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Kant's Analogy between the Moral Law and the Law of Nature

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Abstract

In the *Groundwork* Kant refers to the analogy between the moral law and the law of nature when clarifying the concept of the categorical imperative. However, in the *Groundwork* itself, he does not give any further explanation as to why he introduces the analogy. Therefore, I take the *Groundwork* as a starting point of my article, but then I explicate on the analogy from a broader perspective, focusing especially on his lecture courses *Moral Mrongovius II* and *Naturrecht Feyerabend* as well as on his Typic chapter of the second *Critique*.

Keywords

Kant, moral law, law of nature, analogy

1. Introduction

In the *Groundwork of the Metaphysics of Morals* (1785), Kant's first published work on moral philosophy from his critical period, Kant articulates the supreme principle of morality by calling it not only a universal law, but also a law of nature (GMS, 4: 421).[1] Kant introduces the two formulas of the categorical imperative as follows:

The Formula of the Universal Law: "[A]ct only in accordance with that maxim through which you can at the same time will that it become a universal law [ein allgemeines Gesetz]." (GMS, 4: 421)

The Formula of the Universal Law of Nature: "[A]ct as if the maxim of your action were to become by your will a universal law of nature [allgemeines Naturgesetz]." (GMS, 4: 421)

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[1] Quotations from Kant's works are cited by volume and page in *Kants gesammelte Schriften* (Kant 1900–). For translations I use – with occasional modifications – the English translations in *The Cambridge Edition of the Works of Immanuel Kant* (Kant 1992–). In the paper, I use following abbreviations: *Grundlegung zur Metaphysik der Sitten* (GMS), *Kritik der praktischen Vernunft* (KpV), *Moral Mrongovius II* (V-Mo/Mron II), *Naturrecht Feyerabend* (V-NR/Feyerabend).

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While the second formula is only a variation on the first, it includes a new element, namely, that of a law of nature. Kant gives a brief explanation as to why the first formulation can be converted into the second: since the universality of a law refers to his notion of “nature in the most general sense [Natur im allgemeinsten Verstande] (as regards its form)” (GMS, 4: 421), the supreme principle of morality is formally a universal law of nature.

This is not the only passage in the *Groundwork* where Kant mentions the laws of nature when speaking about the moral law. In a later passage he declares that moral imperatives have a lawfulness (*Gesetzmäßigkeit*) similar to that of the natural order (GMS, 4: 431). Accordingly, Kant assumes an essential similarity between their respective laws. Moreover, he extends this similarity to the spheres of morality and nature as such by conceiving of the kingdom of ends as analogous to the kingdom of nature:

> A kingdom of ends is thus possible only by analogy with a kingdom of nature; the former, however, is possible only through maxims, that is, rules imposed upon oneself, the latter only through laws of externally necessitated efficient causes. Despite this, nature as a whole, even though it is regarded as a machine, is still given the name “a kingdom of nature” insofar as and because it has reference to rational beings as its ends. (GMS, 4: 438)

As we can infer from these quotes the comparison between the moral law and the law of nature must represent something more than just a random association between two different types of law; Kant understands it as an analogical relation. On the one hand we have to distinguish between these two laws, but on the other hand we have to see them as being essentially similar (GMS, 4: 431). However, in the *Groundwork*, Kant does not give any further explanation as to how it is possible to refer to them as analogous at all; he just presents the analogy without a comprehensive justification. These passages are hardly of any help for a detailed interpretation of the analogy. Therefore, in my paper I will aim at explicating the analogy from a broader perspective.

As we will see, it is not only the *Groundwork* which is important for interpreting the analogy but also his two lecture courses from the same period, namely the *Moral Mrongovius II* (1784/85) and the *Naturrecht Feyerabend* (1785).[2] They are relevant since they give a fuller account of the various laws under consideration than do Kant’s published works from this period. They therefore provide a firmer basis for an inquiry into the diverse relations between the laws. Accordingly, in what follows I will first explicate Kant’s classification of the various laws in these two lecture courses and show how they shed light on the analogy between the moral law and the law of nature. Thereby, I will indicate how Kant’s use of this specific analogy concurs with his general definition of

[2] Lecture *Moral Mrongovius II* was delivered in winter term 1784/1785 (V-Mo/Mron II, 29: 596–642). Lecture *Naturrecht Feyerabend* was written on the basis of the lectures given in summer term 1784 (V-NR/Feyerabend, 27:1316–1394). For the improved printed version of the manuscript of the lecture *Naturrecht Feyerabend,* see Delfosse (2010, pp. 5-15).

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analogy from the *Prolegomena* (1783). In this work, Kant describes analogy as a relation between two dissimilar things, which must, nonetheless, be perfectly similar in one aspect. This description also holds for the relation between the law of nature and the moral law.

After that, I will relate Kant’s classification of the laws to his general definition of law-giving, which he articulates not only in his lectures but also in the *Groundwork*. Kant’s conception of law-giving (*Gesetzgebung*) is composed of two principles: an objective principle, which enables him to identify laws as laws, and a subjective principle, which enables him to differentiate between different kinds of laws. As I will demonstrate, this twofold notion of law-giving is also helpful for interpreting the analogy between the moral law and the law of nature. Through this comparison, we can explain why Kant understands the relation between the moral law and the law of nature as an analogical relation. However, this does not explain why Kant refers to analogy in the first place when defining the moral law. The answer to this second question we can find, I argue, in the Typic chapter of his second *Critique*, where Kant defines the law of nature as the type of the moral law.

