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Kantian Autonomy and Political Liberalism

Since the mid 1980s, John Rawls, Charles Larmore, and others have argued for a political as opposed to a comprehensive conception of liberalism. At the center of political liberalism stands the assertion that liberals must withdraw from the commitment to autonomy that one finds in classical liberalism. The claim is that this is necessary for making liberalism suitable for societies characterized by the fact of reasonable pluralism and to avoid “liberalism becom[ing] but another sectarian doctrine.”¹ A society characterized by reasonable pluralism is one in which the citizens hold irreconcilable but reasonable views about metaphysics, the meaning of life, the source of morality, and the like. Political liberals believe that autonomy is something about which there is reasonable disagreement, and that liberalism can dispense with the commitment to autonomy without sacrificing “the essential convictions of liberal thought,”² principally the principle of equal respect. The allegiance to equal respect is a core component of what is required for making pluralism reasonable. In this article I question the idea that a commitment to autonomy necessarily leads to sectarianism as well as the notion that one can draw a wedge between respect for persons and autonomy.

The attack on autonomy is often a unified attack on its place in classical liberalism; Rawls usually refers to Immanuel Kant’s and John Stuart Mill’s comprehensive and autonomy-based liberalisms, and Larmore includes John Locke’s.³ This lumping together of very diverse conceptions of autonomy is unhelpful.⁴ I shall focus on and defend the Kan-

¹John Rawls, “Justice as Fairness: Political Not Metaphysical,” *Philosophy & Public Affairs* 14 (1985): 223-52, p. 246.

²Charles Larmore, *The Autonomy of Morality* (New York: Cambridge University Press, 2008), p. 146.

³Rawls, “Justice as Fairness: Political Not Metaphysical,” pp. 245-46; John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), pp. 37, 78, 145; Larmore, *The Autonomy of Morality*, p. 144.

⁴I show the importance of distinguishing the Millian and the Kantian conceptions of autonomy in Christian F. Rostbøll, “Autonomy, Respect, and Arrogance in the Danish Cartoon Controversy,” *Political Theory* 37 (2009): 623-48, and “From the Standpoint of Practical Reason: A Reply to Tønder,” *Political Theory* 39 (2011): 386-93.

tian conception of autonomy as indispensable for a liberalism based on equal respect. In doing so, my approach differs from most contemporary liberals who are committed to autonomy, including critics of political liberalism like Will Kymlicka who believe that liberalism requires autonomy, since these liberal autonomists do not rely on a *Kantian* conception of autonomy, as I shall specify it.⁵

We should consider two different issues in assessing the Kantian conception of autonomy and its acceptability in a society characterized by reasonable pluralism. The first concerns its comprehensiveness, the second its metaphysical status. According to Rawls, a conception “is comprehensive when it includes conceptions of what is of value in human life, as well as ideals of personal virtue and character, that are to inform much of our nonpolitical conduct.”⁶ The problem with a comprehensive conception of autonomy is that it is unacceptable for people in whose conception of the good autonomy does not figure,⁷ and hence it hinders agreement or overlapping consensus. While autonomy as a good and character ideal is obvious in Mill, Rawls also maintains that “Kant’s doctrine is a comprehensive moral view in which the ideal of autonomy has a regulative role for all of life.”⁸

The second issue is more specific to Kant’s theory and concerns the notion that Kantian autonomy commits one to a specific and controversial metaphysical theory. According to Larmore, Kantian autonomy implies an identification of self-legislation with self-origination and construction of binding principles. Thus, Larmore gives a very strong and metaphysical reading to Kant and contemporary Kantian constructivism, which makes it unacceptable from the perspective of other ideas regarding the source of normativity and the constitution of the order of values, including Larmore’s own Platonist view. I shall argue that this strong, metaphysical reading of Kantian autonomy leads to a premature rejection of it and overlooks important insights inherent in the Kantian approach to autonomy.

⁵Will Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995), pp. 75 ff., 158 ff.; and *Contemporary Political Philosophy: An Introduction*, 2nd ed. (New York: Oxford University Press, 2002), pp. 229 ff. Joseph Raz has developed the best known autonomy-based account of liberalism, and distinguishes his use of personal autonomy from Kantian moral autonomy; see *The Morality of Freedom* (Oxford: Clarendon Press, 1986), p. 370 n. 2. See also Gerald F. Gaus, “The Place of Autonomy within Liberalism,” in John Christman and Joel Anderson (eds.), *Autonomy and the Challenges to Liberalism: New Essays* (Cambridge: Cambridge University Press, 2005), pp. 272-306, at p. 273, who notes that liberal autonomists are committed to personal autonomy rather than Kantian autonomy.

⁶Rawls, *Political Liberalism*, p. 175.

⁷Larmore, *The Autonomy of Morality*, pp. 164-65.

⁸Rawls, *Political Liberalism*, p. 99.

The approach to autonomy one finds in Kant's moral theory, as belonging to the standpoint of practical reason, actually supplies the reason why we should treat each other with equal respect and why it is wrong for liberalism to be sectarian. Taking autonomy as a practical principle is a condition of possibility for a regime of mutual respect. Thus, in the Kantian approach to autonomy we find insights that are absent from other approaches to autonomy. The notion of regarding autonomy as a practical principle regulating how we treat each other rather than as an ideal content of the good life builds on Kantian concepts. When we understand this aspect of Kantian autonomy properly, it provides theoretical resources for avoiding the sectarianism and perfectionism of personal autonomy accounts.

Note that the issue at stake in this article is neither whether Kant himself was a comprehensive liberal, nor whether he was committed to an ideal that contemporary liberals would call "personal autonomy" and that political liberals would find unsuitable for a culturally diverse society.⁹ The issue is rather whether Kantian autonomy, as I shall specify it, drawing on Kant's and contemporary Kantian writings, is in conflict with respect for difference or, as I shall argue, presupposed by such respect. The burden of my argument is to defend the notion of regarding autonomy from the standpoint of practical reason, as we have learned from Kant, and not to defend Kant's entire moral philosophy and much less his philosophy as a whole. In other words, my aim is to show that in the Kantian approach to autonomy we can find legitimate insights into the moral foundations of liberalism, and that these insights are indispensable for the specification and justification of the principle of equal respect for persons.¹⁰

In section 1 I draw some distinctions that supply a preliminary indication of the notion that a commitment to autonomy need not entail a sectarian conception of the good but can be seen as having merely instrumen-

⁹For a discussion of whether Kant's political or legal philosophy is comprehensive, see Thomas Pogge, "Is Kant's *Rechtslehre* Comprehensive?" *Southern Journal of Philosophy* 36, Suppl. (1997): 161-87. For discussions of Kant on personal autonomy, see Robert S. Taylor, "Kantian Personal Autonomy," *Political Theory* 33 (2005): 602-28, and Jeremy Waldron, "Moral Autonomy and Personal Autonomy," in Christman and Anderson (eds.), *Autonomy and the Challenges to Liberalism*, pp. 307-29.

