publicae*] is thus freedom and more specifically public freedom, and this must be the aim of the highest ruler [*imperantis summi*]” (NF 27:1383).

Kant argues that the leading normative principle for achieving justice or public freedom is the a priori *idea of an original contract*. The state is to be regarded as having originated in the agreement of the people to

¹⁸ Given Kant’s claims that women are unfit for full citizenship, and that they are inferior to men due to certain cognitive “deficiencies” (Anth 7:208–209; cf. 303–311), it would be misleading to use explicitly gender-inclusive language in this description of his theory. For discussion of the difficulties raised by Kant’s use of gender-neutral terminology such as “human being” in combination with his description of women as naturally inferior to men, see Kleingeld 1993.

subject themselves to common legislation (cf. NF 27:1382). The terms of this ideal contract are the a priori constitutional principles of the state. Any positive legislation therefore ought to be consistent with this idea of an original contract to which all subjects are party. Importantly, Kant asserts that this implies that any positive state legislation ought to be such that it could have proceeded from the agreement of the entire people.

The contract terminology might be taken to suggest that an *act* of signing took place and that the state is constituted by a historical event, but Kant emphatically denies that the civil condition must be conceived as stemming “from a deed” (*vom facto*) (NF 27:1382). Rather, the idea of an original contract is an idea of reason, a rational normative principle: “An original contract, which is an idea that lies necessarily in reason, forms the basis of all civil associations” (NF 27:1382). Thus, one ought to “regard” or “represent” the state as originating in an original contract (NF 27:1382), without assuming that it is *actually* the result of a historical decision by all to constitute a state.¹⁹ Rather, the relation between state laws and citizens should be *conceived* on the model of the relation between a contract and its signatories.²⁰

Accordingly, Kant is reported to have said that all positive legislation within the state ought to proceed on the principle that only those laws that could have been adopted by the people as a whole are just:

One must represent all laws in a civil society as given through the vote [*Stimmung*] of all. The original contract [*contractus originarius*] is an idea of the consent of all that has become a law for them. One must examine whether the law could have arisen from the agreement of all: if so, then the law is right [*richtig*]. (NF 27:1382)

Thus, the normative constitutional principle requires neither that the people *actually consent* to the laws nor that they *would consent* if asked. It merely requires that the people *could consent* to them. The legislator ought to proceed by asking whether candidate laws can be regarded *as if* they stemmed from the “will of all” and ought only to give laws that pass this test.

The criterion governing whether a law can stem from the will of all is whether the law is indeed genuinely universal. In the margin of his own copy of the textbook he assigned for the course, Kant wrote: “All laws of the highest

¹⁹ Note that the Feyerabend lectures predate the written constitutions of the US and France that were adopted by the citizens and stemmed “from a deed,” so to speak.

²⁰ Clearly, this is yet another context in which Kant uses analogy.

ruler [*des summi imperantis*] must originate as if from common agreement [*quasi ex consensu communi*], namely, they should not *necessarily* contradict it . . . If laws are possible only on the basis of a private choice [*ex arbitrio privato*] (one against all), they are violent, and therefore despotic” (19:346, emphasis in original).

In the Feyerabend lectures, Kant provides an example of unjust legislation, namely, the example of a ruler who imposes taxes on merchants while exempting his favorites from this burden (cf. NF 27:1382). The example is not developed in any detail, but its point seems to be that this law is not genuinely universal because it comes with a decidedly private exception motivated by the ruler’s personal preferences.

To sum up: according to Kant’s account as we find it in the Feyerabend lectures, the most fundamental, constitutional law of the state is an a priori idea of reason. It articulates a procedural normative principle for determining whether positive laws are just, namely the idea of an original contract to which all subjects are signatories. According to this principle, only those positive state laws that could have been given by the entire people are just. In order to qualify as such, a law should not allow for private exceptions and must be genuinely *universal*.