Interpretations of the Typic chapter are still scarce in the literature on Kant. Although we can find some older studies on the chapter, they are not very detailed or comprehensive.[3] It is only in the last few years that the Typic chapter has started to gain some attention. *In 2015* Stephan Zimmermann published a paper on the chapter, in which he discusses the role of practical judgment, but he refers only briefly to the analogy.[4] In 2016 the first book on this chapter was published: Adam Westra’s *The Typic in Kant’s Critique of Practical Reason*.[5]

Westra’s main claim is that Kant’s notion of the law of nature as the type of the moral law functions as a third thing or as a non-sensible representation. In doing this, Westra pleads for a tripartite interpretation of the procedure through which the moral law makes use of the law of nature. In opposition to Westra, however, I argue that for explaining the Typic chapter it suffices to stick to the dual structure of law-giving. On my interpretation, we have to understand the concept of practical judgment in the chapter as an analogical judgment. Hence, the analogy is crucial to the process of representing the moral law, and it is crucial for understanding the sense in which Kant sees the moral appraisal of actions as possible.

In section 2, I begin by explicating Kant’s classification of the various laws from his lectures, and in this way I provide the background necessary for an analysis of the analogy. In section 3, I then introduce Kant’s general definition of law-giving, as it is found both in the *Groundwork* and in the lecture *Moral Mrongovius II*, and I show why

[3] Until recently there were almost no studies dealing with the Typic chapter extensively. For the current state of research on the Typic chapter and the list of older studies, see Westra (2016, p. 4). I agree with Westra that older studies deal with the Typic chapter and with the analogy only superficially. Therefore, in this paper I will primarily refer to Westra’s comprehensive interpretation.

[4] Zimmermann (2015, pp. 430–460).

[5] Westra (2016). But despite this increased interest for the Typic chapter, this part of the second *Critique* is still very often ignored. Another exception is Konstantin Pollok’s book *Kant's Theory of Normativity* (2017), in which he mentions the Typic chapter and also suggests that the type of a law represents a unifying idea of Kant’s entire critical system. See Pollok (2017, p. 306).

this definition is relevant to an understanding his analogy. In section 4, I finally inquire into the role of the analogy for interpreting the Typic chapter and offer an explanation as to why the analogy is useful for Kant. In this way I hope to clarify the meaning of the analogy for Kant's moral philosophy.

2. Kant's classification of laws

In order to clarify why Kant is entitled to refer to the law of nature as analogous to the moral law, it is helpful first to look at his classification of the various laws.[6] Different laws must on the one hand have common elements, but on the other hand they must have certain distinguishing elements. These connecting and distinguishing elements are, as I will show, of relevance for the analogy between the moral law and the law of nature.

Kant presents his classification of the laws especially comprehensively in his lectures *Naturrecht Feyerabend* and *Moral Mrongovius II*.[7] Here he not only distinguishes between the laws of nature and moral or practical laws, but he also distinguishes between moral and juridical laws.[8] These two lectures are very important in this regard, since Kant will not return to a discussion of juridical laws in his published writings until the *Metaphysics of Morals* in 1797.[9] The lectures show that Kant was aware of the importance of juridical laws from much earlier on.[10] For the purposes of my analysis, however, a detailed inquiry into the particular laws will not be necessary. Instead, I will primarily look into the reasons for Kant's classification of the laws. There are two distinctions we have to consider: first Kant distinguishes between the laws of freedom and the laws of nature, and second, with regard to the laws of freedom, between moral and juridical laws.

[6] Eric Watkins discusses the classification of the various kinds of laws in his paper "Kant on the Unity and Diversity of Laws". See Watkins (2017).

[7] For the interpretation of these two lectures, see Hirsch (2012). Hirsch compares these two lectures with Kant's late *Metaphysics of Morals*. Zöller (2015) on the other hand compares the lecture *Naturrecht Feyerabend* with Kant's *Groundwork*.

[8] Although Kant does not use the expression juridical laws in the *Naturrecht Feyerabend* explicitly, he here nonetheless operates with particular laws, which belong to the sphere of right. Kant speaks for instance about the coercive law as a principle of right: "An action is right if it agrees with the law, just if it agrees with the laws of coercion, i.e. agrees with the doctrines of right. In general one calls something right that which that agrees with a rule. (…) The agreement of private freedom with universal freedom is the supreme principle of right, it is a law of coercion" (V-NR/Feyerabend, 27: 1328). In *Moral Mrongovius II* he then directly uses the expressions the laws of right (*Rechts Gesetze*) and the juridical laws (*Juridische Gesetze*): "Pragmatic imperatives are merely counsels; moral imperatives either motiva, rules of virtue, or leges, juridical laws [Rechts Gesetze]" (V-Mo/Mron II, 29: 620). Here Kant uses the expression the laws of right. In a further quote he uses the expression of the juridical laws: "Juridical laws [Juridische Gesetze] are really just duties of omission" (V-Mo/Mron II, 29: 632).

[9] Nevertheless, Kant was dealing with juridical laws already in his pre-critical writings, see Ritter (1971) and Busch (1979).

[10] The juridical terminology also influenced the development of Kant's moral philosophy. See Zöller (2015, p. 349): "In Kant there is to be found an outright juridification of ethics, by means of which concepts and categories that are properly and originally grounded in the sphere of juridical law (or legal right) are carried over into ethics, and especially into the latter's foundation. The point of Kant's articulation of ethical conceptions in juridical terms is not to turn ethics into juridical law, as though the external, constraint-based character of juridical law were to be carried over into ethical matters. Rather than involving doctrinal content, the juridicoethical transfer undertaken by Kant is concerned with and limited to basic methodological concepts that are imported, mutatis mutandis, from ius into ethic."