¹⁰It should be noted also that I defend Kantian autonomy from the charges made against it from within neutralist and antiperfectionist liberalism. Given this, the article operates within a narrow range of philosophical perspectives and excludes consideration of many others. Of course, to undertake a full defense of Kantian autonomy would require a discussion of other philosophical positions. One cannot discuss everything at once, however, and the aim of this article is limited to arguing that liberalism committed to reasonableness and respect should not and cannot jettison the Kantian conception of autonomy.

tal value and/or as a principle regulating how persons should relate to each other. Section 2 supplies an interpretation of Kant that shows that the capacity for autonomy that Kant asks us to respect is less controversial than the metaphysical idea of autonomy as self-origination of binding principles. Section 3 continues the argument that Kantian autonomy is not a metaphysical concept by offering an account of what it means to approach autonomy from the standpoint of practical reason. I argue that this practical approach to autonomy involves seeing autonomy as a principle for regulating interpersonal relations rather than as a good to be promoted. The attack on Kantian autonomy by political liberals is also directed at the idea of “constitutive autonomy,” that is, the idea that values are made rather than discovered. In section 4 I argue that we can and should understand constructivism practically rather than metaphysically. Practical constructivism is agnostic towards the metaphysical question regarding the ultimate source of reasons and values, and focuses on justification procedures and the standing of citizens. In the last section before the conclusion I argue that while we should dispense with the metaphysical notion of constitutive autonomy, in politics we should hold on to the idea of regarding each as a participant in self-legislation rather than merely self-governing. Because political liberals reject Kantian autonomy, they reduce citizens to self-governing subjects of law and fail to explain why we should respect everyone as subject to no other laws than those they have given themselves as authors. An important advantage of the Kantian approach to autonomy is that it can show an internal connection between the democratic practice of self-legislation and the norm of equal respect without prioritizing one over the other.

1. Three Distinctions Regarding Autonomy

Political liberals think liberalism should not include and much less give fundamental importance to comprehensive conceptions “of what is of value in human life” or to “ideals of personal virtue or character.”¹¹ The withdrawal from autonomy is partly based on the claim that it implies a sectarian conception of the good. Thus, Larmore maintains that a comprehensive conception of autonomy is involved in the “full-scale individualism [of classical liberalism], urging a critical detachment toward inherited forms of belief and cultural traditions.”¹² Locke, Kant, and Mill wrongly based neutrality towards conceptions of the good on the idea that political principles should respect “the fallibilist, autonomous, or experimental attitude that we as persons *should* maintain at the deepest

¹¹Rawls, *Political Liberalism*, p. 175.

¹²Larmore, *The Autonomy of Morality*, p. 144.

level of our self-understanding.”¹³ Conversely, Larmore believes that the principle of respect for persons “can figure in those conceptions ... that refuse to accord supreme value to critical reflection and call instead upon forms of moral allegiance that are rooted in a sentiment of belonging.”¹⁴

Before turning to the Kantian conception of autonomy in the following section, I draw three distinctions regarding the use and meaning of autonomy, all of which are important for the relationship between autonomy and respect. The reason for drawing the first two distinctions is the ambiguity of the idea of according “supreme value to critical reflection.”

First, to regard something as a necessary condition of something else is not identical to regarding the former as having value in itself. One can regard critical reflection as a necessary condition of morality and/or of acting morally without seeing it as good in itself. The “should” that Larmore attributes to Locke, Kant, and Mill is similarly ambiguous. It could mean that one should lead an autonomous life because it is the best form of life, but it could also mean that the autonomous life is instrumentally necessary to living morally correctly and respecting others as equals. I would hold that both Kantians and political liberals cannot avoid granting critical reflection at least instrumental value.¹⁵ Larmore, for example, admits that entering the moral point of view requires the capacity “to stand back from our own person and to see ourselves as but one among many.”¹⁶ One could then equally ask him whether everyone must value this “power of self-detachment,” or if it is merely a necessary condition of morality and equal respect.¹⁷ Thus, the first distinction is between awarding autonomy instrumental value and seeing it as good in itself. It would seem as though the latter is in collision with respect for diverse conceptions of the good, while the former might rather be a precondition of equal respect.

Second, it should make a difference to liberals committed to equal respect whether what some people refuse (and reasonably can refuse) is to treat others *as if* they have chosen (or were able to choose and revise) their conception of the good self-reflectively, or whether they refuse to see a life of critical self-reflection as the most valuable form of life for themselves. The necessary distinction runs between autonomy as a prin-

¹³Ibid. (emphasis added).

¹⁴Ibid., pp. 164-65.

¹⁵Christian F. Rostbøll, “Freedom of Expression, Deliberation, Autonomy, and Respect,” *European Journal of Political Theory* 10 (2011): 5-21.

¹⁶Larmore, *The Autonomy of Morality*, p. 136.

¹⁷Gerald Gaus has argued that an “ultra-minimal” degree of personal autonomy is required for people to be morally autonomous. People must be capable of self-reflection and role-taking in order to understand that other people do not share their conception of the good and in order to respect them equally. See Gaus, “The Place of Autonomy within Liberalism,” pp. 297-99.

ciple guiding how we should relate to one another and autonomy as something that ought to be promoted or maximized as a good. In both cases, autonomy is seen as foundational, but there is a (normatively significant) difference between seeing autonomy as the basis of a norm regulating social relations among people as opposed to seeing autonomy as referring to the content of the lives these people should live.¹⁸ Only the latter understanding of autonomy relies on a conception of the good about which there is reasonable disagreement and is in conflict with equal respect. The former does not rely on a comprehensive conception of the good but rather on a norm about how we ought to treat others—I would argue a norm that is presupposed by the principle of respect for persons, which one finds also in political liberalism.¹⁹

Finally, we should distinguish between personal and moral autonomy. Personal autonomy regards one's own good, how one chooses or endorses one's life plan, goals, and aims, whereas moral autonomy concerns "the relation between one person's pursuit of his own ends and others' pursuit of theirs."²⁰ Moral autonomy is not about what is good for me but about what can be universalized.²¹ Thus, while personal autonomy is about the individual good—about whether it has been reflectively endorsed—moral autonomy is about the relationship between different people's different goods or ends and how it has been determined and justified. Moral autonomy includes the capacity to set aside one's pursuit of one's own good when moral reasons demand doing so.²² When we distinguish between moral and personal autonomy in this manner, it does not necessarily fall along the same lines as the distinction between respecting and promoting autonomy suggested in the previous paragraph.

¹⁸For this way of distinguishing between theories prioritizing the right and theories that hold that the state should promote the good, see John Christman, *Social and Political Philosophy: A Contemporary Introduction* (London: Routledge, 2002), p. 97. Cf. Christine M. Korsgaard, "The Reasons We Can Share," in *Creating the Kingdom of Ends* (Cambridge: Cambridge University Press, 1996), pp. 275-310, at p. 275: "The subject matter of morality is not what we should bring about, but how we should relate to one another."

¹⁹One anonymous referee of this article holds that Kant *is* committed to an idea of the good, namely, the kingdom of ends. My suggestion is that the kingdom of ends doesn't say anything about the content of the lives people should live, as long as the equal autonomy of everyone is respected, but rather is an ideal specifying how we should relate to one another. If there is a "good" involved here, it is the good of equal respect and thus should not be rejected by liberals committed to that principle.

²⁰Waldron, "Moral Autonomy and Personal Autonomy," p. 307.

²¹This understanding of moral autonomy is, of course, Kantian, but I want to introduce the distinction between personal and moral autonomy independently of the Kantian framework, because I argue that "Kantian autonomy" differs from what I refer to as "moral autonomy" in this paragraph.

²²Gaus, "The Place of Autonomy within Liberalism," p. 283.

Both moral and personal autonomy can be either respected in our relations with others or promoted as a form of excellence.