B. A Two-Tiered Conception of Moral Law

The parallels between this two-tiered account of political legislation and its moral counterpart in the *Groundwork* are striking. The Principle of Autonomy is itself an alternative formulation of the Categorical Imperative, which functions as an analogue of the political “constitutional” or “fundamental law.” It demands that the moral agent act as if he were a legislator of universal laws, which are conceived as analogous to positive state laws.

A first parallel to note is that in the Feyerabend lectures Kant designates the constitutional principle as an a priori principle that “lies necessarily in reason,” and in the *Groundwork* he similarly refers to the Categorical Imperative as an a priori principle of pure reason. He refers to the Categorical Imperative as a “necessary law” that is “fully a priori” (G 4:426). In the *Critique of Practical Reason*, Kant makes the parallel with a constitutional law even more explicit by repeatedly calling the Categorical Imperative the unconditional and a priori “*Grundgesetz*” of pure practical reason (KpV 5:30, 31), or the “*Grundgesetz*” “of a supersensible nature” (KpV 5:43). “*Grundgesetz*” means “constitution,” “constitutional law,” or “fundamental law” (in the sense of *lex fundamentalis* or

Fundamentalgesetz, cf. NF 27:1388).²¹ Kant clearly uses the term “*Grundgesetz*” in this sense and with reference to the idea of an original contract. Elsewhere, he writes, for example: “This fundamental law (*Grundgesetz*), which can arise only from the general (united) will of the people, is called the original contract (*ursprünglichen Vertrag*)” (TP 8:295).²² Thus, Kant refers to the Categorical Imperative using the exact same *Grundgesetz* terminology with which he also refers to the constitutional principle of the state. Moreover, in both the *Groundwork* and the Feyerabend lectures, he describes these fundamental laws as a priori principles of reason.

A second parallel is the fact that in the Feyerabend lectures Kant argues that the constitutional principle should guide and constrain the political legislator, and in the *Groundwork* he argues that the Categorical Imperative should guide and constrain the moral agent who is – according to the Principle of Autonomy – to regard himself as legislating through his maxims. When evaluating the moral permissibility of one’s maxims of action, Kant argues, one should “regard oneself as” giving universal laws through one’s maxims.²³ The laws one is to consider as being given “through one’s maxims,” then, are the analogical counterparts of positive state laws – namely, the universalized versions of one’s maxims.

Third, the normative content of the a priori constitutional principle (according to the Feyerabend lectures) is mirrored in its analogical moral counterpart. The criterion one ought to observe when evaluating one’s maxims is formally the same as the criterion governing the legislation of positive state laws: in both cases, the principle – the candidate maxim or the proposed state law, respectively – ought to be able to serve as a genuinely universal law. One should ask oneself whether one’s maxim can serve not merely as one’s personal maxim but also, simultaneously, as a universal law for the entire moral realm (cf. G 4:431, 433, 434, 438). As

²¹ Most translators render *Grundgesetz* as “fundamental law.” This is certainly not incorrect, given that the Latin is *lex fundamentalis*, but for current readers it may obscure the political connotations of the term and especially the fact that it refers to a constitutional principle.

²² Kant’s political theory underwent important changes over the years, and there are significant differences in substance between the Feyerabend lectures and “On the Common Saying” from 1793. Here, I abstract from this developmental aspect and point merely to similarities between the *concepts* used. For a discussion of the changes in Kant’s political theory in relation to his conception of moral autonomy, see Kleingeld 2018.

²³ The connection between political and moral legislation in Kant’s work is obscured by the fact that the expressions “*allgemeiner Wille*” and “*allgemeines Gesetz*” are usually rendered “general will” and “general law” in translations of his political philosophy, and as “universal will” and “universal law” in translations of his moral works.

mentioned above, the moral imperative is as follows: “Act as if your maxim were to serve at the same time as a universal law (of all rational beings)” (G 4:438).