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As to the first distinction, Kant establishes in this way the opposition between a practical and a theoretical domain. In his lecture *Naturrecht Feyerabend* Kant points out this difference by contrasting the will of nature with the will of human beings: whereas the will of nature is determined by the universal laws of nature, the will of men on the contrary is not determined by nature (V-NR/Feyerabend, 27: 1319). Therefore, the will of man needs an alternative law-giving, and it has to obey its own laws – the laws of freedom (V-NR/Feyerabend, 27: 1322). Humans are ends in themselves because of freedom. As a result, the distinction between laws of nature and freedom presents a necessary starting point. However, the primary focus of Kant's lectures lies on the differences within the domain of freedom.

With regard to the second distinction we have to differentiate between moral and juridical laws. Kant's moral philosophy or ethics in the broad sense includes the sphere of right as well as the sphere of ethics in the narrow sense (V-Mo/Mron II, 29: 630). Each sphere has its distinct laws, but freedom is the common ground of both. Therefore juridical laws are also grounded in freedom (V-Mo/Mron II, 29: 618).[11]

Given these two divisions, it is possible to further substantiate the differences between the laws. In the lectures, Kant points to two elements in every division: the first element acknowledges all different laws as laws, the second element enables the division between the various laws.

The first element that Kant recognizes as a common and necessary element of every law is universal lawfulness: "All actions, after all, are subject to the principle of lawfulness" (V-NR/Feyerabend, 27: 1330). This lawfulness describes the form of the law. In this way, not only events of nature, but also human actions are subordinated to the principle of lawfulness (V-NR/Feyerabend, 27: 1326). Additionally, respect for the law is, for Kant, a consequence of respect for the lawfulness of the law (V-NR/Feyerabend, 27:

[11] The question regarding the dependency of juridical laws (and not only moral laws) on the notion of freedom is important for the discussion about Kant's late *Metaphysics of Morals*. Whereas the connection between freedom and juridical laws is clear in Kant's lectures, the interpretations in regard to the *Metaphysics of Morals* are divided in Kant-scholarship; roughly we can find at least two opposing suggestions for interpreting the relation between ethical and juridical laws (for earlier discussions on the same topic, see Hirsch 2012, p. 39):

1.) Some interpreters read Kant's *Doctrine of Right* as independent of his supreme principle of morality introduced in his *Groundwork* or in the second *Critique*. Wood (2002, p. 7) is convinced that the universal principle of right – "Any action is right if it can coexist with everyone's freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone's freedom in accordance with a universal law" (MS, 6:230f) – is not derived from Kant's moral imperative. Wood grounds his argument in the fact that Kant takes the concept of right to be an analytic and not a synthetic statement, whereas the moral law in the *Groundwork* was understood as a synthetic judgment a priori. The analytic principle of right hence does not need to be derived from the moral principle. A similar interpretation about the independence of the principle of right and therefore of juridical laws has also Willaschek (2002, pp. 65-87).

2.) Guyer (2002, p. 26) on the other hand thinks that Kant's notion of right is dependent on and arises out of Kant's notion of the moral law. It is the law of freedom that precedes the principle of right. For that reason Guyer thinks that Kant's principle of right has to be grounded on Kant's notion of freedom and that the analyticity of the principle of right is of no obstacle.

1330).[12] Consequently, lawfulness, as the form of the law, provides no basis for distinguishing between laws; on the contrary it provides the common denominator of all laws.[13]

In order to distinguish between various laws other elements must be taken into consideration. The first element invoked by Kant in his lectures to distinguish between the laws of nature and the laws of freedom is more or less presupposed; it is not really derived or demonstrated. Therefore, we have to refer to the first *Critique* where the distinction is derived more rigorously. In the first *Critique* Kant recognizes the difference between the laws of nature and the laws of freedom as a result of different objects of legislation (KrV, A840/B 868). The laws of nature legislate in the domain of nature and laws of freedom legislate for the acts of freedom, and they are consequently self-legislating. Thus, the laws of nature and freedom are different because they refer to the objects of nature and to the objects of freedom respectively.

However, for purposes of the lectures, the second distinction is much more important – that between moral and juridical laws. This distinction is made on the basis of the accompanying incentives (*Triebfeder*; V-NR/Feyerabend, 27: 1326). More precisely, it is made on the basis of whether or not the incentive is relevant to the rightfulness of the action:

> *Ethic* is the science of judging and determining an action in accordance with its morality. *Jus* is the science of judging an action in accordance with its legality. *Ethic* is also called the doctrine of virtue. *Jus* can also concern actions that can be coerced. For it is all the same whether the actions are done out of respect, fear, coercion, or inclination. *Ethic* is not concerned with actions that can be coerced; *ethic* is practical philosophy of action regarding dispositions. *Jus* is the practical philosophy of actions regardless of dispositions. (V-NR/Feyerabend, 27: 1327)

In ethics it is important to define which incentives influence actions, since only respect for the law is allowed as an incentive. For a legal action, on the contrary, it is irrelevant which incentives determine my will. Even coercion or constraint are acceptable determining grounds. An action is legal when it is in agreement with the law, but we can follow the law out of motivations other than respect for the law itself; additional incentives are hence not decisive. Ethical actions on the contrary do not allow incentives such as fear or pleasure. Respect for the law itself is the only acceptable incentive.[14] Hence, only when we ask about the relation between the law and incentives, can we distinguish between moral and juridical laws.

[12] Unlike the theories of natural law, which in his view did not yet point out the concept of lawfulness explicitly, Kant in his lectures fully recognizes the special importance of the notion of lawfulness (V-NR/Feyerabend, 27: 1331).

[13] Watkins (2014, p. 474) points out that a univocal concept of a law underlies both the laws of nature and the laws of freedom.

[14] In this context Kant distinguishes between outer and inner freedom. Outer incentives of legal actions correspond with outer freedom, the law as the solely acceptable incentive in the moral domain by contrast corresponds with inner freedom and thus with moral laws (V-Mo/Mron II, 29: 630).