2. Kantian Autonomy and Respect for Persons

The principle of equal respect is at the core of the political liberalism of both Rawls and Larmore. But while for Rawls it belongs to a “freestanding” political conception and is “viewed as latent in the public political culture of a democratic society,”²³ Larmore sees it as the moral basis of political liberalism.²⁴ I shall focus on Larmore’s argument, because I agree that liberalism needs a stronger justification than the contingencies of a particular culture, and because he has advanced a more detailed criticism of awarding Kantian autonomy a core place not only in liberalism but in morality as a whole, than has Rawls. In this way, Larmore represents the clearest example of the attempt to hold on to a fundamental commitment to respect while simultaneously rejecting Kantian autonomy.

In *The Autonomy of Morality*, Larmore writes that he has “set out to ... attack the foundational role that Kant and the Kantian tradition have awarded [autonomy] in their accounts of reason and morality.”²⁵ In light of Larmore’s commitment to political liberalism, it would seem that to understand and evaluate his objection to the use of autonomy in political theory, one could leave aside his metaphysical discussion of the place of autonomy in morality. His discussion of autonomy in the political context, however, is not freestanding from his discussion of autonomy in moral philosophy. First, his understanding of autonomy in the political context—the *conception* of autonomy he rejects—is partly shaped by his understanding of moral autonomy, viz., Kantian autonomy. Second, Larmore rejects the notion that political liberalism is freestanding from any moral commitment. Even though political liberalism should be independent from “any general philosophy of man,” it still needs a moral basis.²⁶ This moral basis is the principle of respect for persons.

In the discussion of Kantian autonomy in morality, which has relevance also for political theory, Larmore’s target is the Kantian notion that moral principles gain their authority from being self-legislated and self-imposed. Larmore offers a very strong reading of Kantian autonomy, as not only a matter of acting on the basis of reasons as opposed to causes, but also as meaning that moral principles have their origin in and are

²³Rawls, *Political Liberalism*, p. 13.

²⁴Larmore argues against Rawls that political liberalism cannot be freestanding but requires a moral basis. See Larmore, “Respect for Persons,” *The Hedgehog Review* 7 (Summer 2005): 66-76, pp. 70-71; and *The Autonomy of Morality*, chap. 6.

²⁵Larmore, *The Autonomy of Morality*, p. 43.

²⁶*Ibid.*, p. 139.

created by ourselves independently of any prior moral order.²⁷ Thus, what he objects to is what we may call *autonomy as the self-origination of binding principles*.

Liberalism can do without autonomy, according to Larmore, because its more fundamental commitment is to the principle of respect for persons. Despite his attack on Kantian autonomy, Larmore acknowledges that his principle of respect for persons “owes a lot to Kant’s view about respect and treating persons as ends.”²⁸ As in Kantian ethics, treating others with respect involves directly engaging their distinctive capacities as persons, that is, “as beings capable of thinking and acting on the basis of reasons.”²⁹ Moreover, “to respect others as persons in their own right when coercion is at stake is to require that political principles be as justifiable to them as they presumably are to us.”³⁰

What I would like to explore is whether (or to what extent and how) we can see respect for persons as separable from a commitment to autonomy, specifically the Kantian conception of autonomy. We must consider how the Kantian conception of autonomy relates to the distinctions drawn in the previous section, as well as what the relationship between respect and autonomy is in Kant and neo-Kantianism. Particularly, we must consider in some depth which conception of autonomy is presupposed in the Kantian notion of treating oneself and others as ends and never merely as means. Is it the idea of autonomy as self-origination of binding principles that is too controversial for political liberalism? Or is it something different? In the remainder of this article I argue that it is something different and more suitable to a society characterized by reasonable pluralism. More precisely, I offer an interpretation of Kant that highlights some important insights about autonomy, respect, and the standpoint of practical reason that are lost in political liberalism because of its withdrawal from Kantian autonomy.

One might think that the object of Kantian respect is only moral autonomy and not personal autonomy. This is because, in Kant, only the capacity of rational beings to give and subject themselves to the moral law is truly autonomous in the sense of being a self-originating lawful-

²⁷Ibid., pp. 43-44, 81-82. This reading of Kantian autonomy might fit Korsgaard and other Kantian constructivists, but it ignores the realist reading of Kant. See Robert Stern, “The Autonomy of Morality and the Morality of Autonomy,” *Journal of Moral Philosophy* 6 (2009): 395-415, pp. 403-7. Larmore’s interpretation is also at odds with Allen Wood’s understanding of Kantian ethics in general and Kantian autonomy in particular. See Allen W. Wood, *Kantian Ethics* (New York: Cambridge University Press, 2008), esp. pp. 90 ff., 107-19, 295-96 n. 11.

²⁸Larmore, *The Autonomy of Morality*, p. 149.

²⁹Ibid., p. 148.

³⁰Ibid., p. 149; see also Larmore, “Respect for Persons,” pp. 73-74.

ness free from any influences beyond one's own will.³¹ And the dignity of human nature lies in the ability to give oneself universal laws and being "free with respect to all laws of nature."³² Pursuing happiness or devising one's own conception of the good is never autonomous in this sense; it is always affected by contingent circumstances, by one's particular empirical situation, and one's instincts and impulses.

Kant, however, explicitly says that it is "*humanity*, whether in your own person or in the person of another" that should be used "always at the same time as an end, never merely as a means."³³ In *Religion Within the Boundaries of Mere Reason*, Kant distinguishes between the predispositions to humanity and to personality, where the former concerns "self-love" or setting ends for oneself, and the latter is the capacity to act out of respect for the moral law.³⁴ Allen Wood argues that it is humanity—which "contains our rational capacity to set ends and devise means to them, and our rational self-love, giving us grounds for forming a conception of our happiness and pursuing it"—alone that is the object of respect and not our moral predisposition.³⁵ And Christine Korsgaard argues that "it is the capacity for the rational determination of ends in general, not just the capacity for adopting morally obligatory ends, that the Formula of Humanity orders us to cherish unconditionally."³⁶ This is also clear in the definition of the kingdom of ends as "a whole both of rational beings as ends in themselves and of the ends of his own that each may set himself."³⁷

In addition to Wood's and Korsgaard's arguments in favor of including the capacity for nonmoral end-setting as an object of respect, it might be noted that if respect were only for moral autonomy, there would be no respect for our capacity to pursue our own happiness. But if respect is not to be an empty principle, it must include respect for the ability to set ends of our own, ends that are not shared by others. This becomes clear in Kant's political philosophy or *Rechtslehre*: "No one can coerce me to be happy in his way (as he thinks of the welfare of other human beings);

³¹Cf. Taylor, "Kantian Personal Autonomy," pp. 609-11.

³²Immanuel Kant, *Groundwork of the Metaphysics of Morals*, ed. Mary Gregor (Cambridge: Cambridge University Press, 1997), p. 43 (*Ak.* 4: 435) (references to *Kant's Gesammelte Schriften* or the *Akademie-Ausgabe* of Kant's works (*Ak.*), are indicated by volume and page number).

³³Kant, *Groundwork*, p. 38 (*Ak.* 4: 429) (emphasis added).

³⁴Immanuel Kant, "Religion Within the Boundaries of Mere Reason," in *Religion and Rational Theology*, ed. and trans. Allen Wood and George Di Giovanni (New York: Cambridge Press University, 1996), pp. 74-76 (*Ak.*: 6: 26-28).

³⁵Wood, *Kantian Ethics*, p. 88.

³⁶Christine Korsgaard, "Kant's Formula of Humanity," *Kant-Studien* 77, no. 2 (1986): 183-202, p. 187.

