Leibniz and the Presumption of Justice

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Z u s a m m e n f a s s u n g

In den *Elementa juris naturalis* behauptet Leibniz, dass es rational ist zu präsumieren dass eine gegebene Handlung gerecht ist. Diese Behauptung scheint in Widerspruch zu seiner Auffassung zu stehen, dass das, was präsumiert wird, einfacher ist als sein Gegenteil. Nach Leibniz ist einfacher, was weniger Voraussetzungen hat als etwas anderes, wobei er zwischen logischen und ontologischen Voraussetzungen unterscheidet. Dieser Diskussionsbeitrag versucht zu zeigen, dass Voraussetzungen auf der ontologischen Ebene eine oft übersehene Rolle für die Präsumption der Gerechtigkeit einer Handlung spielen, und dass sich der scheinbare Widerspruch auf dieser Ebene aufloesen lässt. Nach Leibniz ist eine gerechte Handlung eine spezielle Art von Moeglichkeit: eine Handlung, die für eine moralische Person moeglich ist. Ihm zufolge hat aber ein moegliches Ereignis weniger ontologische Voraussetzungen als ein unmoegliches Ereignis, weil die ontologischen Voraussetzungen eines moeglichen Ereignisses ein Teil der Voraussetzungen eines unmoeglichen Ereignisses sind. Die Präsumption zu Gunsten der Gerechtigkeit einer Handlung lässt sich als Spezialfall der Präsumption zu Gunsten der Moeglichkeit eines Ereignisses auffassen.

1. Introduction

Presumption is a central theme in early modern legal theory.[[1]](#endnote-1) Leibniz’s views on presumption are particularly interesting, since he connects issues of jurisprudence with ethical and ontological questions. Like everyone in the sixteenth and seventeenth centuries, Leibniz distinguishes between presumptions that are laid down in positive law (such as the presumption that someone missing for several years is dead) from presumptions that consist in a particular kind of belief.[[2]](#endnote-2) While presumptions of the first kind belong to the realm of legal fictions, presumptions of the second kind are genuinely cognitive.[[3]](#endnote-3) They belong to the realm of what Nicholas Rescher has recently called “tentative cognition”[[4]](#endnote-4): they are beliefs that are held to be true (or even certain) until and unless contrary evidence forces us to revise them. Moreover, they are beliefs that guide our actions. As Hans Burkhardt has nicely put it: to presume is “to take something uncertain for certain as a precondition of acting.”[[5]](#endnote-5)

In the fifth MS of his early *Elements of Natural Law* (1670-71?), Leibniz makes a puzzling claim concerning one such cognitive presumption. He maintains that we should presume a given action to be just.[[6]](#endnote-6) This claim is puzzling if read in conjunction with his view, expressed in the same text, that we should presume what comes about more easily.[[7]](#endnote-7) Many of his early remarks about justice suggest that it is difficult rather than easy to be just since, according to his view, different kinds of justice involve different levels of natural law (*jus naturae*). The first degree is “strict law” (*jus strictum*), centred around the maxim “Not to hurt anyone” (*neminem laedere*); the second degree is equity (*aequitas*), centred around the maxim “To give each person his or her due” (*suum cuique tribuere*); and the third degree is a precursor of what Leibniz later calls “universal justice”: “piety” (*pietas*), centred around the maxim “To live honourably” (*honeste vivere*).[[8]](#endnote-8) In the *Elements of Natural Law*, he defines what is equitable as “what is in accordance with reason with respect to the distribution of goods between persons”.[[9]](#endnote-9) Moreover, he maintains that the highest degree of natural law—as the “virtue of love or friendship”—involves a loving attitude towards all human beings.[[10]](#endnote-10) This degree of natural law consists in the capacity “to moderate love and hate of one human being towards another human being”, a capacity that presupposes a rational assessment of the relative merit of different human beings.[[11]](#endnote-11)

