

## Introduction

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Now the legislation of human reason (philosophy) has two objects, nature and freedom, and thus contains the law of nature as well as the moral law, initially in two separate systems, but ultimately in a single philosophical system. (A840/B868)

The focus of this book is on the unity, diversity, and centrality of the notion of law as it is employed in Kant's theoretical and practical philosophy. It argues that by thinking through a number of issues in various historical, scientific, and philosophical contexts over several decades Kant is able to develop a univocal concept of law that can nonetheless be applied to a wide range of particular cases, despite the diverse demands that these contexts give rise to. What is more, Kant comes to view both the generic conception of law he develops and its different particular instances as crucial components of his systematic philosophy as a whole. None of this, I take it, is immediately obvious, at least not on the basis of Kant's scattered pronouncements about law throughout his corpus. It is the point of the chapters that follow to make these points more readily apparent; they aim to do so by (1) introducing the generic conception of law that underlies the particular instances and that includes a notion of necessity that is interestingly different from some of the notions currently under discussion, (2) considering four different contexts in which Kant develops an account of a particular kind of law that can be seen as instantiating this generic conception, (3) showing how the diversity of the different particular cases is consistent with the univocal notion that underlies them all, and (4) explaining how laws perform crucial functions within Kant's conception of a single and complete system of cognition that would unify theoretical and practical philosophy while also satisfying reason's essential ends. Though the primary point of this book is descriptive – it describes some of the complex relations that obtain between different kinds of laws and the conception of law that unifies them – the comprehensive systematic vision that it gives rise to should also put one in a position to see its central philosophical merits.

2 Introduction

Now Kant's most generic conception of law, which applies to both laws of nature and the moral law, includes two essential elements: (1) necessity and (2) the act of a spontaneous faculty whose legislative authority prescribes that necessity to a specific domain through an appropriate act. These two elements put Kant in a unique position in contemporary discussions of laws of nature. In such discussions, it is standard to contrast empiricist and necessitarian views. Put very roughly, the empiricist view maintains that laws are general statements contained in the best (deductive) system that accounts for the totality of events that occur in the world, and they are important insofar as they organize these events in especially useful ways (with the best such system being both simple and explanatorily powerful). For example, on this view mechanical laws might be characterized as whatever mathematically precise general statements are able to collect together descriptions of a large number of changes of motion. The fewer the number of statements, the simpler the system, and the more changes of motion these statements can capture, the more powerful they are, where the best set of statements excels at both. Note that, on this account, there is nothing metaphysically necessary about the laws. If the events were significantly different, the laws would be different as well, since the laws' dependence on whatever events happen to occur in the world makes them contingent.

By contrast, the necessitarian view asserts that laws of nature express necessity relations, typically between universals or natures. For example, "all humans are mortal" is a law of nature on this view not because it is an accurate general summary of past, current, and future deaths, but because the universal 'humanity' necessitates 'mortality' or because the nature of humanity necessitates its mortality. That is, this law obtains because of the nature of humanity, not because of the mortality rates observed among humans. On this account, even if there were no humans, the law that humans are mortal would still be true, for in that case if there had been humans, they would have been mortal (given that being mortal follows from being human). On this view, strictly speaking, the laws govern the world in the sense that they determine what can and cannot happen in the world rather than having the events that occur in the world determining what the laws are. In this respect, the empiricist and the necessitarian views are diametrically opposed.

The first element of Kant's conception of law places him squarely in the necessitarian camp. However, Kant's position has two interesting twists in this context that can lead one to view it as a distinct alternative to standard versions of necessitarianism. First, he recognizes that "necessity" comes in different forms, depending on the kind of law at issue. Though "necessity" might well mean "determination" (in the sense of