³⁷Kant, *Groundwork*, p. 41 (*Ak.* 4: 433).

instead, each may seek his happiness in the way that seems good to him, provided he does not infringe upon that freedom of others to strive for a like end which can coexist with the freedom of everyone in accordance with a possible universal law.”³⁸

In the *Groundwork of the Metaphysics of Morals*, Kant writes:

Our own will insofar as it would act only under the condition of a possible giving of universal law through its maxims ... is the proper object of respect; and the dignity of humanity consists just in this capacity to give universal law, through the condition of also being itself subject to this very lawgiving.³⁹

Thus, it cannot just be humanity as something separable from our moral predisposition in and by itself that is the object of respect, as Wood claims, but rather our pursuit of happiness under the moral law that is so; or more precisely, we respect others as beings who set ends for themselves under the condition that they also have the capacity to be moved by moral reasons. The object of respect is the combination of humanity, the capacity to set nonmoral ends for oneself, *and* personality, the capacity for moral self-legislation. On the one hand, respect would lose its reference to individual human beings if it did not include the capacity to set particular ends; on the other hand, we respect others because we regard them as having the capacity to set aside their particular ends when they are in conflict with moral reasons.⁴⁰ When we respect others as end-setters, we thus respect the ability to set ends that are compatible with the ability and right of others to do the same. In short, the “dignity of humanity” lies in the ability to pursue happiness under the moral law.⁴¹

³⁸Immanuel Kant, “On the Common Saying: That May Be Correct in Theory, But It Is of No Use in Practice,” in *Practical Philosophy*, ed. and trans. Mary Gregor (New York: Cambridge University Press, 1996), p. 291 (*Ak.* 8: 290). Allen D. Rosen suggests a connection between this principle of civil freedom and the formula of humanity, in *Kant’s Theory of Justice* (Ithaca: Cornell University Press, 1993), pp. 62 ff. The relationship between Kant’s ethics and his political philosophy, or his *Rechtslehre*, is, however, disputed. Arthur Ripstein, for example, argues that the idea of equal freedom in the philosophy of right is derived from an idea of independence rather than autonomy; see “Kant on Law and Justice,” in Thomas E. Hill, Jr. (ed.), *The Blackwell Guide to Kant’s Ethics* (Chichester: Wiley-Blackwell, 2009), pp. 161-78. My concern, however, is the use of autonomy and respect in Kant’s moral philosophy because of its pre-eminence in much contemporary Kantian political philosophy (particularly because of the influence of Rawls).

³⁹Kant, *Groundwork*, pp. 46-47 (*Ak.* 4: 440).

⁴⁰This last point does not mean that respect is conditional upon people in fact being morally conscientious. Autonomy is something we presuppose that others have, independent of any specific knowledge of them.

⁴¹My argument in this paragraph also fits Henry Allison’s interpretation of Kant’s conception of autonomy, according to which “the defining characteristic of autonomy is not independence from causal determination by one’s needs as a sensuous being ... It is rather a motivational independence, that is, a capacity for self-determination independently

3. The Standpoint of Practical Reason

A question posed by Jeremy Waldron is relevant for the discussion of whether Kant's imperative to respect others as ends is internally related to what I have called "autonomy as self-origination." Waldron asks:

Why, on Kant's account, is it important that my pursuit of happiness be determined *by me* rather than by another person or by the state? Certainly the latter would involve heteronomy. But heteronomy is involved in the pursuit of happiness anyway, on Kant's account.⁴²

Waldron wonders whether, when Kant argues that we ought to respect the right of others to pursue happiness, this means that the pursuit of happiness has its "own dimension of autonomy" different from moral autonomy. Waldron concludes that there are elements of this in Kant, but that they "do not add up to a theory of personal autonomy in the sense used by modern liberals."⁴³

I propose that we take a different approach from that suggested by Waldron, namely, that we highlight that respect and autonomy belong to the standpoint of practical reason and investigate more fully what that means. Waldron considers the influence of sociological *facts* on which conception of the good we choose and whether our reason is *actually* able to determine our ends.⁴⁴ Thus, he takes the perspective of someone attempting to explain behavior and understands our acts as *phenomena*.⁴⁵ Or he oversteps the boundaries of reason and tries to provide a metaphysical account of how reason can be practical.⁴⁶ For me, the important Kantian suggestion is that the autonomy we should respect does not belong to what there is, to what can be explained empirically or metaphysically, or to what can be known, but rather to the practical standpoint from which we ask what we should do and how to treat ourselves and others. From this standpoint and when we respect the humanity of others, we regard them "as active beings, as the authors of their thoughts and choices, as *noumena*."⁴⁷

of, and even contrary to, these needs. Positively expressed, a will with the property of autonomy is one for which there are (or can be) reasons to act that are logically independent of the agent's needs as a sensuous being." See Allison, *Kant's Theory of Freedom* (Cambridge: Cambridge University Press, 1990), p. 97.

⁴²Waldron, "Moral Autonomy and Personal Autonomy," p. 309 (emphasis in original).

⁴³Ibid., pp. 309, 314. See also the discussion of this issue in Taylor, "Kantian Personal Autonomy."

⁴⁴Waldron, "Moral Autonomy and Personal Autonomy," pp. 309-10, 313-14.

⁴⁵See Korsgaard, "Creating the Kingdom of Ends," in *Creating the Kingdom of Ends*, pp. 188-221, at p. 204.

⁴⁶Kant, *Groundwork*, p. 62 (*Ak.* 4: 458-59).

⁴⁷Korsgaard writes: "When you respect the humanity of others you do not regard them as objects of knowledge—as *phenomena*—at all. Instead you regard them as active beings, as the authors of their thoughts and choices, as *noumena*." Christine M. Korsgaard, "Intro-

In Kant, autonomy is a quality we unavoidably presuppose everyone has, not because we can explain it but because it is required “*for practical purposes ... to make use of our reason in our conduct.*”⁴⁸ Thus, by the standpoint of practical reason, I mean the point of view we take when we regard ourselves as active beings who deliberate about what to do, who take responsibility for their actions, and who regard themselves as belonging to a community of agents who have equal rational capacities. Taking this standpoint does not move us into another plane of reality, but is in Kant’s words, “only a *standpoint* that reason sees itself constrained to take outside appearances *in order to think itself as practical ... as a rational cause active by means of reason, that is, operating freely.*”⁴⁹

The standpoint of practical reason is not defined only negatively, as freedom from inclinations and social influences. Autonomy seen from the standpoint of practical reason involves positive components in addition.⁵⁰ For Kant it “would be an absurdity” to assume the free will to be merely negatively defined and thus lawless.⁵¹ When we deliberate about what to do—when reason sees itself as practical—we presuppose that we are able to give laws to ourselves, which, of course, is what autonomy literally means.⁵² For Kant, to give laws to oneself is the ability to act on the basis of rational principles or to be moved by reasons. And to be able to act on the basis of reason is to be able to give and respond to reasons that are intelligible and shareable with others, that is, public reasons.⁵³ Thus, the positive specification of autonomy involves both lawfulness and a community of beings with equal rational capacities, that is, the kingdom of ends.⁵⁴

duction,” in *Creating the Kingdom of Ends*, pp. ix-xv, at p. xi. See also Thomas Hill’s excellent account of Kantian autonomy in which he suggests “that we take it less as a metaphysical account of what we are like than a normative idea about the tasks, attitudes, and commitments of *rational* agents when deliberating about what to do.” Thomas E. Hill, Jr., “The Kantian Conception of Autonomy,” in *Dignity and Practical Reason in Kant’s Moral Theory* (Ithaca: Cornell University Press, 1992), pp. 76-96, at p. 84.