There may be nothing counterintuitive about the claim that a given action should be presumed to be just when this claim is made with respect to the first degree of natural law. One might think that it comes about more easily that a given action is without harming consequences for others than that it does cause harm to them. Accordingly, the burden of proof would lie with the one who undertakes to demonstrate that a given action is contrary to the first degree of natural law. Things stand differently with the two other degrees of natural law, however. In order to perform an action that fulfils the demands of the second degree of natural law, one has to be thoughtful and to care about acting rationally. But certainly, to be thoughtful is more difficult than to be thoughtless, and to care about acting rationally is more difficult than to act irrationally. Something similar holds with respect to the third degree of natural law. Considering relative personal merit rationally requires more effort than not giving a thought to the matter. Moreover, loving all human beings to some degree certainly is more difficult than loving only a few human beings. Hence, if one should presume what comes about more easily, it might appear as if what one should presume is that, when it comes to the two higher degrees of natural law, a given action is unjust, rather than just.

Nevertheless, Leibniz’s claim concerning the presumption of justice occurs in the context of his discussion of justice as “the habit of loving everyone”—hence, in the context of his conception of the highest degree of natural law.[[12]](#endnote-12) Is Leibniz confused when he places the presumption of justice into this context rather than the context of “strict law”? In what follows, I will argue that he is not. To see this more clearly, it will be helpful to set up the problem in a more technical way. Section 2 sketches some of the technical notions involved in Leibniz’s views on presumptions (such as the notions of condition, requisite, and easiness) and describes how these technical notions provide a solution for another presumption discussed by Leibniz, the presumption of possibility, but seem to fail in the case of the presumption of justice. Section 3, then, uses the technical framework outlined in section 2 to suggest a solution: According to Leibniz, the presumption of justice is a special case of the presumption of possibility. It is a presumption concerning what is possible for a person embodying the highest degree of natural law: the “good person” (*vir bonus*). Because the presumption of justice is a special case of the presumption of possibility, there is no confusion in this respect on Leibniz’s part.

2. The Problem

The notion of easiness, which plays a crucial role in Leibniz’s explanation of the epistemic asymmetry involved in forming a presumption in favour of a particular state of affairs, is closely connected to his account of dependency relations. In the fifth MS of the *Elements of Natural Law*, the connection is stated as follows: “Easier … is that in which there are smaller or fewer things than in the opposite, [i.e.] that whose requisites are a part of the requisites of the opposite.”[[13]](#endnote-13) Throughout his early writings, Leibniz uses the relation between a condition and what is conditioned by it to account for several different dependency relations. His views are intricate,[[14]](#endnote-14) but for the present purposes it will suffice to put them into a nutshell. Formally, the relation between a condition (*conditio*) and what is conditioned (*conditionatum*) is explained in a way such that from non-A (the negation of the condition) there follows non-B (the negation of the conditioned).[[15]](#endnote-15) Leibniz applies this formal structure both to logical and ontological relations. On the logical level, this formal structure characterises the relation between two propositions when the truth of one proposition is a necessary condition of the truth of the other.[[16]](#endnote-16) Likewise, when one concept cannot be thought without the other, the same formal structure characterises the relation between two concepts.[[17]](#endnote-17) On the ontological level, Leibniz thinks of requisites as conditions of existence. In this sense, “[a] *requisite* is something that, if it is not given, a thing does not exist either.”[[18]](#endnote-18) He distinguishes between mediate requisites—roughly: causal antecedents—of a thing or an event[[19]](#endnote-19) and immediate requisites—roughly: parts or constituents—of a thing or an event.[[20]](#endnote-20) Mediate and immediate requisites are ontological conditions: conditions for the existence of a thing or an event. Both logical and ontological conditions play a role in Leibniz’s conception of easiness. On the ontological level, a thing or an event is easier than another thing or event if its existence depends on fewer conditions. On the logical level, a concept or a proposition is easier than another concept or proposition if it depends on fewer logical conditions.