As indicated by the “as if” in the quoted passage, Kant does not argue that one does or should in fact literally legislate universal laws through one’s maxims. Rather, one is to *regard oneself as if* this were so, for the purposes of evaluating the moral permissibility of one’s maxims. Each rational being “must regard himself as giving universal law through all the maxims of his will, in order to evaluate (*beurteilen*) himself and his actions from this point of view” (G 4:433). The moral agent is not required literally to give laws but rather to determine the permissibility of his maxims by using the model for evaluating the justice of state laws.

Above, I quoted Kant as speaking of a “contradiction” that can emerge between a political legislator’s “private choice” and what can be the object of “common agreement.” He wrote that laws that are possible only on the basis of private choice and that cannot be the object of common agreement, are unjust. In the *Groundwork*, Kant similarly speaks of a “contradiction” that ensues in the case of maxims that fail the criterion. This contradiction emerges during moral reflection, when one examines – as the Principle of Autonomy requires that one do – whether one’s action principles can serve both as one’s own (private) maxims and simultaneously as universal laws. If they cannot (without contradiction), then acting on these maxims is morally impermissible.²⁴

Before I turn to the sense in which the legislative process, thus described, can be designated as “autonomy,” let me sum up the results thus far. First, both the political and the moral “constitutional laws” are a priori principles of pure practical reason; neither is the product of positive legislation. Or, more precisely, since the moral principle involves the analogous use of the political constitutional principle, a single a priori formal normative principle governs both domains. Second, the “universal laws” that the moral agent is to regard himself as giving, under the normative guidance of this constitutional principle, are substantive laws for the entire moral realm; they are conceived on analogy with the positive laws given by a political legislator.

²⁴ For a detailed interpretation of the Formula of Universal Law along these lines, with an emphasis on Kant’s conception of the nature of the contradiction involved, see Kleingeld 2017.

5. Autonomy in Politics and Morality

A. Political Autonomy in the Feyerabend Lectures

Why does Kant call the third alternate formulation of the Categorical Imperative the Principle of *Autonomy*? More specifically, in what sense can we speak of *self-legislation* in a moral context? To shed more light on these issues, I shall examine in more detail whether and in what sense political laws are (or ought to be) “self-given” according to the Feyerabend lectures.

In the 1784 Feyerabend lectures and in published texts from the same year, Kant does not *recommend*, let alone argue that it is normatively *required*, that political legislation take the form of *actual* self-legislation by the people. Although he asserts that the people are sovereign and that the highest legislation resides with those who obey the law (cf. NF 27:1382f), he calls this an “idea” and argues that actual legislation may be undertaken by the people’s *representative* (cf. NF 27:1383). Kant does not argue that this representative must be *elected* by the people; it may be an unelected sovereign ruler. In other words, Kant does not argue that citizens ought to have the right to vote and (directly or indirectly, via elected representatives) actually legislate in any literal sense. Although he allows for political systems that include actual (self-) legislation by the citizens (cf. NF 27:1383), Kant does not maintain that the latter is a necessary condition for achieving political justice or public freedom.

Instead, Kant argues that the sovereignty of the people requires that a highest legislator who represents them ought to give only laws that the entire people *could* agree to (or *could have* agreed to): “That government is always good in which laws are given that the entire people *could have given*” (NF 27:1383; emphasis added). The people’s self-legislation is an *idea* that functions as a normative *criterion* that should be used by any legislator who acts as their representative. Acting as their representative, the legislator ought to restrict legislation to laws that a people *could* make, not to laws that they *would* make (if given the opportunity) or to which they *do* agree. The citizen “is being *regarded as if* he were governed in accordance with his own will” (NF 27:1384; emphasis added). Kant reportedly even said the following in his lectures: “The laws of a despot can be just, when they have been made such that they could have been made by the entire people . . . *It is not necessary* for him to judge whether the people *would* make such a law in this case, but whether it *could have* made such a law” (NF 27:1382; emphasis added).

Kant should not be misunderstood as recommending despotism here, but his claim that the normative principle governing legislation abstracts entirely from the actual will of the people does indeed have the implication that a despot's *laws* can be fully just. The criterion Kant formulates does not require *actual* legislation by the people themselves.²⁵ It does not require that the despot *consult* the people; it does not even require that the despot ask himself whether the people *would* enact a certain law. All that is necessary is that the people *could* do so. The idea of citizen self-legislation, or the idea of the autonomy of the people, functions as a normative criterion.