⁴⁸Kant, *Groundwork*, p. 60 (*Ak.* 4: 455-56).

⁴⁹*Ibid.*, p. 62 (*Ak.* 4: 458).

⁵⁰Cf. Hill, “Kant’s Theory of Practical Reason,” in *Dignity and Practical Reason in Kant’s Moral Theory*, pp. 123-46, at pp. 138 ff.; Andrews Reath, “Legislating for a Realm of Ends: The Social Dimension of Autonomy,” in Andrews Reath, Barbara Herman, and Christine M. Korsgaard (eds.) *Reclaiming the History of Ethics: Essays for John Rawls* (Cambridge: Cambridge University Press, 1997), pp. 214-39, at pp. 216-17, 224 ff.

⁵¹Kant, *Groundwork*, p. 52 (*Ak.* 4: 446); cf. *The Metaphysics of Morals*, in *Practical Philosophy*, pp. 380-81 (*Ak.* 6: 226-27).

⁵²Kant, *Groundwork*, p. 47 (*Ak.* 4: 440).

⁵³Onora O’Neill, “Enlightenment as Autonomy: Kant’s Vindication of Reason,” in Peter Hulme and Ludmilla Jordanova (eds.), *The Enlightenment and Its Shadows* (London: Routledge, 1990), pp. 184-99, at pp. 195-96.

⁵⁴Kant, *Groundwork*, p. 41 (*Ak.* 4: 433).

The standpoint of practical reason, then, is one we share with other human beings. This is because reasons are intersubjective or shareable.⁵⁵ Not only moral reasons are shareable, but also reasons regarding the individual pursuit of happiness. This is not to say that our particular ends are shared, but that my rational pursuit of my ends can be made comprehensible to others.⁵⁶ When deliberating, we necessarily see ourselves as belonging to or inhabiting a space that we share with others as reasoners. If others fail to recognize our reasons, they fail to treat us as sharing in the standpoint from which practical deliberation is possible. On this reading, moreover, the Categorical Imperative—as distinguished from particular imperatives—is a requirement of acting from reasons shareable with others and, thus understood, a constraint to not preclude the possibility of everyone sharing the standpoint of practical reason from which the autonomy of everyone is presupposed and respected.⁵⁷

Because the standpoint of practical reason is one that we occupy with others, and because autonomy has a social dimension, our relations with other human beings and our relations with nature each have their different implications for autonomy. We are dependent on other human beings, as co-reasoners and co-legislators, for regarding ourselves as autonomous. But we share the world with other human beings not only from the standpoint of practical reason. We can treat others as phenomena as well, which we do when we regard them as objects of manipulation and coercion rather than responsive to reasons. If this is right, we can reason with others about morality and conceptions of the good, but not force them to follow our conceptions without disrespecting their capacity for reasoning and acting on their own reasons, that is, without denying their capacity for autonomy. When we force others rather than engage their reason, we violate the rules that are constitutive of the standpoint of practical reason.

To return to Waldron's question, the problem with others or the state determining my pursuit of happiness is that they would not treat me as a fellow inhabitant of the standpoint of practical reason.⁵⁸ They would not treat me as someone who is moved by reasons, but as someone who is moved by sanctions. When another human being or the state interferes with my pursuit of happiness, they interfere with my reasoning process, they interfere with me *in the standpoint from which I think, choose, and*

⁵⁵Wood, *Kantian Ethics*, pp. 18-19; Christine M. Korsgaard, *The Sources of Normativity* (Cambridge: Cambridge University Press, 1996), pp. 131 ff.

⁵⁶As Wood puts it, "if I have a valid, rational ground for what I do, then that ground is also comprehensible from the standpoint of others." See *Kantian Ethics*, p. 18.

⁵⁷Cf. Reath, "Legislating for a Realm of Ends," pp. 222-23; O'Neill, "Enlightenment as Autonomy," pp. 195 ff.

⁵⁸"To respect others as ends in-in-themselves is to treat them as fellow inhabitants of the standpoint of practical reason." Korsgaard, "Introduction," in *Creating the Kingdom of Ends*, p. xi.

act, the standpoint I share with them as a fellow rational being, as reasoner and actor. The heteronomy involved in others determining my conception of the good is one that affects the standpoint of practical reasoning that we share, and it is wrong because it bypasses relations of reason-giving and justification. Conversely, the heteronomy involved in devising one's conception of the good that comes from nature does not belong to, nor does it affect, the standpoint of practical reasoning: it does not concern the way in which rational agents stand in relation to each other, nor does it interfere with relations of reason-giving and justification. The heteronomy caused by the laws of nature (including sociological laws) belongs to and can only be explained from a different standpoint.

Moreover, if I am right that the humanity that is the object of respect includes the capacity for moral self-legislation, then part of the reason why it is important that I determine my own conception of happiness is that it includes respect for my capacity for giving myself ends that are compatible with universal self-legislation. If others determine my conception of happiness on my behalf, they fail to respect that which Kant regards as making human beings worthy of happiness,⁵⁹ namely, our capacity for acting according to and out of respect for the moral law while pursuing happiness. Interference with the pursuit of happiness of others is a denial of both humanity and personality.

"Kantian autonomy" is usually seen as identical to moral autonomy. On the basis of the discussion above, however, it could also be seen as referring to the autonomy we presuppose and respect when acting and thinking as opposed to autonomy understood descriptively, theoretically, or metaphysically, and as something to be promoted. The most valuable aspect of the Kantian conception of autonomy is exactly that it is a practical—not metaphysical—idea, and first and foremost a capacity that must be respected rather than a good to be promoted. In Kant, we find a requirement of respecting others as both personally autonomous (as able to set particular ends for themselves) and morally autonomous (as capable of giving themselves and subjecting themselves to the moral law). To be sure, Kant does not call the pursuit of happiness "autonomy"; nevertheless, it is part of the capacity that his conception of treating others as ends refers to.

I have argued that we should approach autonomy from the standpoint of practical reason and that this means that autonomy is a capacity to be respected in everyone rather than a good to be promoted. Autonomy so conceived *constitutes* the practical point of view: we cannot deny it without undermining the possibility of seeing ourselves and others as moral beings worthy of respect. It should be noted that this approach provides

⁵⁹Cf. Kant, *Groundwork*, p. 7 (Ak. 4: 393).

what we may call normative priority to respecting the autonomy of others over promoting autonomy as a good rather than discarding the latter idea entirely. The standpoint of practical reason is a perspective we can and should take upon ourselves and others, but we can also—and sometimes should—change perspective and look at ourselves and others as phenomena. Taking the latter perspective, we learn that autonomy is also something that can be promoted; everyone can become more rational, self-reflective, and moral. However, the understanding of autonomy we attain from the practical standpoint—the Kantian notion that everyone must be presumed to have autonomy—imposes an absolute limit on how we can treat others, and thereby constrains how we can treat others when we regard them as objects of knowledge, as empirical beings whose autonomy can be promoted.⁶⁰ This absolute limit is the principle of equal respect.