This conceptual apparatus underlies Leibniz’s claim that we should presume the possibility of a given entity (thing or event). He argues:

“For it is easier for something to turn out to be possible than impossible. For nothing is required for the possible but that it be supposed; for the impossible, however, it is required that while it is supposed, its opposite be supposed at the same time. Therefore, more things are required for the impossible than for the possible. […] Indeed, the requisites [*requisita*] or suppositions [*supposita*] of the possible are contained in the suppositions of the opposite, and not conversely. That is *presumed*, however, whose suppositions are also the suppositions of the opposite, and not conversely.”[[21]](#endnote-21)

It might be helpful to distinguish in this passage between the two levels of dependency relations. In the first half of the quotation, the dependency relation at stake is one between suppositions that we make: Leibniz tells us that we have to make one supposition in order to be able to make another supposition. Possibly, when Leibniz speaks of “supposing” a particular possible or impossible entity, what he means is something like “forming a concept” of this possible or impossible entity. In this case, his claim would be that in order to form the concept of a particular impossible entity we first have to form the concept of a particular possible entity. In this sense, the concept of this possible entity would be a condition of the concept of the impossible entity, not the other way round. So far, Leibniz formulates a claim about conceptual dependency. In the second half of the quotation, he shifts to the level of ontological dependency: we are told that a given possible entity has fewer ontological requisites than an impossible entity. This claim becomes intelligible against the background of Leibniz’s conception of possibility as conceivability: everything that is logically consistent is possible, or conversely: if something is impossible, it involves a logical contradiction.[[22]](#endnote-22) Hence, to every impossible entity there corresponds at least one possible entity that has the same ontological requisites as the impossible entity except those that are responsible for the contradiction. In other words: For every impossible entity there is at least one possible entity whose ontological requisites are a proper part of the ontological requisites of the impossible entity. In this sense, to be possible is easier than to be impossible. Hence, an entity should be presumed possible rather than impossible. Moreover, as Burkhardt and Robert M. Adams have noted, in the case of the presumption of possibility the work is done on the level of ontological requisites.[[23]](#endnote-23) The level of logical dependency follows suit: If the requisites of a possible entity are a proper part of the requisites of an impossible entity, then the requisites of the concept of a possible entity are a proper part of the requisites of the concept of an impossible entity. The supposition of the possible entity is easier than the supposition of the impossible entity *because* the possible entity is easier than the impossible entity.

With respect to the presumption of justice, Leibniz writes: “An action is more easily just than unjust”, to which he adds: “An action is presumed just.”[[24]](#endnote-24) Burkhardt suggests that Leibniz here “conceives the unjust action as a privation of the just action.”[[25]](#endnote-25) Indeed, such an interpretation does capture Leibniz’s remarks about dependency on the logical level. Moreover, in the manuscript variants, Leibniz emphasizes the relevance of logical dependency relations for the presumption of justice. For example, he writes: “Presumed is what is presupposed by its opposite, and not conversely.”[[26]](#endnote-26) If an unjust action is a privation of a just action, one first would have to form the concept of the just action in order to understand the unjust action as a privation. In this sense, the supposition of the unjust action would depend on the supposition of the just action. Due to this relation of logical dependency, the supposition of the just action would be easier than the supposition of the unjust action and should, consequently, be favoured by presumption. In addition, there is at least one variant to the manuscript that suggests that in the case of the presumption of justice the relevant logical contradiction occurs on the level of logical conditions and consists in the fact that in the case of the unjust action one has to make two mutually inconsistent suppositions: the supposition of the unjust action *and* the supposition of the just action.[[27]](#endnote-27) However, unwelcome consequences follow from interpreting an unjust action as a privation of a just action. If B is a privation of A, one would think that something is missing in B that is present in A.[[28]](#endnote-28) In this case, an unjust action would have *fewer* requisites than a just action. But then, on the level of ontological requisites it would seem that the unjust action is easier than the just action and should therefore be presumed. But that is exactly what already the considerations concerning Leibniz’s early views about the two higher degrees of natural law mentioned at the beginning of this paper seem to tell us: acting justly seems to be more demanding than acting unjustly! Even within his elaborate framework of logical and ontological conditions, Leibniz appears to be in trouble—or even more so, since the level of logical conditions seems to give a recommendation about what to presume that is contrary to the recommendation given by the level of ontological conditions.