“natural necessity”) in the case of laws of nature, in the case of the moral law it amounts to “necessitation” or “obligation” in the case of human beings. Second, Kant’s account of transcendental laws is based (at least in part) on natures of a specific kind, namely what one might call our cognitive or epistemic natures (rather than on the natures of particular empirical objects, as is the case for empirical laws). More specifically, what counts as a transcendental law for him depends essentially on the nature of our cognitive faculties, such as that of the understanding (or reason), and on the fact that it makes experience possible. This feature is relevant in considering whether one should “relativize” the a priori to new scientific theories as they emerge and to the linguistic frameworks that they require for their formulation. For by basing laws on unchanging epistemic natures and the way that they make experience possible rather than on the linguistic frameworks that each new scientific theory brings with it, Kant is able to support the kind of necessity that laws must have on his account. Moreover, this second twist provides a glimpse of some of the implications of the second element of Kant’s conception of law, which stems from the idea that there can be no law without a lawmaker. For the faculties that belong to our epistemic natures play a role in the legislative act that allows a necessary principle to be a law. In this way, Kant develops an account of laws that would occupy a unique place in the current debate about the nature of laws of nature.

Though this general conception of law is fundamental to Kant’s overall account of law, it is useful to see how he fills it out in different contexts for different kinds of laws. One important context in which the notion of law played a dominant role both in Kant’s thinking and in European thought more generally is that of normative political theory, since legitimate rulers, whether monarchs or legislatures, were taken to govern by enacting, interpreting, and enforcing laws. Kant becomes increasingly interested in this issue throughout his career, so much so that he ultimately articulates an elaborate and fundamentally new philosophy of law in the Doctrine of Right in the *Metaphysics of Morals* (1797). However, because Kant’s most explicit reflections on the issue occur relatively late in his career and are largely derivative on a concept of law that he had already developed on the basis of other considerations, I will refrain from attempting to address this topic here.

Instead, I begin with the subject matter that Kant himself started with and that he devoted significant attention to for more years than any other, namely natural philosophy and the most basic laws of nature that lie at its foundation. From his very early *Thoughts on the True Estimation of Living Forces* (1746/7) and *Universal Natural History and Theory of the Heavens* (1755) up through the *Critique of Pure Reason* (1781/8) and the

4 Introduction

*Metaphysical Foundations of Natural Science* (1786), to his latest unpublished writings in the *Opus postumum*, Kant investigated a wide range of topics in natural philosophy. Though the scope of his interests was extremely broad (including quite specific topics pertaining to volcanoes, earthquakes, the rotation of the earth, and fireballs), one of his most sustained interests lay in working out the nature, presuppositions, and implications of the laws of motion, one that took place against the background of a specific historical, scientific, and philosophical context. For in the first half of the seventeenth century, as the so-called Scientific Revolution was radically changing the content, practice, and authority of natural science, Descartes (along with others) upended the Scholastic Aristotelian tradition by reconceiving of natural philosophy as a search for laws of nature rather than substantial forms. And the publication of Newton's *Principia* in the second half of the century (1687) marked in some ways the culmination of that movement, since the law of universal gravitation was viewed as a (single) law of nature that could unify the behavior of all bodies. Despite the near universal acclaim with which Newton's achievement was met, there was still vigorous debate throughout the rest of the seventeenth and then eighteenth century (and beyond) about the precise formulation of the laws of motion presupposed by the law of universal gravitation, the kind of argumentative support that one could provide these laws with, and their role within natural science more broadly.

It is primarily in this context that Kant develops his most detailed account of what he takes to be the most fundamental laws of nature. He articulates such laws at an extremely general level in the first *Critique*'s "System of Principles," since the "principles" that he identifies there as laws of nature are justified insofar as they are conditions of the possibility of experience; that is, they make possible our empirical cognition of a single spatio-temporal world. However, Kant also accepts somewhat more specific, though still quite general, laws of nature in the form of three Laws of Mechanics in the *Metaphysical Foundations of Natural Science*. Because Kant thinks that Newton has not provided a proper justification of his laws of motion, and because his own Laws of Mechanics cannot be derived immediately from more general laws (e.g., by means of straightforward substitution), he sees the need to provide a different justification for them. However, it turns out that Kant does not think that he can justify the laws of motion that Newton formulated. As a result, he is forced to formulate his Laws of Mechanics in ways that required significant departures from the formulations of Newton and of those in Germany who were similarly engaged in attempting to identify the proper formulation, justification, and interpretation of these laws.

This line of argument represents a first major set of complex considerations relevant to Kant's thought on law, one that adds both substance and detail to his generic conception of law.