How does this relate to the attack on Kantian autonomy by political liberals? My worry is that their attack on autonomy is too wide-ranging. It is a correct move in the face of the fact of reasonable pluralism not to ground liberalism in a sectarian idea of the autonomous life as the only good life. This, however, should not lead us to reject the Kantian idea of respecting others as autonomous persons. We need the latter idea in order to understand what respect means and requires, *and* as grounds for rejecting the sectarian and perfectionist idea of autonomy as something that should be promoted as good in itself.⁶¹ There is a difference between rejecting autonomy as a good and rejecting Kantian autonomy, namely, as Rainer Forst puts it,

that the first rejection can (and should) be based on the latter notion of autonomy, arguing against an unjustifiable imposition of a notion of the good, whereas the rejection of moral [Kantian] autonomy is either reciprocally unjustifiable, for one denies to others what one claims for oneself, i.e., to be respected as a person whose reasons and claims are taken seriously, or it is self-contradictory, for one would argue (with reasons) that one does not want to be respected as someone whose reasons and claims need to be respected.⁶²

Note that Forst's point relies on the participant perspective, that is, how participants make claims on each other. From this perspective, one cannot avoid presupposing a conception of autonomy; whether this con-

⁶⁰“Kant typically treats autonomy as an all-or-nothing trait that grounds a basic respect due to all human beings, as opposed to a variable respect earned only by the most conscientious.” Hill, “The Kantian Conception of Autonomy,” p. 79; see also Thomas E. Hill, Jr., “Must Respect be Earned?” in *Respect, Pluralism, and Justice* (New York: Oxford University Press, 2000), pp. 87-118, at pp. 91-92, 108.

⁶¹Note that I reject only promoting autonomy as a good for everyone, not promoting autonomy when it has instrumental value for respecting everyone as equal.

⁶²Rainer Forst, “A Critical Theory of Multicultural Toleration,” in Anthony Simon Laden and David Owen (eds.), *Multiculturalism and Political Theory* (New York: Cambridge University Press, 2007), pp. 292-311, at p. 302.

ception of autonomy need be the strong Kantian idea of self-originating lawfulness or can be a less demanding conception of autonomy, I consider further below. What I have attempted to do above is to show that respect and treating others as ends in Kantian ethics is not so one-sidedly bound up with the idea of autonomy as self-origination and moral autonomy as many think and as political liberals would find excessively controversial.

Moreover, even though the Kantian conception of respect also relates to the idea of personal autonomy, it does not do so in a way that posits an autonomous life as one everyone should pursue and which the state ought to promote *because* it is good in itself. Nor do Kantians make respect conditional upon people actually leading autonomous lives.⁶³ To see autonomy as foundational in the sense that it is a good that ought to be promoted and maximized is an entirely different idea from the Kantian view that we ought to treat others *as if* morally and personally autonomous.⁶⁴ Indeed, the principle of respect and in general the preoccupation with reasonable disagreement characterizing political liberalism presuppose the idea that people should be treated as capable of reflectively choosing their own ends and doing so with respect for the moral law. When we reject the idea that one conception of the good should be allowed to dominate, it is because we hold everyone capable of and entitled to form their own morally permissible conceptions of the good.

Talk of rational determination of ends and shareable reasons might lead to the objection that Kantian autonomy involves an untenable requirement that people publicly justify their particular ends to each other. This would be a violation of the liberal right to individually and privately determine one's own conception of the good. To respond to this important objection we need to emphasize two points. First, the idea that reasons are intersubjective and shared does not mean that my choice and action can be called rational only if others share my reasons. The point is that reasons are *shareable*, and thus my choice or action is rational only if others can comprehend my reasons. Second, the rationality of end-setting that matters for equal respect does not refer to the rationality of the *content* of my conception of the good (say, that I can give shareable reasons for my belief or nonbelief in God), but rather to the rationality of setting this particular end *in relation to* others' ends. In other words, the ability of rational end-setting that we should respect in others refers to their ability to rationally set ends that fit into the kingdom of ends, that is, ends that are compatible with the status of everyone else as ends in themselves.

⁶³See Hill, "Must Respect be Earned?"

⁶⁴This might be seen as the difference between a Millian and a Kantian conception of autonomy; cf. Rostbøll, "Autonomy, Respect, and Arrogance in the Danish Cartoon Controversy," and "From the Standpoint of Practical Reason."

4. Practical Constructivism

Until now my focus has been on autonomous end-setting and respect for diverse conceptions of the good. We should, however, consider also what Rawls calls “constitutive autonomy,” that is, the notion “that the order of moral and political values must be made, or itself constituted, by the principles and conceptions of practical reason.”⁶⁵ Rawls contrasts this view—Kantian or moral constructivism—with moral intuitionism, which sees the order of values as independent of human will and as self-constituted. Political liberals reject constitutive autonomy and Kantian constructivism, but Rawls and Larmore do so for different reasons. Rawls does not reject Kantian constructivism as a moral theory, but only as a political theory—because it is metaphysical and not political. Larmore, by contrast, rejects the antirealism of Kantian constructivism as a wrong-headed account of reason and morality. Larmore is a moral realist; he believes that there are moral principles that have validity independent of human will and that reason “is at bottom a receptive, not a self-legislating faculty.”⁶⁶

In line with my argument about the standpoint of practical reason, I propose that we understand constructivism practically rather than metaphysically. This has advantages in relation to both reasonable pluralism and democratic self-legislation. To approach this issue I shall discuss Larmore’s position again, because I think a critical engagement with it shows some shortcomings of rejecting constructivism and self-legislation. Larmore’s most sustained criticism of autonomy is the one directed at the Kantian idea that what gives the moral law authority is that it is self-legislated as well as its political variant: that there is no validity independent of the collective will of citizens.

Even though Larmore says that his understanding of the meaning of reason and morality need not become part of “our self-understanding as liberal citizens,”⁶⁷ the idea of independent validity is also central to his political theory. Thus, after reaffirming his commitment to political liberalism, he writes:

Still, I also believe that we as citizens do well to see that our political life is founded on a principle, the principle of equal respect, whose authority does not derive from our collective will ... my critique of the modern idea of being subject only to principles we institute ourselves points to a sense of being bound from without that we ought to share as citizens.⁶⁸

Larmore again gives a very strong reading to the idea of self-legislation in both Kant and in contemporary Kantian constructivism. He appears to

⁶⁵Rawls, *Political Liberalism*, p. 99.

⁶⁶Larmore, *The Autonomy of Morality*, p. 45.

⁶⁷Ibid., p. 14.

⁶⁸Ibid.; cf. p. 150.

give it a metaphysical reading, as claiming that we actually construct or make norms and that this is what gives them authority.⁶⁹

Both a realist view, according to which norms have independent validity and are actually discovered, and a metaphysically constructivist view, according to which norms are made, are views about which reasonable disagreement exists. Fortunately, what we need agreement on for practical purposes and in politics is not the metaphysical question, but rather how norms are justified, that is, which procedure to follow to justify norms to each other and to make political principles “as transparent to one’s own reason as to that of others.”⁷⁰ One might think that Larmore, as a political liberal, would agree. As noted, however, he thinks that citizens would do well to acknowledge that the principle of respect has a validity that is independent of their own will and thus to accept a source of normativity prior to any procedure—and to democratic deliberation and justification.

My suggestion is that from the practical standpoint, we can—and that political theory should—be agnostic as to whether reason is receptive or self-legislating as long as we agree to regard the authority of collectively binding norms as arising from common deliberative procedures of justification in which everyone is regarded and respected as self-legislating. Hence, we should avoid understanding constructivism metaphysically, that is, as holding that norms are *really* made rather than discovered, but rather see constructivism practically.⁷¹ Practical constructivism leaves aside the metaphysical question of the ultimate source of reasons and values and focuses on justification procedures and the standing of citizens.