3. A Solution

In reality, in the case of the presumption of justice the logical and ontological levels of dependency do not fall apart any more than in the case of the presumption of possibility. This is so because Leibniz regards the presumption of justice as a special case of the presumption of possibility. Indeed, what Leibniz says about the presumption of possibility is presented as an explanation of the presumption of justice. In his remarks on the presumption of possibility, he gives the following argument that starts from one of the sentences already quoted above: “[M]ore things are required for the impossible than for the possible. Therefore it is easier for an action to be just than to be unjust.”[[29]](#endnote-29) On first sight, of course, the two presumptions are different: the one is concerned with the justice of an action, the other with the possibility of a thing. What connects the two presumptions, however, is Leibniz’s modal approach to virtue ethics. For Leibniz, as for Aristotle, it is not the just action that makes an agent just. Rather, just actions are those that can be done by just persons. It is the moral quality of a person (the embodiment of particular virtues) that defines the just person and hence, indirectly, the just action. Aristotle puts it thus:

“[A]lthough actions are entitled just and temperate when they are such acts as just and temperate men would do, the agent is just and temperate not when he does these acts merely, but when he does them in the way in which just and temperate men do them.”[[30]](#endnote-30)

Leibniz expresses a similar thought in modal terms: According to him, a just action is “an action that is possible for a good person (*vir bonus*)”.[[31]](#endnote-31) To be sure, as far as the characterisation of the moral quality embodied by a good person goes, Leibniz’s views depart from Aristotle’s. At the early stage of his thought represented in the *Elements of Natural Law*, Leibniz has not yet fully arrived at his later, famous definition of universal justice as the “charity of the wise” (*caritas sapientis*).[[32]](#endnote-32) Nevertheless, *caritas* is implicit in his definition of justice as “the habit of loving everyone”[[33]](#endnote-33) and of the good person as “the person who loves everyone.”[[34]](#endnote-34) As the variants to the manuscript document, Leibniz also considered including prudence (*prudentia*) in the definition of the good person.[[35]](#endnote-35) In any case, in one respect his opinion is clear: A just action is a special kind of possibility: something that is possible for a good person.[[36]](#endnote-36) In the manuscript variants to the passage about the presumption of justice, he explains:

“The just is easier than the unjust. For easier is what is more possible, or what requires fewer things for its existence. Yet in order for something to be just, it is required that it is possible, in order to be unjust it is required that it is impossible for a good person. But fewer things are required for the possible than for the impossible.”[[37]](#endnote-37)

It should be clear now that the logic of the presumption of justice is closely analogous to the logic of the presumption of possibility. The presumption of justice amounts to the claim that it is easier for an action to be possible for a good person than to be impossible for a good person. Again, the background of this claim is Leibniz’s conception of possibility as non-contradiction. An action that is impossible for a good person is an action that, if performed by a good person, involves a logical contradiction. Among its ontological requisites, there is at least one that accounts for the occurrence of this contradiction. Hence, for every action that is impossible for a good person there is at least one action that is possible for a good person that has the same ontological requisites except the ones that are responsible for the contradiction. In this sense, for every unjust action there is at least one just action that is easier than the unjust one. In the manuscript variants, Leibniz emphasises that “in a presumption we demonstrate from the nature of the thing that it is easier”, or, equivalently, “When we presume something, we demonstrate from its nature that it is easier.”[[38]](#endnote-38) These remarks suggest that also in the case of the presumption of justice the work is done on the level of ontological requisites and that the level of logical dependency between concepts or “suppositions” follows suit. As in the case of the presumption of possibility, the constituents of the concept of a just action are a proper part of the concept of an unjust action, *because* the ontological requisites of a just action are a proper part of the requisites of an unjust action. Hence, there is no discrepancy between the recommendations given on the logical and ontological levels of dependency. The presumptions recommended on the logical and ontological levels agree because the unjust action has not *fewer*, but *more*, ontological requisites than the just action.