There is no reason to believe that Feyerabend misunderstood Kant on this count. Kant defends the same position in his notes and in published writings from the same period. Above, I quoted Kant's note that "All laws of the highest ruler must originate as if from common agreement" (*Remarks on Achenwall*, AA 19:346). Moreover, in "What is Enlightenment?," which Kant finished soon after he had completed the manuscript of the *Groundwork*, he writes: "The touchstone of whatever can be decided upon as law for²⁶ a people lies in the question: whether a people *could* impose such a law upon itself" (WA 8:39; emphasis added). In sum, according to the political theory Kant defended in 1784, it is not necessary for the people to actually legislate; the ruler, as their representative, is to give laws that they could have given themselves.

B. Moral Autonomy: As If We Were Legislating

If we now turn to the Principle of Autonomy, we recognize the features of this counterfactual conception of citizen autonomy. As Kant writes in the *Groundwork*, the will is to be "regarded" as "*universally legislating through all its maxims*" (G 4:432), and the moral agent is to "act as if," through his maxims, he were giving universal laws – that is, laws that are to serve as laws "of all rational beings" (G 4:438). Nowhere does Kant suggest that all rational beings who are regarded as subject to these laws must give their *consent*. Kant does mention that we should take into account the

²⁵ One exception seems to be the passage where Kant is reported as stating that "every law that does not originate in consent is unjust" (NF 27:1382). Yet Kant is here still *explicating the idea* of the original contract. In the subsequent sentence he concludes his discussion of this idea, and then he immediately continues by saying that the laws of a despot can be just.

²⁶ The word Kant uses is "*über*" (about): the decision is "about" the people. See also WA 8:39f, again in the context of legislation: "But what a people may not even decide about itself, a monarch may decide even less about the people."

perspective of all others (G 4:434, 438), but the way in which we are to satisfy this requirement is simply by asking whether our maxim can simultaneously serve as a universal law. He does not claim that we must take into consideration the actual attitudes of others towards our maxims or that we must engage in joint deliberation. The agent who regards himself as legislating universal law through maxims, then, seems to be the moral analogue of the political legislator who ought only to give laws that the people (as a political entity) could impose upon themselves.

Importantly, the moral agent is to regard himself as giving universal law – that is, as giving law *to all*. In the literature on Kant's ethics, autonomy is often understood as “giving law *to oneself*,” but this is a somewhat misleading way of putting it. A political legislator does not give laws only or primarily *to himself* but to the entire people; Kant's analogical description of the moral agent is not as someone whose primary concern is giving law *to himself* but as someone whose primary concern is giving law to the entire moral community. In fact, there is not a single passage in the *Groundwork* in which Kant writes unambiguously, in so many words, that one is to regard one's will as giving laws “to itself” or that the moral agent ought to act as if he were giving laws “to himself” as an individual (except in negative formulations and in translations; see below).

Of course, genuinely *universal* legislation *eo ipso* also applies to oneself. There is an obvious aspect of reflexivity implied in the idea of giving universal law, and Kant states very explicitly that this is how he conceives of it in the moral case. All humans, as finite rational beings, should regard themselves not merely as *lawgiving* but also as *subject* to the laws they regard themselves as giving. They should ask whether their maxims qualify as “universal legislation (to which [the rational being] simultaneously subjects itself)” (G 4:435f). The will is conceived as giving universal law, “although with the condition of simultaneously being itself subject to this very legislation” (G 4:440).

Kant contrasts this position of the moral agent as a legislating “member” of the moral realm with the position of its “head.” A member is subject to the laws the member gives, whereas a head is not. In order to qualify as a head, however, one needs to be “a completely independent being, without need and limitation of a power adequate to its will.” In the moral realm, Kant asserts, only God satisfies these conditions (cf. G 4:433).²⁷

²⁷ Although Kant usually uses the term “*Oberhaupt*” to refer to the head of the executive, he also uses it to refer to an authority with legislative powers, e.g., when he argues that we must conceive of God as the “legislating head in a moral realm of ends” at KU 5:444.