Another set of considerations in which Kant's conception of law is highly relevant is to be found in the *Critique of the Power of Judgment* (1790), where he distinguishes between the kinds of mechanical principles found in the Laws of Mechanics and the kind of teleological principles suggested by our experience of organisms, which seem to defy purely mechanistic explanation. In the Antinomy of Teleological Judgment, in particular, Kant draws a fundamental contrast between mechanical and teleological explanatory principles, one that generates an antinomy for judgments about the possibility of organisms. Though Kant's resolution of this antinomy is notoriously obscure and remains puzzling in several respects, it is important to understand the considerations that generate the antinomy, including his conception of organisms, his reasons for thinking that organisms both must be and yet cannot be explicable by purely mechanical means, and the sense in which mechanistic explanations could be subordinate to teleological ones. For these considerations shed light on several further features of mechanical laws and teleological principles, including their relationship to each other and to the supersensible ground Kant invokes in the resolution to the antinomy.

Several infrequently discussed passages in other sections of the third *Critique* reveal that Kant is interested in applying teleological considerations not only to organisms but also to other natural objects. For he thinks that reason prods us both to consider purposive relations between organic and non-organic beings (in what we might call ecosystems) and to ask whether everything in nature (and not only organisms) must be judged teleologically. On Kant's view, once reason begins its quest for explanation, which can take either mechanical or teleological form, it naturally ends up considering whether nature as a whole must be a system of purposes that itself has a purpose and, if so, what that purpose might be. By means of these considerations, one is led not only to human beings as the ultimate ends of nature (in virtue of their status as free moral beings) but also, ultimately, to what a philosophical system ought to be and what ends it should satisfy. Teleological considerations of various kinds thus shed important light on Kant's conception of mechanical and other explanatory laws.

A third set of considerations that are significant for understanding laws and their role in Kant's broader philosophy derives from a number of diverse principles that Kant describes (implicitly or explicitly) as regulative rather than constitutive (the status Kant attributes to the a priori laws

6 Introduction

of nature found in the System of Principles which make possible not only experience but also the objects of experience). First, immediately following the Refutation of Idealism, Kant discusses a series of a priori laws of rational cosmology that he refers to as the principles of no gap, no leap, no chance, and no fate (A229/B282). The principle of no fate, for example, specifies that causal laws cannot involve “blind” necessity but must rather be comprehensible. Each of these principles is, in its own way, relevant to determining what kinds of laws and explanations invoking them one is permitted to accept as genuine, which places a significant constraint on the content of laws of nature. A second set of regulative principles can be found in the Appendix to the Transcendental Dialectic, where Kant discusses at length the “logical laws” of homogeneity, specification, and the continuity of forms. These principles specify the kinds of concepts that one should look to apply to the world (namely, increasingly general concepts, increasingly specific concepts, and a continuity of those that fall in between the more general and the more specific). Though Kant is clear that these principles regulate the kinds of judgments one should make, he also thinks that this kind of regulative principle “is not merely a principle of economy for reason, but becomes an inner law of its nature” (A650/B678). Relatedly, this kind of “logical” principle presupposes, Kant repeatedly maintains, a corresponding “transcendental principle” (A650/B678), which pertains to the world and not simply to our activities. These principles thus have a significant bearing on Kant’s conception of laws of nature, just as the principles of rational cosmology do.

A fourth set of considerations relevant to understanding Kant’s conception of law concerns morality and God’s role with respect to both it and laws of nature. Kant’s decision to conceive of morality in terms of a moral law and moral obligation has a two-fold significance. First, given the availability of non-law-based conceptions of morality (such as moral sense theories), Kant was not forced either by tradition or by a lack of alternatives to invoke the notion of law in this way; that he decided to do so is significant. Second, that decision raises a philosophical challenge for his conception of law. Is he playing fast and loose with the term “law,” with no concept that could apply to both the moral law and laws of nature, which derive from distinct philosophical traditions, or is there some abstract univocal concept that holds of both? Asserting the latter demands a detailed explanation of the content of that concept, an explanation that describes how morality can be understood in terms of its elements and demonstrates a close analogy between theoretical legislation of laws of nature and the practical legislation of the moral law. Fortunately, Kant’s account of theoretical legislation, especially as

presented in the *Prolegomena*, displays a structure that is remarkably similar to the account of autonomy that he first develops explicitly in the *Groundwork*. In fact, it is not easy to dismiss the suspicion that Kant's reflections on theoretical legislation while writing the *Prolegomena* were at least partially responsible for his acceptance of his doctrine of autonomy, even if moral considerations surely played a significant role as well.