4. Conclusion

This paper discusses what seemed to be a discrepancy between the intuition that, according to Leibniz’s conception of the highest degree of natural law, a just action is more difficult than an unjust action, and his contention that we should presume a given action to be just because a just action is easier than an unjust one. Already at the stage of the *Elements of Natural Law* Leibniz has an extremely demanding view of what constitutes the highest degree of natural law, involving the view that an attitude of loving all human beings is what accounts for the universality of justice. Moreover, it is with respect to this highest degree of justice that he formulates his claim that we should presume a given action to be just. It is obvious that, according to his view, to *be* a just person (in the sense of being a person exemplifying universal justice) has more requisites than to be an unjust person. Nevertheless, having his modal version of virtue ethics in mind, the seeming discrepancy between the difficulty of being a just person and Leibniz’s views about the presumption of the justice of a given action disappears. Leibniz maintains that it is not just actions that make a person just. Rather, he holds that what is possible for a just person defines what a just action is. Just actions are one kind of possible events: actions that are possible for persons that exemplify the “virtue of love or friendship”. This is why Leibniz regards the presumption of justice as a special case of the presumption of possibility, a case in which the ontological requisites of something possible (i.e., an action that is possible for a “good person”) are a proper part of the ontological requisites of something impossible (i.e., an action that is impossible for a “good person”). In this sense, a just action has fewer ontological requisites than an unjust one and, hence, a given action should be presumed to be just.

Three caveats are in place. First, even if there is a presumption in favour of the justice of a given action, further evidence can show that the action in fact is not just. Presumption does not *decide* the case in favour of the justice of an action. This, of course, is a consequence of the very nature of presumptions: they are cognitive states that are tentative, i.e., they are held for true (or certain) unless and until additional evidence forces us to give them up. Second, Leibniz is explicit that presumption concerns the degree to which some thing or event is easy in itself, not the degree to which it is probable. As he explains, the degree of probability is a matter of the easiness of co-existing with all other things or events in the universe.[[39]](#endnote-39) Presumption does not tell us anything about the easiness of co-existing and, hence, nothing about how frequently something will come about. In this sense, the presumption of justice does not entail the (perhaps counterintuitive) assumption that just actions occur more frequently than unjust actions. Third, Leibniz’s views on the presumption of justice heavily depend on his conception of possibility as conceivability and his modal approach to virtue ethics—two areas of his philosophy which might well face difficulties of their own.[[40]](#endnote-40) However, within the framework of his overall views on possibility and virtue ethics, his views on the presumption of justice are far less inconsistent than might be evident on first sight.