It is not entirely clear from Kant's discussion, however, whether he conceives of the position of the moral agent as analogous to the position of the political ruler or as analogous to the position of the political *subject* in a just state who is governed "as if" the laws stemmed from his own lawgiving. A passage in the *Mrongovius II* lectures, which Kant gave in the winter semester of 1784–1785, seems to suggest the second alternative: "I can also picture (*mir vorstellen*) a realm of ends with autonomy . . . In this realm we regard (*betrachten*) ourselves as those who obey the law, but also as those who give the laws. God is the supreme lawgiver" (M II 29:629).

This passage seems to indicate that in the moral realm of ends the position analogous to that of the political lawgiver (as outlined in the *Feyerabend* lectures) is actually taken up by God. Members of the realm of ends then seem to be the analogues of *subjects* in the political state who cannot take any active part in legislation but who should "regard" themselves as being governed in accordance with their own legislation. These subjects are "represented" or "pictured" as having autonomy. On the other hand, in the *Groundwork* Kant writes that "every rational being must act as if he were, through his maxims, at all times a lawgiving member in a universal realm of ends" (G 4:438), and the fact that they are to act as if they are *lawgiving* seems to suggest that Kant conceives of these members as direct analogues of the ruler (and not merely as governed as if they were legislating).

For our understanding of Kant's Principle of Autonomy, however, it is not necessary to examine this interpretive difficulty in more detail here. Whether the moral agent regards himself on analogy with a political legislator subject to his own laws or on analogy with a mere "member" subject to laws the member could have given, this makes no difference for the purposes of determining the moral permissibility of his maxims. The agent is to "regard" himself as giving universal laws, through his maxims, to the entire moral community, including the agent himself.

This is what matters for our understanding of Kant's notion of autonomy, and it explains why Kant refers to the principle as the principle "of autonomy." "Autonomy" means being subject to laws that are one's own, as opposed to laws one is given by another (heteronomy). The third Formula is the "Principle of Autonomy" in the sense that one is to regard oneself as giving universal laws and as being subject to these laws – that is, as being subject to one's own laws. Kant also expresses this idea in a famous passage in which he explains what he means by the "idea of the will of every rational being as a universally legislating will":

In accordance with this principle, all maxims are rejected that cannot coexist with the will's own universal legislation. The will is thus not merely subject to the law, but subject in such a way that it must also be viewed as *self-legislating* [*selbstgesetzgebend*] and precisely for that reason subject to the law in the first place (of which it can regard itself as author [*Urheber*]).²⁸
(G 4:431)

The term "*selbstgesetzgebend*" in this passage is often translated as "legislating to itself" or "giving the law to itself."²⁹ We can now appreciate, however, that it is better translated as "self-legislating" or "itself legislating." In this passage, Kant claims that for the purposes of determining whether the maxims of one's will are morally permissible, one should view the will as legislating universal laws (through its maxims) to which the will is itself subject. In other words, the will is viewed as subject to universal laws that have been given *by the will itself* rather than having been imposed heteronomously, by another authority. This reading of the passage is confirmed by the fact that Kant also uses "itself . . . legislating" to express the same idea (two words, *selbst gesetzgebend* instead of *selbstgesetzgebend*) (G 4:432). We find further support for this reading in the many passages in which Kant refers to the universal law as "springing from" the will or as being the will's "own" law (G 4:431–434). The "self" in "self-legislating," then, indicates that the legislation is regarded as *originating* in the self, not that it is only or primarily addressed *to* the individual self. Qua universal law, it is a law addressed *to all* rational beings.