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Now, why is this classification of laws relevant for understanding Kant's analogy between the moral law and the law of nature? In line with Kant's classification, the laws of nature and moral laws must correspond in one element, but differ in another. Since lawfulness is for Kant a necessary element of all laws, it must be common to both moral laws and laws of nature.[15] Lawfulness therefore provides the common element grounding the analogy between the two kinds of law.

However, the analogy also requires that the laws differ in some respect. As we have seen, the laws differ as a consequence of their differing objects of legislation; moral laws refer to the objects of freedom and the laws of nature refer to the objects of nature. In moral laws, sensible incentives cannot function as the determining ground of a subject; only lawfulness itself can serve as such a ground. Moral laws cannot have any reference to incentives other than the law itself. Therefore they can have no reference to sensibility or the objects of nature whatsoever. Laws of nature, by contrast, are not only formal laws, since they get their content from sensible intuition. Therefore, there are insurmountable differences between moral laws and the laws of nature.

So, at this point, we can conclude that the proper explication of Kant's analogy must be able to account for both common as well as distinguishing elements. As a result, the analogy between moral law and the laws of nature is not a random comparison between entirely different things, which have nothing in common. Instead, both laws are, necessarily similar and in at least one aspect. But, since the analogical relation is not that of identity, Kant must also take into account the differences between the laws.

This interpretation of the analogy, which I have developed on the basis of Kant's lectures, is confirmed in Kant's *Prolegomena*, where he offers his general definition of analogy. There Kant writes that an analogy needs two elements: the two things we want to compare must be perfectly similar in one aspect, but totally different in another aspect; as a result, the analogy does not represent "an imperfect similarity between two things, but rather a perfect similarity between two relations in wholly dissimilar things" (Prol, 4: 357). As I have shown, we come to this conclusion also on the basis of Kant's classification of laws. The moral law and the law of nature are perfectly similar with regard to their lawfulness, but they are nevertheless two different laws. When we ask why the analogy between moral law and the law of nature is possible for Kant at all, we can answer that this is due to his specific understanding of the nature of the laws and his way of classifying them.

3. Kant's twofold notion of law-giving

[15] Watkins defines this common element as a "necessary rule". See Watkins (2017, p. 15): "I suggest that Kant operates with a univocal concept of law that contains two crucial elements. First, the concept of law requires a necessary rule, where it is the element of necessity that constitutes its distinctive component. It is clear, for example, that both the moral law and the a priori laws of nature are necessary, since the validity of the moral law is in no way contingent (even if it is contingent whether we act in accordance with it) and a priori laws of nature carry with them both strict universality and necessity, given that they are a priori and Kant understands universality and necessity as criteria of a priority."

Now, I will further specify the distinction between the laws in general, and hence also the particular distinction between moral laws and the laws of nature on the basis of Kant's twofold conception of law-giving. Kant outlines his notion of law-giving, which consists of an objective and a subjective principle, in his lecture course *Moral Mrongovius II* as well as in the *Groundwork*.[16] These two principles are in my view crucial for further justifying why it is appropriate to refer to the relation between the moral law and the law of nature as an analogy. I take these two quotes as a starting point for my discussion:

> What, then, is the basis of morality (*Sittlichkeit*)? This question has been investigated in the modern age. The principle of morality, or the logical principle, is that from which all moral laws may be derived. It is either subjective, if I show from what power of the soul I adjudge morality, or it is objective. […] So from what power does the principle come, and how does it run? The objective principle is: Act so that you can will that the maxims of your actions might become a universal law. It is the normal principle (*Normal Princip*). The subjective or pragmatic principle consists in the direction of this principle. (V-Mo/Mron II, 29: 621)
>
> The ground of all practical lawgiving lies (in accordance with the first principle) objectively in the rule and the form of universality which makes it fit to be a law (possibly a law of nature); subjectively, however, it lies in the end; but the subject of all ends is every rational being as an end in itself (in accordance with the second principle). (GMS, 4: 431)

In the first quote Kant distinguishes between the objective and the subjective principle of morality, but he does not use the word 'law-giving'. In the second quote he explicitly defines both principles as two elements of practical law-giving. Although these passages refer to the practical law-giving, I maintain that the twofold structure of the law-giving can be extended also to theoretical law-giving, as I will show later.

The description of the objective principle in the first quote, this is in the lecture *Moral Mrongovius II*, *is* very similar to the description in the second quote from the *Groundwork*. In the first quote the objective principle describes the first formulation of the categorical imperative which we also know from the *Groundwork*. In the lecture, Kant calls it a normal principle (*Normal Princip*). In both quotes the objective principle expresses the universality of a law, but in the second quote, additionally, also the law of nature is mentioned. Besides this, in the *Groundwork* Kant says that the ground of the laws, taken objectively, lies in rule and in the form of universality. As we saw in the

[16] Later, in the *Metaphysics of Morals* we also find a twofold definition of law-giving, but for my purpose of interpreting the analogy in the Typic chapter it will suffice to refer only to his earlier definitions of law-giving. But we can see that his twofold notion of law-giving remains relevant for Kant until the end: "In all lawgiving (whether it prescribes internal or external actions, and whether it prescribes them a priori by reason alone or by the choice of another) there are two elements: first, a law, which represents an action that is to be done as objectively necessary, that is, which makes the action a duty; and second, an incentive, which connects a ground for determining choice to this action subjectively with the representation of the law. Hence the second element is this: that the law makes duty the incentive" (MS, 6: 218).

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previous section, the form of the universality corresponds to Kant's notion of lawfulness. This means that the objective principle emphasizes the lawfulness of the laws.