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1. Earlier versions of this paper profited from extremely helpful comments by Mogens Laerke, Ohad Nachtomy, Lucas Thorpe, Jennie Uleman, and an anonymous referee for the *Studia Leibnitiana*. [↑](#endnote-ref-1)
2. The most detailed early modern discussion of presumption is found in Jacopo Menocchio, *De praesumptionibus, coniecturis, signis et indiciis*, 3 vols., Coloniae Agrippinae, 1587-1590. Other works dealing extensively with presumption include Nicolaus Everardus, *Centum modi argumentandi*, Venedig 1539; Andrea Alciato, *De praesumptionibus*, Lyon 1542; Johannes Oldendorp, *De praesumptionibus*, in Johannes Oldendorp, *Opera*, 2 vols., Basel 1559. Franciscus Mantica, *Tractatus de coniecturis ultimarum voluntatum*, Frankfurt 1580; Diego Rodrigo Alvaradus, *De coniecturata mente defuncti ad methodum redigenda libri IV*, Frankfurt, 1599; Antoine Favre, *Coniecturarum iuris civilis libri viginti*, Aurelianae Allobrogrum 1609. [↑](#endnote-ref-2)
3. For example, Leibniz writes: “A *presumption* is what is held true until the contrary is proven”, and makes the following exception: “A pre­sumption in law and according to law is a fiction” (Definitionum juris specimen [Spring–Summer 1676?]; A VI, 3, 631; A VI, 3, 631, note 152; unless otherwise noted, translations are my own). On legal fictions in sixteenth century thought, see Ian Maclean, *Interpretation and Meaning in the Renaissance. The Case of Law*, Cambridge 1992, pp. 101-103. On Leibniz’s views on legal fictions, see Peter Koenig, “Das System des Rechts und die Lehre von den Fiktionen bei Leibniz”, in Jan Schroeder (ed.), *Entwicklung der Methodenlehre in Rechtswissenschaft und Philosophie vom 16, bis zum 18. Jahrhundert. Beitraege zu einem interdisziplinaeren Symposium in Tuebingen, 18.-20. April 1996*, Stuttgart 1998, pp. 137-161, especially pp. 144-155. For recent discussions of presumptions as legal fictions, see Chaim Perelman, *Justice, Law, and Argument*, Dordrecht 1980; Edna Ullmann-Margalit, “On Presumption”, *Journal of Philosophy* 80 (1983), pp. 142-163. [↑](#endnote-ref-3)
4. See Nicholas Rescher, *Presumption and the Practices of Tentative Cognition*, Cambridge 2006. [↑](#endnote-ref-4)
5. Hans Burkhardt, *Logik und Semiotik in der Philosophie von Leibniz*, Munich 1980, p. 426. Leibniz puts it thus: “To *presume* is to hold for certain until the opposite is proved … *For certain* is what we follow in action as if it were certain” (from the variants to the Fifth MS of the *Elementa Juris Naturalis*, A VI, 2, 567; translation from Robert M. Adams, *Leibniz. Determinist, Idealist, Theist*, New York 1994, p. 202). On the role of truth and certainty in Leibniz’s view of presumption, see Ezequiel de Olaso, “Leibniz et l’art de disputer”, *Studia Leibnitiana Supplementa* 15 (1975), pp. 207-228. The action-guiding function of presumption explains the important role that Leibniz assigns to presumption in his views on the nature of controversies; see Marcelo Dascal, “Introductory Essay”, in Gottfried Wilhelm Leibniz, *The Art of Controversies*, translated and edited by Marcelo Dascal with Quintin Racionero and Adelino Cardoso, Dordrecht 2006, pp. xxiv, xxxv, lxix. On the problems arising from applying presumptions to the realm of metaphysics, see Robert M. Adams, “Presumption and the Necessary Existence of God”, *Nous* 22 (1988), pp. 19-32. [↑](#endnote-ref-5)