We are now in a position to appreciate why it was possible for Kant to regard the legislation analogy as apt for use in his moral theory. Autonomy consists in being subject to laws given by oneself. It is opposed to heteronomy, which consists in being subject to a law given by another. Kant calls the third alternative formulation of the Categorical Imperative the Principle of *Autonomy* because it enjoins agents to regard themselves as giving universal laws, through their maxims, to which they are themselves subject.

The Principle of Autonomy does not demand that one actually give moral laws. It involves the use of a legislation *analogy* by which Kant articulates a procedure for testing the moral permissibility of one's maxims. Understood in this way, his use of the idea of autonomy does not have

²⁸ For a detailed argument to the effect that "the law" in the quoted passage is one's maxim conceived as universal law, and not the Moral Law (Categorical Imperative), see Kleingeld and Willaschek (unpublished).

²⁹ See the *Groundwork* translations by Allen Wood and Mary Gregor. In a footnote, Gregor mentions "as itself lawgiving" as an alternative translation.

voluntaristic implications: in no way does it imply that the content or obligatory force of moral laws is dependent on an act of the agent or on anyone's actual consent. By extension, it does not imply that the agent can rescind moral laws.

6. From Principle to Property

In formulating the Principle of Autonomy, Kant makes analogical use of the idea of political autonomy, as part of a counterfactual procedure for determining the moral status of given maxims. In later discussions in the *Groundwork*, however, Kant also refers to autonomy as a *property* of the will, namely, as “the will's property of being a law to itself” (G 4:447). Kant writes: “Autonomy of the will is the property of the will by which it is a law to itself (independently of any property of the objects of volition)” (G 4:440). In these passages, Kant straightforwardly asserts that the will *has* the property of autonomy and that it *is* a law to itself – not that we should analogically “regard” it as such.

This understanding of the will as having the property of autonomy might therefore at first sight seem discontinuous with the analogical use of the idea of autonomy in the context of the discussion of the Principle of Autonomy. On closer examination, however, the thesis that the will has the property of autonomy in fact *follows* from Kant's account of the procedure articulated in the Principle of Autonomy. As noted above, he asserts that the Categorical Imperative (and hence also the Principle of Autonomy as one of its Formulas) is an a priori principle of reason. Moreover, in the *Groundwork* Kant identifies practical reason and the will (cf. G 4:412). On these assumptions, it does indeed follow that the will has autonomy in the sense of being “a law to itself.” For the will is both the a priori source of the Categorical Imperative and subject to this imperative as well as to the substantive moral laws established on its basis. Applying the Categorical Imperative does not require the use of any normative principle from outside the will itself (such as a principle based on inclination). The will is therefore subject only to its *own* laws. Kant emphasizes that moral laws are “independent from nature,” necessary and a priori, and “grounded merely in reason” (G 4:452). Therefore Kant can indeed describe the will as having the “property” of autonomy in the sense of its being subject to its *own* laws, without this implying that the obligatory force of moral laws (and the corresponding duties) derives from a contingent act.

7. Conclusion

“Autonomy,” on Kant’s conception of it, means being subject to laws that are one’s own. According to the Principle of Autonomy, we are to regard ourselves as giving universal laws through our maxims and as being subject to these laws ourselves. Kant here uses this legislation analogy to articulate a procedure for determining whether one’s maxims are morally permissible. In light of the political theory Kant develops in the Feyerabend lectures, we can understand why it was possible for him to consider this analogy apt, and why his conception of moral autonomy does not have the voluntaristic implications often associated with it.³⁰

³⁰ I would like to thank Stefano Bacin, Oliver Sensen, the other authors in this volume, as well as Sorin Baiasu, Katharina Bauer, Carolyn Benson, Monique Hulshof, and Marie Newhouse, for helpful suggestions and criticism. Earlier versions of this essay were presented at conferences in Hamburg, Beirut, Florence, and Keele. I am grateful to the organizers and participants for fruitful discussions.

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Translations are my own, but I have benefited from the translations available in the *Cambridge Edition of the Works of Immanuel Kant* (Cambridge: Cambridge University Press, 1992-2016).

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