Presumption and Leibniz’s Metaphysics of Action

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1. Introduction

The notion of presumption plays an important role in early modern theories of legal argumentation. Leibniz’s professional legal writings are no exception to this, and it is unsurprising to find a number of occurrences of the notion of presumption there. But Leibniz also applies the notion to other fields. In particular, there is a considerable number of interesting, even if scattered occurrences of the notion of presumption in Leibniz’s analysis of political decision making, as well as in his analysis of the structure of human agency. These occurrences indicate that, for Leibniz, the significance of the notion of presumption goes beyond a technical juridical context. Nevertheless, Leibniz’s usage of the notion of presumption has never attracted much attention from his commentators (I will presently mention some exceptions[[1]](#endnote-1)). This may be due to the fact that the occurrences of the notion of presumption outside Leibniz’s juridical writings are quite scattered and seemingly unsystematic; also there is a quite long temporal interval between some occurrences in the period between 1669 and 1671 and then again in the period between 1678 and 1680. In this article, I will argue that the occurrences in the context of the analysis of political decision making and those in the context of the analysis of the structure of human agency are closely connected. What is more, the role that the notion of presumption plays in writings on the metaphysics of action during the period between 1678 and 1680 can be regarded as taking up and developing further some seminal ideas that were in his writings from the period between 1669 and 1671.

To get a grasp of the continuity of Leibniz’s thought in this respect, it will be useful to look into the metaphysical background assumptions that were operative in Leibniz’s early conception of rational political decisions. During the period between 1678 and 1680, Leibniz returns to the connection between presumption and the metaphysics of action in a more elaborate conceptual framework, and I will show how this conceptual framework contributes to solving some questions that his earlier account had left open (section 2). During the period between 1678 and 1680 Leibniz also returns to some of these earlier insights into the connection between presumption and the moral quality of actions, such as an action’s being just or an action’s being allowed. I will argue that Leibniz’s remarks about presumptions concerning the moral quality of actions draw directly on his metaphysical analysis of the grounds of person-related presumptions (section 3).

2. Presumptions Concerning Future Actions

Early modern thinkers took the concept of presumption from Roman law. According to the Roman-law tradition, there are presumptions of different kinds. Some kinds of presumptions were encoded in written law: the so-called *praesumptiones iuris* and *praesumptiones iuris et de iure*. An example of the first kind is the presumption that someone missing for several years is dead. Obviously, this presumption can be revised when reliable news about the missing person’s being alive becomes available. An example of the second kind is the presumption that an accused person is innocent until proven guilty. Here, the law obliges us to use this presumption in legal procedures even when we strongly believe in the guilt of the accused person already at an early stage in the trial. Presumptions of this kind were usually taken to be non-revisable in the light of new evidence.[[2]](#endnote-2) A third kind of presumption is a presumption that is not laid down in law but rather formed by persons, the so-called *praesumptiones hominis*. Such presumptions were understood as conjectures based on available signs (*signa*) or indications (*indicia*) and were taken to be true unless and until contrary evidence became available.[[3]](#endnote-3)

In early modern legal thought, the logical role of such signs and indications was characterized in different ways. One way of explicating it had to do with probability in the sense of relative frequency. As Giuseppe Mascardi (d. 1586) puts it in his handbook on juridical proof: “Presumption is a conjecture, or a guess, in doubtful matters, derived from argument or *indicia* concerning what frequently takes place in the relevant circumstances.”[[4]](#endnote-4) Another way of explicating the logical role of signs and indications had to do with probability in the sense of what has the appearance of truth for a person embodying epistemic virtues, such as an experienced judge. As Giacomo Menochio (1532-1607) explains in his handbook on presumptions: “An *indicium* is a conjecture that arises on the basis of something probable and non-necessary, from which truth can be absent but not the appearance of truth, and which sometimes captures the mind of the judge in such a way that it forces the conscience of the judge to decide according to it.”[[5]](#endnote-5) Thinking in such a way about the evidential basis of presumption severs the necessary link between evidence and what takes place most frequently.

The advantage of distinguishing the notion of presumption from the notion of probability in the sense of relative frequency is evident in cases where the relevant relative frequencies are unknown. This is particularly pertinent with respect to presumptions concerning future human actions, that is, a kind of presumption that plays a great role in everyday life as well as in political decision making. We often form such presumptions without being able to identify a class of relevantly similar cases and, thereby, without being able to base our presumption on what happens most frequently in similar cases. Still, we want to be able to form a presumption in a rational way. Yet, appealing to what has an appearance of truth to an experienced judge as Menochio may not be the only way in which we could explicate the kind of rationality relevant here. In fact, in Leibniz’s writings from the late 1660s and the period between 1678 and 1680, one finds some remarks that give voice to an alternative and, as far as I can see, entirely original view of what makes presumptions that are not based on the knowledge of relative frequencies rational. As it will turn out, these remarks stem from contexts in which the notion of easiness plays a crucial role, and since Leibniz analyses the notion of easiness by invoking the metaphysical notion of requisite, the metaphysics of action belongs to the relevant context of Leibniz’ remarks concerning presumption.