The respect we show each other, then, is shown in the practice of

⁶⁹Here, we should note an important disagreement among contemporary Kantians. Korsgaard, for example, draws a sharp distinction between practical and theoretical reasoning, and argues that what we presuppose in practical deliberation has no relation to metaphysical entities. Wood agrees that humanity as an end in itself is a presupposition of rational volition, but insists that end-setting is merely an exercise of practical reason if good reason already exists to set that end, and that the absolute worth of humanity is not something human beings can confer but something that already belongs to them essentially (Wood, *Kantian Ethics*, pp. 90 ff., 112). In this way, Wood’s Kantian position comes close to Larmore’s moral realism and Larmore’s argument that reason is a receptive faculty. Wood, however, also writes: “We *regard* moral laws, which proceed from no will but lie in the nature of the will or practical reason, *as if* the will of every rational being were their author and legislator. We are justified in considering them this way because that way of thinking about them brings together the formal conception of universal law with the material conception of the absolute value of humanity or rational nature.” Wood, *Kantian Ethics*, pp. 116-17.

⁷⁰Larmore, *The Autonomy of Morality*, p. 163.

⁷¹Cf. Rainer Forst, “Moralische Autonomie und Autonomie der Moral. Zu einer Theorie der Normativität nach Kant,” in his *Das Recht auf Rechtfertigung. Elemente einer Theorie der Gerechtigkeit* (Frankfurt: Suhrkamp, 2007), pp. 74-99, at pp. 83-84.

moral-political deliberation and not in the knowledge of some theoretical or metaphysical truth. We treat others as ends when we act towards them as if they were autonomous, not in the absolute knowledge of the ultimate source of reasons and norms. The crucial Kantian insight is that autonomy is something we presuppose when deliberating about what to do, something we cannot deny without self-contradiction; more than this we do not need in political theory. What matters from the standpoint of practical reason and for morality as a relation is that we regard basic moral and political principles as necessary conditions of and products of our common moral and deliberative practices. The principle of respect belongs to this same practical perspective, and its basis is that we regard each other as self-legislating.

Basing liberalism on the principles of respect and autonomy that are constitutive of the standpoint of practical reason differs from Rawls's political liberalism, the content of which "is expressed in terms of certain fundamental ideas seen as implicit in the public political culture of a democratic society."⁷² Rawls's position has the advantage of drawing on principles that are already accepted, but because it relies on contingent material from a specific culture, it can be criticized for leaning "towards a semi-relativist direction."⁷³ Here I agree with Larmore that political liberalism cannot be freestanding but needs a moral basis. This moral basis, however, need not be (grounded in) an independent order of values, but can be seen as expressed in that which constitutes the standpoint of practical reason, that is, the commitments and attitudes of rational agents deliberating about what to do. When we see this, we in addition see that the principle of respect cannot be divorced from the commitment to autonomy.

5. Democratic Self-Legislation vs. Self-Government

The suggestion that we can dispense of the strong or metaphysical notion of constitutive autonomy means that we can understand autonomy less controversially. It does not, however, reduce autonomy to *self-government*, since it holds on to the idea that from a practical point of view, we regard ourselves and each other as the source of common binding principles. Self-government refers to the ability to attain moral knowledge and bring our actions into conformity with an order of values independent of us; Kantian autonomy entails the stronger notion that the order of values we

⁷²Rawls, *Political Liberalism*, p. 13.

⁷³Miriam Ronzoni, "Constructivism and Practical Reason: On Intersubjectivity, Abstraction, and Judgment," *Journal of Moral Philosophy* 7 (2010): 74-104, p. 84.

ought to act in conformity with is self-imposed and self-legislated.⁷⁴ It is part of my argument that when applying this distinction in political theory, we should hold on to the stronger Kantian notion of self-legislation (still understood practically), because the weaker idea of self-government brings into focus only citizens' roles as subjects of law, and thereby tends toward displacing democratic politics.

The distinction between self-government and self-legislation is evident in two different versions of the relationship between legitimate state authority and autonomy among neo-Kantian political theorists. The first version we find, for example, in T.M. Scanlon's "A Theory of Freedom of Expression."⁷⁵ According to Scanlon, "the powers of the state are limited to those that citizens could recognize while still regarding themselves as equal, autonomous, rational agents."⁷⁶ Here, autonomy refers to citizens' self-understanding as individually autonomous beings as opposed to their collective exercise of autonomy. This way of invoking autonomy rules out justifications for restricting freedom that disrespect the individual's ability to determine on their own what to believe and do *as subject to law*; that is, it grounds citizens' negative freedom against state interference. The second version we find, for example, in Jürgen Habermas, who refers to the "dogmatic core" of his discourse theory of democracy as "the idea of autonomy according to which human beings acts as free subjects only insofar as they obey just those laws they give themselves in accordance with insights they have acquired intersubjectively."⁷⁷ In this view, it is fundamental not merely to respect citizens' moral personality as autonomous beings as subject to law, but to respect them as capable of being the *actual authors* of the laws to which they are subject as addressees.

The difference between the two views could also be characterized as one between the *content* of the justification of laws (whether it respects citizens' self-understanding as autonomous) and the justification *procedure* that brought about the laws (whether it allows citizens to see themselves as the actual authors of the laws). It seems to me that political liberalism must share the first view while rejecting the latter, proceduralist view. Larmore's insistence that political principles must be justifiable to all and equally transparent to everyone's reason presupposes a com-

⁷⁴J.B. Schneewind, *The Invention of Autonomy: A History of Modern Moral Philosophy* (Cambridge: Cambridge University Press, 1998), pp. 513-15.

⁷⁵T.M. Scanlon, "A Theory of Freedom of Expression," in *The Difficulty of Tolerance: Essays in Political Philosophy* (Cambridge: Cambridge University Press, 2003), pp. 6-25.

⁷⁶Scanlon, "A Theory of Freedom of Expression," p. 15.

⁷⁷Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge: Polity Press, 1996), pp. 445-46.

mitment to an understanding of autonomy as the capacity to know and do what is right, as Scanlon's theory does. Larmore also invokes the distinction between self-government and self-legislation, saying that we should hold on to the first idea but that there is "no reason ... to hope for more," that is, for self-legislation.⁷⁸

I propose that there *is* reason to hope for being self-legislating rather than merely self-governing. From the standpoint of practical reason that I have emphasized, regarding political principles as self-legislated says something not about their metaphysical source but about the relations in which citizens stand to each other. When citizens regard the principles that are binding on them as the product of self-legislation, then they give each other a certain standing; they respect each other as co-authors of common principles. Most importantly, they acknowledge that there is no political, legitimate source of common principles other than their common deliberations. The idea of self-government does not confer the same status on citizens, because even if it regards them as capable of responding to reasons, it does not regard them as the sole source of reasons. Self-government focuses on the status we have as subject to law, whereas self-legislation also includes our status as authors of law. The distinction points to the important difference between having reason to endorse something and actually having been a participant in giving and evaluating reasons.⁷⁹

While Larmore accepts that constitutional principles should be seen as legitimate "in virtue of being objects of reasonable agreement, and thus their authority is taken to derive from our collective will as citizens," he insists that the principle of respect must be understood as having "a deeper kind of validity"; it "must be considered as a norm binding on us independent of our will as citizens, enjoying a moral authority that we have not fashioned ourselves."⁸⁰ The principle of respect for persons "enjoys a validity independent of its being the object of the democratic will. For it defines precisely what shall count as an authoritative expression of the will of the people."⁸¹

Naturally, it is correct that no neo-Kantian would regard any empirically reached consensus as constitutive of justice or legitimacy. In this manner, it is also right to say that political liberalism must have a moral basis. What I reject is that this moral basis should have a "validity that must be understood as antecedent to the democratic will,"⁸² and that it

⁷⁸Larmore, *The Autonomy of Morality*, p. 46.