I thus take the objective principle of morality to be the first element of Kant's notion of the practical law-giving. But this objective principle – expressing the form of universality, this is lawfulness – applies also to the theoretical law-giving as we can see in the second quote from the *Groundwork*, where Kant also refers to the law of nature. This confirms my thesis from the section 2 that the common element of all the laws, be it a moral, or a juridical law, or a law of nature, lies in the form of the law, which is conceived as the lawfulness. From a merely objective perspective, we cannot distinguish between laws of freedom and laws of nature: all laws are the same in this regard.

The second principle of the law-giving is more difficult to extrapolate. Nonetheless, I hold that the subjective principle is responsible for the division between the laws. In the first quote Kant writes that the subjective principle directs the objective principle and that it is a product of the power of the soul from which we can adjudge morality. From the quote we can derive that the subjective principle pertains to the faculties of the subject, or the lawgiver. The second quote confirms this interpretation, since Kant refers explicitly to the subject as an end in itself.

In the previous section, I pointed to the role of incentives to explain the differences between the laws of freedom. Here, we can further specify these distinguishing elements and relate incentives to the subjective principle of practical law-giving, since incentives have an effect on the subject and determine the will. In doing so, we see that the subjective principle cannot be directly identified with incentives, but it describes the relation between the law and the subject and this relation can be impinged due to incentives. The distinction between moral and juridical laws, which is very important for Kant in his lectures, is in this sense a consequence of the influence that the incentives exert on the subject.

For this reason, I propose that we interpret the subjective principle of the law-giving as a relational principle, which shows when the subject indeed follows the objective principle. Only when this is really the case, the moral law determines the will; but it is also possible that some other sensible incentives determine the will. In this case, we cannot speak about the moral law as the determining ground of the will, but it might be a juridical law that determines our actions. Therefore, Kant refers to the subjective principle in order to emphasize the particular differences in the executive powers of the laws with regard to their necessity (or lack thereof).[17] As a consequence, in the domain of the practical, the reference to the subjective principle explains why we are able to distinguish between different laws. Objectively and formally all laws are the same, but we can differentiate between them subjectively.

So far, I have described the subjective principle on the basis of Kant's account of practical law-giving. But I think that we can also apply this distinction between the objective and subjective principle to theoretical law-giving and to the laws of nature.[18] For

[17] Similarly, also Watkins emphasizes different kinds of necessities. See Watkins (2017, p. 16-18).

[18] Watkins (2014, p. 474) speaks about the univocal concept of the laws underlying the practical and theoretical spheres: "I maintain that Kant pursues a different and, to my mind, more interesting option by

Kant, it is reason that in each case prescribes laws, hence also the laws of nature. In practical law-giving, pure practical reason is the lawgiver and in theoretical law-giving (in natural sciences) it is the understanding.[19] Hence, Kant's distinction between necessity and necessitation is crucial for explaining the difference between practical and theoretical law-giving: "Necessity and necessitation (*Nötigung*) are different: the former is objective necessity. Necessitation is the relation of a law to an imperfect will. In man, the objective necessity of acting in accordance with the moral laws is necessitation" (V-Mo/Mron II, 29: 611). As Kant explains, we humans have only an imperfect will and hence it is for us possible to disobey the moral law. In the case of the laws of nature, or the hypothetical perfect will, by contrast, every act is necessary. Therefore, the difference between practical and theoretical law-giving is again due to the subject as a lawgiver and its executive powers. This subjective aspect is hence unique to each particular kind of law, but the universal form of the law is the same for all the laws.

Not only for perfect wills, but also for the laws of nature, strict necessity is stringent; perfect wills as well as the laws of nature fully follow the objective principle. For imperfect human wills by contrast, only necessitation is required, since it is possible not to follow the objective principle. Therefore, the difference between necessity and necessitation also points to a difference between laws of freedom and nature, and this difference corresponds to the difference in subjective principles. Differences between the laws cannot be explained on the basis of the objective principle, but only on the basis of the relation between the subject and its objective principle. One further consequence of this is that in the case of the theoretical understanding the object of its legislation is different than in the practical sphere. In the former case, the faculty of understanding as a lawgiver determines the objects of nature. In the latter case, the practical reason as a lawgiver determines the objects of freedom.

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articulating a concept of law that has a genuinely univocal meaning at its core, but one that can be instantiated in different ways in the theoretical and practical contexts of laws of nature and the natural or moral law. Specifically, the core meaning of law that is univocal between laws of nature and the moral law contains two elements. First, the concept of law requires an objective or necessary rule, where it is the element of necessity that constitutes its distinctive component. Second, a law can be valid only if a proper authority has prescribed it to a particular domain through an appropriate act. This core meaning of law is then instantiated in somewhat different ways in the different cases of laws of nature and the moral law. While Kant insists on every law being the result of a spontaneous legislative act (of either the understanding or reason), the notion of necessity takes on different forms in each case, since the laws of nature involve determination, while the moral law can give rise to obligation."

[19] The conviction that laws presuppose a lawgiver was still a ruling conception in Newton's times. For critical Kant however the lawgiver is not god, but understanding and reason. Cf. Massimi (2014). See also Watkins (2014, p. 485): "It is striking in this context that it is Kant's characterization of the understanding as an a priori faculty of rules that allows him to hold the understanding responsible not for the empirical content of the laws of nature, but rather for their lawfulness. That is, by actively employing rules that are general, a priori, and constitutive of the possibility of experience, the understanding has the authority to determine that nature must be rule-governed; it gives rise to the lawfulness of nature, or the necessary conformity of nature to law (see Prol, AA 04: 296). Thus, though the empirical content of empirical laws derives from the empirical natures of the objects that are found in nature, Kant makes it clear that the content of the a priori laws, which is just the lawfulness of these laws (including their universality and necessity), derives from the understanding, since the understanding is an active faculty that is able to prescribe, or legislate, lawfulness to nature a priori."