Let us first examine some passages from the period between 1678 and 1680. The notion of presumption there is used in connection with an analysis of the notion of determination: “A *determination* is a state from which something follows unless something else impedes it. Therefore a determination gives rise to a presumption concerning what lies in the future, until it is proved that an impediment is present.”[[6]](#endnote-6) This definition is directly relevant for the notion of action: “Action seems to be a kind of determination, viz., when that from which something follows is in the nature of the thing in which it follows.”[[7]](#endnote-7) By implication, given the definition of determination, an action gives rise to a presumption concerning some future event: the presumption that the event will take place, which the action would bring about if nothing comes in between. A similar structure is characteristic of the notion of power: “*Power* [*vis*] or potency [*potentia*] is a state from which action follows unless there is something else from which [something different] follows in the same respect.”[[8]](#endnote-8) While these definitions of action and power are meant to capture all activities and potencies of natural objects, they can be applied to human agency. This becomes clear in the way that Leibniz draws an analogy between mental states such as affects and the kind of determination characteristic for physical impetuses:

An *affect* is a determination of the mind to follow a certain series of thoughts.

(In the same way as an *impetus* is a determination of the body to follow in a certain way a line of motion.)

A *determination* is a state out of which something follows considered in itself.

(*Considered in itself*, I say, that is unless it is understood that some additional factor is present. Thus, from the state of a heavy body considered in itself, descent follows; but perhaps this decent does not follow if an obstacle comes in between.)[[9]](#endnote-9)

By implication, both affects and impetuses give rise to presumptions concerning future events—be it a particular series of future thoughts or be it a particular line of motion. These presumptions can be revised because both affects and impetuses can be overruled by further influences. But, again, the way in which affects and impetuses can be overruled by further influences bears a close analogy:

Both determinations exist, even if through an additional obstacle the effect ceases. Both determinations take place in the beginning, middle, and end of the development. Together with an additional impression both compose a new determination.[[10]](#endnote-10)

Thus, even if a given affect or a given impetus does not lead to the series of thoughts or the series of motions that it would bring about considered in itself, it remains causally relevant for the eventual outcome.

What is more, the way in which affects determine future courses of action is closely connected with the notion of easiness. Consider how Leibniz characterizes the connection between affects and thoughts:

An *affect* is an occupation of the mind originating from the mind’s opinion concerning good and bad.

An *occupation* of the mind is an inclination to think something rather than something else.

An *inclination* is the easiness of acting.[[11]](#endnote-11)

Thus, an affect consists in a state of mind that renders the occurrence of some thought easier than the occurrence of other, alternative thoughts. Leibniz uses the notion of “contributing” for analyzing this structure: “*What contributes something* [*conferens*] is something that is not absolutely required for a thing, but is required for a particular way of producing the thing.”[[12]](#endnote-12) Thus, a given affect is required to produce a particular thought in a particular way; but by itself it does not guarantee that this thought will actually occur. Each factor that contributes to the occurrence of an event such as a thought thus can be trumped by some other, additional factors. Hence, other thoughts can occur, but their occurrence is less easy than the thought to which an affect inclines because more it required for alternative thoughts. This structure also characterizes how an affect contributes to a future series of thoughts: Every present thought enters into the determination of future thoughts; and although this determination can be overruled by additional factors such that alternative series of future thoughts arise, the series of thoughts that does not require these additional factors comes about more easily. This means that a present affect not only consists in the easiness of bringing about a present thought; it is also consists in the easiness of bringing about a series of future thoughts. This is why present affects give rise to presumptions concerning future thoughts.

In fact, in Leibniz’s earlier writings from the period between 1669 and 1671 one finds the suggestion that we should presume what comes about more easily. In these early writings, the notion of easiness is closely connected with the notion of requisite.[[13]](#endnote-13) 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.”[[14]](#endnote-14) He distinguishes between mediate requisites—roughly: causal antecedents—of a thing or an event[[15]](#endnote-15) and immediate requisites—roughly: parts or constituents—of a thing or an event.[[16]](#endnote-16) 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 has fewer logical requisites. Both the ontological and the logical aspects of the concept of easiness are connected with the notion of presumption. Leibniz emphasizes 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.”[[17]](#endnote-17)

In fact, the notion of easiness plays an important role in Leibniz’s work on the election of the King of Poland, *Specimen demonstrationum politicarum pro eligendo rege Polonorum* (1669).[[18]](#endnote-18) For example, the notion of easiness there is built into considerations concerning what makes actions and political circumstances indifferent or dangerous:

 *Indifferent* is what has equally easily a good or a bad outcome.