⁷⁹Christian F. Rostbøll, *Deliberative Freedom: Deliberative Democracy as Critical Theory* (Albany: State University of New York Press, 2008), p. 73.

⁸⁰Larmore, *The Autonomy of Morality*, p. 150.

⁸¹Larmore, "Respect for Persons," p. 74.

⁸²Larmore, *The Autonomy of Morality*, p. 140.

lies in the principle of equal respect *as opposed to or independently of* a principle of autonomy. Larmore's discussion is directed at both Kantian constructivism and Habermas's discourse theory of democracy. In these theories, however, not everything is constructed, and we should distinguish between the norms that are constructed and the justification procedure in which these norms are agreed to, noting that the justification procedure itself is not constructed but reconstructed.⁸³ Reconstruction neither builds upon the norms people have fashioned for themselves as the substantive outcomes of their normative practices, nor does it introduce a norm from outside these practices that it imposes on them. Rather, it builds on norms that are constitutive of practical reasoning and deliberation, norms that thinking and acting beings must be committed to in order to regard themselves and others as such. For Kantian constructivists, some norms are internal to and constitutive of processes of self-legislation and therefore cannot be seen as based on an antecedent order of values, nor can they be regarded as imposed and constraining.⁸⁴

In contrast to the Kantian notion of the standpoint of practical reason, Larmore takes a theoretical approach and therefore cannot see respect for persons as a procedural norm and as internal to our democratic practices. Larmore imposes the norms—or at least the norm of equal respect—from outside human practices.⁸⁵ In this manner, he may seem to steer free of the controversial ideal of autonomy, but he does so at the cost of replacing democratic politics with theoretical solutions. When the validity of a norm is brought in from outside moral-political practices as having a validity that is independent of processes of claim-making and reasoning, then it is disconnected from them and will also ignore that and how procedural norms are recursively justified and reinterpreted in these practices.⁸⁶ If we do not go beyond self-government to self-legislation, human beings and their common deliberative practices lack the dignity of

⁸³Forst, "Moralische Autonomie und Autonomie der Moral," p. 80.

⁸⁴See John Rawls, *Lectures on the History of Moral Philosophy* (Cambridge, Mass.: Harvard University Press, 2000), p. 230; Korsgaard, *Sources of Normativity*, pp. 234-36.

⁸⁵Sometimes Larmore comes close to seeing respect for persons as a procedural norm (e.g., *The Autonomy of Morality*, pp. 162-63), but this contradicts the idea of seeing it as an individual right and as having validity independent of human activity.

⁸⁶For what is involved in the recursive reinterpretation and revision of the procedure itself, see Christian F. Rostbøll, "The Use and Abuse of 'Universal Values' in the Danish Cartoon Controversy," *European Political Science Review* 2 (2010): 401-22. Cf. also what Seyla Benhabib refers to as democratic iterations and jurisgenerative politics: "iterative acts through which a democratic people that considers itself bound by certain guiding norms and principles reappropriates and reinterprets these, thus showing itself to be not only the *subject* but also the *author of laws*." See *The Rights of Others: Aliens, Residents, and Citizens* (Cambridge: Cambridge University Press, 2004), p. 181 (emphasis in original). See also Rainer Forst, "Einleitung: Der Grund der Gerechtigkeit," in *Das Recht auf Rechtfertigung*, pp. 9-20, at p. 16.

being the ultimate source of normativity. The principle of respect therefore loses its ground and meaning.⁸⁷

The advantage of the Kantian conception of autonomy as self-legislation is that it establishes a connection between the source and the content of normativity. Our dignity as autonomous beings is confirmed both in regarding autonomy as the source of our obligations and in the content of a morality the core content of which is to respect everyone as autonomous beings. Another way of putting this point is to say that the Kantian moral framework requires the construction of moral norms under conditions in which everyone is regarded as co-legislators and that the substantive norms agreed to must respect everyone as having ends of their own and as equal subjects and legislators of universal laws. The political and democratic version of this Kantian idea establishes the internal connection between democratic practices of self-legislation and the norms of respect for autonomy that they presuppose.

6. Conclusion

I have proposed that, rightly understood, autonomy is not only compatible with but presupposed by the principle of equal respect. Autonomy is compatible with respect for people's capacity to hold diverse conceptions of the good when its value is seen as instrumental rather than noninstrumental and when the fundamental commitment is to respecting autonomy as a norm regulating interpersonal relations rather than to promoting it as a good. The approach we should take to arrive at the proper conception of autonomy is a practical rather than a theoretical approach. When we see autonomy *from the standpoint of practical reason*, we see it as an idea and a principle that deliberating and acting people necessarily must be committed to when deciding what to do in common. In the practical approach, autonomy is a norm regulating how we treat each other as opposed to a good to be promoted.

How does this bear on the place of autonomy in liberalism? The contention of this article is that it is self-defeating for a theory that posits respect for persons as the moral basis of liberalism to reject any and all notions of autonomy. Liberal political theory cannot discard the notion of autonomy entirely without also jeopardizing other core liberal principles

⁸⁷It might be objected that the idea of human beings being the ultimate source of political normativity is incompatible with reasonable pluralism, since many people would reject this notion if asked in an opinion poll (a suggestion made by an anonymous referee). However, the issue is less what people would accept than what they ought to accept given certain other commitments that they have or ought to have. My argument is limited to the contention that *if* we accept the principle of equal respect, then we cannot discard Kantian autonomy.

and without undermining its own source of normativity. My aim has been to show that it is premature to discard the Kantian conception of autonomy and that its status as a practical idea must be further explored. We can separate the principle of respect for persons from the metaphysical idea of autonomy as self-origination of binding principles but not from autonomy as a necessary commitment in our moral-political deliberations. Respect for persons and the authority of moral-political claims are internally related to the mutual affirmation of our autonomy as equal subjects and authors of binding principles.

If liberals discard Kantian autonomy, understood from the standpoint of practical reason, they also abandon an important insight into the connection between liberalism and democracy. Politically and institutionally, the attempt to disconnect respect from autonomy leads to giving priority to individual rights over democratic self-rule.⁸⁸ Such a priority gives meaning, however, only from a grounding of respect in an order of values independent from our deliberative practices. But, as I have argued, this grounding devalues our practices and thus cannot undergird respect for everyone's capacity for participating in democratic self-legislation. For the latter we need the Kantian conception of autonomy.⁸⁹

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⁸⁸This, again, is explicit in Larmore, who (in a discussion of Habermas) rejects the idea that popular sovereignty and individual rights can be co-original, because "an idea of individual rights precedes and defines the exercise of self-rule." Larmore, *The Autonomy of Morality*, p. 159. For Habermas's argument about the co-originality of individual rights and popular sovereignty, see *Between Facts and Norms*, chap. 3.

⁸⁹Earlier versions of this article were presented at the Joint Sessions of Workshops of the European Consortium for Political Research, Workshop 6: Political Normativity: Conceptual and Normative Issues, Lisbon, Portugal, April 14-19, 2009; and at the Annual Meeting of the American Political Science Association, Toronto, Canada, September 3-6, 2009. For comments, I would like to thank the participants on these occasions, particularly Rainer Forst and Peter Niesen, as well as Pablo Gilabert and Reidar Maliks.

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