These parallels between theoretical and practical legislation give rise to the question of what God's role is with respect to law. It was not uncommon in the early modern period to maintain that the laws of nature derived from God, whether it be from his immutable nature (Descartes) or from his will (Malebranche). Similarly, divine command theorists of morality maintain that the moral law just is the divine law, or God's command. Thus, for laws of nature as for morality, God plays the starring role in such accounts. Kant's doctrine of theoretical and practical legislation can seem to be a complete reversal of this kind of position. Since laws depend on the nature of human beings rather than on that of God, who is no longer needed for any act of legislation, human beings might appear to be able to replace God altogether (especially in light of Kant's probing criticisms of the traditional theistic proofs). Though it is true that with his doctrines of theoretical and practical legislation, Kant attributes great importance to "the human order," he nonetheless retains several interrelated roles for God. First, in the first *Critique*, Kant continues to see the (rational) need for the idea of an *ens realissimum* to serve as the ground of all possibility, even if the argument that leads to this conclusion does not justify the attribution of traditional divine moral properties (such as omnibenevolence) and also does not support the assertion of full-fledged theoretical cognition. Second, in the second *Critique*, Kant develops his "practical" argument for the postulate of God's existence (where the *ens realissimum* is now understood to have moral attributes), and he also allows for a modified (non-voluntarist) kind of divine command theory, since nothing stands in the way, he thinks, of viewing the moral law that reason legislates as a command of God's, given that God is rational and the moral law applies to God (albeit not in the form of an imperative), just as it does to us. Third, by the end of the third *Critique*, Kant indicates that God may play a further role not only in reconciling mechanism and teleology but also in underwriting empirical laws. What thus emerges from these considerations about the moral law and God's relation to it, as well as to laws of nature, is a picture much more complex than is typically recognized, and one in which Kant's notion of law clearly plays a central role.

With this complexity comes a further challenge, all the more so if one keeps in mind the previous sets of considerations concerning law.

8 Introduction

Given the univocal conception of law that can be identified in each of the different kinds of laws, how is all the diversity in laws possible? If all laws involve necessity and a legislative authority from whose act of legislation it becomes law, how can there be so many different kinds of laws? The resources that Kant makes available for developing an answer to this line of questioning are many, since they include different kinds of necessitation, faculties, and acts, as well as different objects of reason (freedom and nature) and its essential ends. However, the fact that reason's essential ends are implicated in this answer allows one to see how the different kinds of laws contribute in different ways to the complete systematic unity of cognition demanded by reason. Thus, one can not only account for the diverse kinds of laws that Kant accepts, but also see how they fit into his rich conception of a single philosophical system.

That, in abbreviated form, is the overarching narrative of this investigation, which is structured accordingly. Part I describes Kant's most generic account of law, focusing on the univocal concept of law that is instantiated in both laws of nature and the moral law (Chapter 1) and on the most generic kind of law of nature (Chapter 2). Part II considers the most general a priori laws of nature (Chapter 3) and Kant's justification of the laws of mechanics in their historical context (Chapters 4–6). Part III addresses the nature and status of teleological principles, how they are distinct from mechanical principles, and how the two can be reconciled (Chapter 7), as well as how they fit into Kant's conception of nature as a whole (Chapter 8). Part IV looks closely at various regulative principles that bear immediately on laws of nature and their explanatory power (Chapters 9 and 10). Part V explains the parallels between the moral law and laws of nature as well as between practical and theoretical legislation (Chapter 11) and sketches Kant's complex considerations involving the role that God plays with respect to laws (Chapter 12). The Conclusion considers how the diversity of laws is consistent with the univocity of Kant's generic concept of law, and how these laws contribute to the complete systematic unity of cognition that is, on Kant's view, reason's ultimate goal.