6. A VI, 1, 471. [↑](#endnote-ref-6)
7. “Presumption is in favor of the smaller, in favor of negation, in favor of possibility …; against the bigger, against the factual, against difficulty …” (ibid.). [↑](#endnote-ref-7)
8. Nova methodus discendae docendaeque jurisprudentiae, part II, sec. 73-75; A VI, 1, 343-345. [↑](#endnote-ref-8)
9. Ibid. [↑](#endnote-ref-9)
10. Ibid. On Leibniz’s reasons to include love into his conception of justice, see Hubertus Busche, *Leibniz’ Weg ins perspektivische Universum. Eine Harmonie im Zeitalter der Berechnung*, Hamburg 1997, pp. 307-310; Ursula Goldenbaum, “All you need is love, love … Leibniz’ Vermittlung von Hobbes’ Naturrecht und christlicher Naechstenliebe als Grundlage seiner Definition der Gerechtigkeit”, in G. Abel, H.-J. Engfer, and C. Hubig (eds.), *Neuzeitliches Denken. Festschrift fuer Hans Poser zum 65. Geburtstag*, Berlin—New York 2002, pp. 209-231. [↑](#endnote-ref-10)
11. Elementa juris naturalis, Third MS, A VI, 1, 455. [↑](#endnote-ref-11)
12. Elementa juris naturalis, Fifth MS; A VI, 1, 465. [↑](#endnote-ref-12)
13. A VI, 1, 472. [↑](#endnote-ref-13)
14. For detailed discussions of Leibniz’s views on logical and ontological dependence, see Adams, *Leibniz*, pp. 115-119; Francesco Piro, *Spontaneita e ragion sufficiente. Determinismo e filosofia dell’azione in Leibniz*, Roma 2002, pp. 38-54; Stefano di Bella, “Il ‘Requisitum’ leibniziano come ‘pars’ e come ‘ratio’: tra inerenza e causalita”, *Lexicon Philosophicum. Quaderni di terminologia filosofica e storia delle idee del Lessico Intellettuale Europeo*, vol. 5, Roma 1991, 129-152; idem, *The Science of the Individual: Leibniz’s Ontology of Individual Substance*, Dordrecht 2005, pp. 72-98;idem, “Leibniz’s Theory of Conditions: A Framework for Ontological Dependence”, *Leibniz Review* 15 (2005), pp. 67-93. [↑](#endnote-ref-14)
15. See, e.g., Enumeratio terminorum simpliciorum [summer 1680-winter 1684/85?]; A VI, 4, 389. [↑](#endnote-ref-15)
16. Ibid. [↑](#endnote-ref-16)
17. For example, Leibniz writes: “A *requisite* is something that, if it is not thought, something else cannot be thought either” (Vorarbeiten zu den Elementa de mente et corpore [spring-autumn 1671?]; A VI, 2, 283). [↑](#endnote-ref-17)
18. Demonstratio propositionum primarum [autumn 1671-beginning 1672?]; A VI, 2, 483. [↑](#endnote-ref-18)
19. On causal requisites, see Vorarbeiten zur Characteristica universalis [second half 1671-spring 1672?]; A VI, 2, 489. [↑](#endnote-ref-19)
20. On qualities as requisites of a thing, see ibid., A VI, 2, 499. [↑](#endnote-ref-20)
21. Elementa juris naturalis, Fifth MS; A VI, 1, 471; translation from Adams, *Leibniz*, p. 204, with one sentence added. [↑](#endnote-ref-21)
22. See Specimina juris [1667–69]; A VI, 1, 398; A VI, 1, 405; Vorarbeiten zur Characteristica Universalis; A VI, 2, 487, note 3; A VI, 2, 495 and 495, note 46; Confessio Philosophi [Autumn 1672–Winter 1672/73?]; A VI, 3, 127. [↑](#endnote-ref-22)
23. Burkhardt, *Logik und Semiotik in der Philosophie von Leibniz*, pp. 425-426; Adams, *Leibniz*, p. 205. [↑](#endnote-ref-23)
24. Elementa juris naturalis, Fifth MS; A VI, 1, 471. [↑](#endnote-ref-24)
25. Burkhardt, *Logik und Semiotik in der Philosophie von Leibniz*, p. 426. [↑](#endnote-ref-25)