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As a result of this, we see that Kant’s twofold notion of law-giving provides further justification of the division between the laws and hence also of the analogy between the moral law and the law of nature. On the one hand both moral law and the law of nature are objectively and formally the same and bound to the notion of universal lawfulness. In regard to the subjective principle, on the other hand, we can distinguish between them. In this way Kant’s twofold notion of law-giving accounts for the common source of all kinds of laws as well as for their distinguishing features, and this again verifies my understanding of the analogy between moral law and the law of nature.

The objective principle I take as a starting point of the analogy. But since the analogical relation is not that of identity, but of similarity, the differences between the laws are equally important. Therefore, I relate the subjective principle of law-giving to Kant’s second element of the analogy. In this way my explication of the analogy again accords with Kant’s definition from the *Prolegomena,* mentioned in the previous section. In the *Prolegomena* Kant also gives a concrete example for his definition of the analogy:

> Such is an analogy between the legal relation of human actions and the mechanical relation of moving forces: I can never do anything to another without giving him a right to do the same to me under the same conditions; just as a body cannot act on another body with its motive force without thereby causing the other body to react just as much on it. Right and motive force are here completely dissimilar things, but in their relation there is nonetheless complete similarity. (Prol, 4: 358)

Here Kant exemplifies the analogy on the basis of the relation between human actions and the mechanical relation of moving forces. This example is very similar to our analogy between the law of nature and the moral law, since legal relations of human actions belong to the laws of freedom, and mechanical relations to the laws of nature. Therefore, the moral law and the law of nature are according to this example wholly dissimilar, but also perfectly similar. Therefore, on the basis of Kant’s twofold notion of law-giving we can further specify how Kant is justified in determining the relation between moral law and the law of nature as essentially analogical.

4. Analogy in the Typic chapter

In the previous section, I have shown why the relation between the moral law and the law of nature can be described as analogical and why it corresponds to Kant’s general definition of analogy in the *Prolegomena*. In this section, I will now go one step further and examine why Kant refers to the law of nature when demonstrating the moral law and in what sense the analogy is useful for his moral philosophy. To do this, I will analyse the Typic chapter in the second *Critique*, where Kant points to the law of nature in the process of representing the moral law. This process he attributes to the faculty of practical judgment. I will argue that in the Typic chapter the relation between the moral law and the law of nature is indeed analogical and that consequently practical judgment should not be understood as a special kind of judgment, but rather as a judgment per analogy. In this

way, I will contend that the usefulness of the analogy for Kant's moral philosophy is a consequence of the role it plays in practical judgment.

In the first *Critique*, Kant describes the power of judgment as a faculty of subsuming under rules, this means as a faculty which can mediate between the abstract rule and the concrete cases falling under it. Following from this definition, practical judgment should be defined as a faculty that mediates between moral law as an abstract practical rule and the concrete cases of actions in the empirical world (KpV, 5: 67). However, as Kant maintains in the Typic chapter, such a mediation is an impossible task for practical judgment. Since the moral law is a supersensible idea of reason, it cannot refer to sensible intuition and accordingly no direct mediation between the moral law and concrete cases is possible.[20] Nonetheless, there is another option left for Kant's Typic chapter and practical judgment: not a subsumption of concrete cases under a law, but only an inquiry into the possibility of representing the moral law as such. For this purpose Kant refers – analogically – to the law of nature. Thus, the task of the practical judgment in the Typic chapter is a modest one: to represent the moral law with the help of the law of nature.

This process of representing the moral law Kant first tries to describe through the concept of the schema of the law. In the first *Critique*, Kant introduced the notion, referring to a schema of sensible intuition which can, via the faculty of imagination, mediate between sensibility and the abstract law. But the Typic chapter, as Kant maintains, cannot deal "with the schema of a case in accordance with laws but with the schema of a law itself (if the word schema is appropriate here)" (KpV, 5: 69). Therefore, in the case of the Typic the schema can mediate only between the supersensible moral law and the law of nature. But as it seems, Kant is not fully satisfied with this new term 'the schema of the law' and in later passages he switches to the expression 'the type' for describing the process of representing the moral law.

With the notion of the type Kant explicitly connects the moral law to the law of nature: the law of nature is a type for the moral law. In order to demonstrate in which sense the relation between the moral law and the law of nature can be recognized as analogy, it is therefore crucial to focus on the interpretation of the notion of the type. This will, in the end, indicate why this analogy is useful for Kant's moral philosophy. Therefore, I argue that to properly understand his notion of the type, we have to interpret it as a part of his analogical procedure. There are two main passages which I take into consideration:

> Thus the moral law has no cognitive faculty other than the understanding (not the imagination) by means of which it can be applied to objects of nature, and what the understanding can put under an idea of reason is not a schema of sensibility but a law, such a law, however, as can be presented in concreto in objects of the senses and hence a law of nature, though only as regards its form; this law is what the understanding can put under an idea of reason on behalf of judgment, and we can, accordingly, call it the type of the moral law. (KpV, 5:69)

[20] Zimmermann (2015, p. 444) and Westra (2016, p. 42) agree on this point.