26. A VI, 2, 567. [↑](#endnote-ref-26)
27. Ibid. [↑](#endnote-ref-27)
28. For example, Rudolph Goclenius writes in his widely used *Lexion philosophicum* (Marburg, 1613, p. 875) that a privation in the proper sense is “the absence of a habit or a form” (*habitus seu formae absentia*). Leibniz uses the concept of privation in the following way: “GOD punishes no-one in a way other than by means of privation [*privative*], insofar as he does not give felicity to this person” (Demonstrationum catholicarum conspectus [1668-1669?]; A VI, 1, 499). [↑](#endnote-ref-28)
29. Elementa juris naturalis, Fifth MS; A VI, 1, 471. [↑](#endnote-ref-29)
30. *Nicomachean Ethics*, 1105b6-9, translated by H. Rackham, Cambridge/London 1982, pp. 85-87. [↑](#endnote-ref-30)
31. Elementa juris naturalis, Fifth MS; A VI, 1, 476; see also Sixth MS; A VI, 1, 480. [↑](#endnote-ref-31)
32. One of the earliest places in which this definition occurs is De legum rationibus inquirendis (summer-winter 1678/79?); A VI, 4, 2777. Other pieces containing closely similar definitions of justice include Modalia et elementa juris naturalis (summer 1678-winter 1680/81?); A VI, 4, 2758 and 2761; De cogitationum analysi (summer 1678-winter 1680/81?); A VI, 4, 2767. On Leibniz’s theory of justice as *caritas sapientis*, see Gaston Grua, *Jurisprudence universelle et Theodicee selon Leibniz*, Paris 1953; Patrick Riley, *Leibniz’s Universal Jurisprudence. Justice as the Charity of the Wise*, Cambridge, Mass., and London 1996. [↑](#endnote-ref-32)
33. Elementa juris naturalis, Fifth MS; A VI, 1, 465. [↑](#endnote-ref-33)
34. Ibid.; A VI, 1, 466. On the role of love in Leibniz’s early theory of justice, see Albert Heinekamp, “Das Glück als höchstes Gut in Leibniz’ Philosophie”, in *The Leibniz Renaissance. International Workshop, Firenze, 2-5 giugno 1986*, Florenz: Leo S. Olschki, 1989, pp. 99–125, especially pp. 101–106; Hubertus Busche, *Leibniz’ Weg ins perspektivische Universum. Eine Harmonie im Zeitalter der Berechnung*, Hamburg: Meiner, 1997, pp. 307-310; Ursula Goldenbaum, “All you need is love, love … Leibniz’ Vermittlung von Hobbes’ Naturrecht und christlicher Nächsten­liebe als Grundlage seiner Definition der Gerechtigkeit”, in G. Abel, H.-J. Engfer, and C. Hubig (eds.), *Neuzeitliches Denken. Festschrift für Hans Poser zum 65. Geburtstag*. Berlin—New York: De Gruyter, 2002, pp. 209–231. On Leibniz’s attitude towards Aristotelian ethics, see Francesco Piro, “Leibniz et l’Ethique a Nicomaque”, in Renato Cristin (Hrsg.), *Leibniz und die Frage nach der Subjektivität*, Stuttgart 1994, pp. 179-196. [↑](#endnote-ref-34)
35. See A VI, 2, 565 (variants to A VI, 1, 465). For a different attempt to include prudence into the definition of justice, see Elementa juris naturalis, Second MS, A VI, 1, 459. [↑](#endnote-ref-35)
36. Elementa juris naturalis, Fifth MS; A VI, 1, 470. [↑](#endnote-ref-36)
37. A VI, 2, 567. [↑](#endnote-ref-37)
38. Ibid. [↑](#endnote-ref-38)
39. Elementa juris naturalis, Fifth MS; A VI, 1, 472. [↑](#endnote-ref-39)
40. For a recent discussion of possibility as conceivability, see Stephen Yablo, “Is conceivability a guide to possibility?” *Philosophy and Phenomenological Research* 53 (1993), pp. 1-42; for an alternative approach to virtue ethics, see Nomi Arpaly, *Unprincipled Virtue: An Inquiry into Moral Agency*, Oxford 2003. [↑](#endnote-ref-40)