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> Hence it is also permitted to use the nature of the sensible world as the type of an intelligible nature, provided that I do not carry over into the latter intuitions and what depends upon them, but refer to this intelligible nature only the form of lawfulness in general (the concept of which occurs even in the most common use of reason, although it cannot be determinately cognized a priori for an purpose other than the pure practical use of reason). For to this extent laws as such are the same, no matter from what they derive their determining grounds. (KpV, 5:70)

As Kant holds in the first quote, the moral law cannot make use of sensible intuition, and therefore it also cannot make use of the faculty of imagination and its schema. Moral law can through the faculty of understanding refer only to the law of nature, however not to the law of nature in general, but only to the form of the law. In the second quote, Kant then explicitly links the form of the law to the notion of lawfulness. The second quote is more general in that Kant here considers not only the law of nature, but sensible nature at large to function as a type for intelligible nature.[21] However, he again refers only to the form of sensible nature, hence to the lawfulness of nature.

On the basis of these passages, I propose that we interpret Kant's notion of the type in light of Kant's twofold notion of law-giving and his definition of analogy.[22] First, Kant's notion of the type can be correlated with the objective principle of law-giving. In the previous section, I identified the notion of lawfulness and the form of the law with Kant's objective principle. With respect to the objective principle, laws of nature and moral laws are the same. Kant is very clear on this point in the Typic chapter: "For to this extent laws as such are the same, no matter from what they derive their determining grounds" (KpV, 5: 70). Seen in this way, the law of nature can function as the type of the moral law, because formally the laws are the same and the type of the law refers to their universal form. Hence both the moral law and the law of nature have a non-sensible nature and origin.

The starting point of Kant's analogical procedure thus lies in this common aspect of the laws. The type of the law cannot be understood as a sensible image, but only as an abstract feature of the laws. But the reference to the type does not, in my view, constitute the analogy as a whole, but applies only to the first element of the analogy. The second element of the analogy is clearly pointed out by Kant in the first quote, where he refers to a law that "can be presented in concreto in objects of the senses and hence a law of nature" (KpV, 5: 69). Here, we can clearly see that although the connecting point between the laws is the form, the special worth of the law of nature, however, comes from its ability to be presented in concreto. Kant refers to the law of nature when speaking about the moral law, because of this second distinguishing element, which is indispensable for the analogy as a whole.

The usefulness of the analogy for Kant's moral philosophy is a result of the differences between the laws. In the Typic chapter this becomes especially clear. The law

[21] These two examples are not totally identical and therefore Westra (2016, pp. 59–74) distinguishes between two kinds of type: type 1 and type 2.
[22] Westra (2016, p. 204) agrees that the connection between moral law and the law of nature can be described as an analogy.

of nature can make use of sensible intuition, whereas the moral law cannot be presented in the objects of the senses. Because of this restriction on the site of the moral law, the moral law cannot have any proper representation, and therefore the moral law must get a representation via the analogy with the law of nature.

In summary, we see that the representation of the moral law occurs in two steps: First, Kant recognizes the common element of the moral law and the law of nature and expresses it with his notion of the type. Second, the difference between both laws comes to expression because the law of nature is not merely a formal law, but also has a sensible representation and a schema of sensible intuition. Consequently, we can represent the moral law, which is per se non-sensible and non-representational, only through reference to the law of nature. So in the process of representing the moral law the practical judgment borrows via the analogy from the law of nature its material part which is missing in the moral law. Thus, we can conclude that the analogy in the Typic chapter is possible because the law of nature and the moral law are formally the same, but it is useful because of the differences between them. On the question of how it is possible for the practical judgment to represent the moral law we can therefore answer that it is possible through the analogy.

In my reading, I differ from Adam Westra's interpretation of the Typic chapter. He interprets the type of the law as a third thing – a notion he takes from Kant's characterisation of the schema from the first *Critique*:

> Kant selects the law of nature as the type of the moral law in order to serve as a 'third thing' or 'schema' (in the broad sense) for mediating between the supersensible representation of the moral law and the sensible representations of actions – just as the third criterion requires.[23] (Westra 2016, p. 61)

Westra of course knows that the type in the Typic cannot function as a schema of sensible intuition. He nevertheless thinks that the type has to be understood as a third thing and as a representation, although not as sensible representation, but as an abstract nonsensible representation. To me it seems that Westra points to a tripartite structure of the typification: there is a moral law without any representation, then there is a form of a law of nature which functions as a type and as a nonsensible representation, and eventually there is a law of nature with sensible representation.

However, on my view the problematic point of Westra's interpretation is that in calling the type a third thing it is not clear that all the laws are formally the same and that on that background we cannot distinguish between them. As we have demonstrated, the

[23] Compare also Westra (2016, p. 51): "In the Typic chapter, accordingly, Kant cannot employ a 'schema' in the specific sense of the first Critique, but he can employ a 'schema' in the generic sense of a representation that would play a functional role in the practical heterogeneity problem analogous to the functional role played by the transcendental schema in the theoretical heterogeneity problem, namely a mediating representation [vermittelnde Vorstellung] or 'third thing' that enables subsumption between a general rule and particular cases despite their heterogeneity. But given the supersensible nature of the moral Ideas, the sought-after 'schema' must achieve a presentation without any direct temporalization or sensible rendering [Versinnlichung]."

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moral law and the law of nature are the same with regard to their form. Accordingly, we cannot objectively distinguish between the moral law and the law of nature. The type describes just the elementary feature of lawfulness which both laws have in their own right. Therefore we cannot say that only the law of nature is a type. Every law has its type; in this respect, the laws of nature is in no sense special.

Westra, by contrast, seems to differentiate between the abstract, non-sensible representation, which he ascribes to the law of nature as a type, and the moral law. As a result of this confusion, he sees in Kant's notion of the type the essence of the analogy: "The form of the law of nature is analogically substituted for the supersensible moral law, as its type" (Westra 2016, p. 62; Cf. 14). Westra speaks also about "analogically transposing the pure form of nature's lawfulness into intelligible sphere" (Westra 2016, p. 136). However, from my perspective this is not appropriate. In my view the first element of the analogy is not yet the whole analogy and in regard to the form of the law there can be no reference to substitution, since formally all the laws are the same. Substitution is possible just in regard to the second, differentiating element and only both elements together constitute the analogy.

Hence, I think that the first two steps in Westra's tripartite typification fall into one: as regards the form, the moral law and the law of nature are the same. Formally the law of nature does not have any special abstract, non-sensible representation which the moral law does not also have. Both laws differ just in regard to the last step, because the law of nature can make use of sensible intuition and the moral law cannot. Therefore, the usefulness and helpfulness of the analogy must be a result of the distinguishing features that the law of nature possesses. And this second element goes beyond what Kant describes with the form of the law. Since there is no way to distinguish between the form of the moral law and form of the law of nature, it is misleading when we name the type as a third thing or as a mediating representation. Instead, I think that the two aspects of the analogy already completely suffice for explaining the procedure through which Kant wants to represent the moral law.

5. Conclusion

The result of my analysis of Kant's analogy is double: First, I maintain that with the help of Kant's twofold notion of law-giving we can adequately explain why Kant's analogy between the moral law and the law of nature is possible. Objectively and formally all the laws are the same, but with regard to the executive powers of the lawgivers (which can be either our practical reason or theoretical understanding), we can explain the differences between various laws. Just insofar as the laws have on the one hand a common element, but on the other hand a differentiating element, can we speak about the analogy.

Second, we can determine the purpose of the analogy when we inquire into Kant's notion of the law in the Typic chapter. Kant here looks for the possibilities of representing the moral law and for this reason he refers to the analogy between moral law and the law of nature. Therefore, the Typic chapter offers an explanation as to why this analogy is relevant for Kant's moral philosophy. The usefulness of the analogy is not a consequence

of the first common element of lawfulness, but is a consequence of the second, distinguishing element. Because we cannot represent the moral law as such, we have to refer to the law of nature for the representation. Both laws are objectively and formally the same, but their application is different. Therefore, in my opinion this shows why it is relevant to stick to the dual structure of law-giving when inquiring into the possibility of representing the moral law.

Finally, on the basis of my analysis I hold that Kant's conception of practical judgment in the Typic chapter does not function as a special kind of judgment, alongside the theoretical judgment that Kant introduced in the first *Critique*. Instead, I think that practical judgment has in comparison to the theoretical judgment only one additional step: practical judgment has to refer to the analogy in order afterwards to be able to make use of the theoretical judgment. In this sense, I understand practical judgment as a judgment per analogy. Accordingly, Kant's analogy is essential for his notion of practical judgment and is thus of special importance for understanding the Typic chapter as a whole.

References

Busch, W. (1979), *Die Entstehung der kritischen Rechtsphilosophie Kants*, De Gruyter, Berlin/New York.

Delfosse, H. *et al.* (2010), "Stellenindex und Konkordanz zum Naturrecht Feyerabend. Einleitung des Naturrechts Feyerabend. Forschungen und Materialien zur deutschen Aufklärung. Division III". Indices", in: *Kant-Index. Section 2: Indices zum Kantschen Ethikcorpus. Vol. 30.1*, Frommann-Holzboog, Stuttgart-Bad Cannstatt.

Guyer, P. (2002), "Kant's Deductions of the Principles of Right", in: Mark Timmons (ed.), *Kant's Metaphysics of morals: Interpretative Essays,* Oxford University Press, Oxford, pp. 23–64.

Hirsch, P.A. (2012), *Kants Einleitung in die Rechtslehre von 1784. Immanuel Kants Rechtsbegriff in der Moralvorlesung „Mrongovius II" und der Naturrechtsvorlesung „Feyerabend" von 1784 sowie in der „Metaphysik der Sitten" von 1797,* Universitätsverlag, Göttingen, Göttingen.

Massimi, M. (2014), "Prescribing laws to nature. Part I. Newton, the pre-Critical Kant, and three problems about the lawfulness of nature", *Kant-Studien*, 105 (4), pp. 491–508.

Pollok, K. (2017), *Kant's Theory of Normativity: The Space of Reason*, Cambridge University Press, New York.

Ritter, C. (1971), *Der Rechtsgedanke Kants nach den frühen Quellen*, Vittorio Klostermann, Frankfurt am Main.

Watkins, E. (2017), "Kant on the Unity and Diversity of Laws", in: Michela Massimi and Angela Breitenbach (eds.), *Kant and the Laws of Nature*, Cambridge University Press, Cambridge, pp. 11-29.

Watkins, E. (2014), "What is, for Kant, a Law of Nature?", *Kant-Studien*, 105 (4), pp. 471–490.

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International Journal of Philosophy
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ISSN: 2386-7655
Doi: 10.5281/zenodo.3252909

Westra, A. (2016), *The Typic in Kant's Critique of Practical Reason: Moral Judgment and Symbolic Representation,* De Gruyter, Berlin/Boston.
Willaschek, M. (2002), “Which Imperatives for Right”, in: Mark Timmons (ed.), *Kant's Metaphysics of morals: Interpretative Essays,* Oxford University Press, Oxford, pp. 65–88.
Wood, A. (2002), “The Final Form of Kant’s Practical Philosophy”, in: Mark Timmons (ed.), *Kant's Metaphysics of morals: Interpretative Essays,* Oxford University Press, Oxford, pp. 1–22.
Zimmermann, S. (2015), “Wovon handelt Kants Typik der reinen praktischen Urteilskraft?”, *Kant-Studien*, 106 (3), pp. 430–460.
Zöller, Günter (2015), “Without hope and fear: Kant’s Naturrecht Feyerabend on Bindingness and Obligation”, in: Robert R. Clewis (ed.), *Reading Kant’s Lectures,* De Gruyter Berlin/Boston, pp. 346–361.