*Dangerous* is what is more probable to have a bad outcome than a good outcome.

Hence, *dangerous times* are those in which everything has more easily a bad outcome than a good outcome.

Hence, indifferent things in a dangerous time, if put on the scales of a balance, incline towards the worse.

Dangerous things in addition to the probability of a bad effect that they carry in themselves, acquire a new probability from the times.[[19]](#endnote-19)

Here it becomes clear that the notion of easiness is connected with a notion of probability that does not reduce to relative frequencies. Rather, a possible future event is characterized as more probable than another possible future event if it comes about more easily. Read from Leibniz’s contemporary characterization of the notion of easiness, there is thus a sense in which we are advised to regard a possible future event as more probable when it has fewer requisites than another possible future event. That Leibniz applies the notion of easiness in the sense of a small number of requisites is confirmed when he remarks that “[t]he fewer conspirators, the easier conspiracy is.”[[20]](#endnote-20) Here the conspirators in a very straightforward way belong to the requisites of the conspiracy. Hence, a smaller number of conspirators means a smaller number of requisites of the conspiracy. What is more, the notion of requisites also stands implicitly behind the connection that Leibniz sees between beliefs concerning easiness and beliefs concerning the effort required for a given action:

 Everything dishonest *diminishes honor*.

What diminishes honor diminishes the *reputation of being powerful*.

Whatever diminishes the reputation of being powerful brings about the belief that violation is easier.

Whatever brings about the belief that violation is easier brings about the belief that violation can be done with less effort.

Whatever brings about the belief that violation can be done with less effort brings about a greater preference for violation.

Whatever brings about a greater preference for violation is dangerous.[[21]](#endnote-21)

The smaller effort that an action requires can naturally be understood as a smaller number of requisites that has to be given for the action to take place. Leibniz’s argument also makes clear that what matters for future courses of action is not only the easiness of these courses of action but also beliefs concerning their easiness. Leibniz draws out this line of argument further when he considers how certain states of mind—such as audacity—themselves reduce the number of requisites for certain actions. This becomes clear when he discusses whether an interregnum might be profitable for Poland:

When the *necessity of obeying* is only temporary, fear is smaller than the greatest fear. Hence, [it is] smaller than the fear owed to the highest power.

When fear is smaller than it should be, there quickly arises contempt.

Where there is contempt, there quickly arises the audacity to resist.

Where there is the audacity to resist those in charge of government, a civil war easily begins little by little.[[22]](#endnote-22)

Thus, in such a situation a civil war begins more easily than in a situation of permanent political authority because a requisite that is present in situations of permanent political authority is absent in an interregnum situation.

Likewise, certain external circumstances—such as being a candidate for being elected king—contribute to the easiness of the occurrence of certain mental states such as recollection. This is relevant for Leibniz’s discussion of how certainly we can assume that someone acts knowingly in a dishonest way. The particular kind of dishonest action that Leibniz has in mind consists in knowingly refraining from restituting the honor that was violated through a previous unlawful act. Leibniz is aware that when we want to assess how certainly someone acts knowingly in such a way we should assess how easily it comes about that that someone recalls the previous unlawful act in the present situation:

*Dishonest* is a person who knowingly omitted the restitution of honor …

Hence, the dishonesty is bigger the more certainly someone was acting knowingly …

Recollection is easier and hence the dishonesty graver the more similar the benefit is to the previous violation.[[23]](#endnote-23)

Thus, the similarity between the present election situation and a previous election fraud through bribes and threats makes recollection of the previous violation easier and, hence, we are justified in assuming that someone who does not restitute honor in such a situation acts knowingly in a dishonest manner.

Leibniz also makes clear that considerations concerning what will come about most easily leads to conjectures that function as person-related presumptions. That he has in mind this kind of presumption becomes clear, when he discusses the question whether a conversion to Catholicism shortly before the time of the election would fully satisfy the political demand that the future King of Poland should be a Catholic:

Who becomes Catholic at the necessary time, is presumed to become Catholic due to necessity, unless another cause becomes evident.

Necessity does not relate to the state of mind.

Hence, who is Catholic only due to necessity, is not Catholic in the mind. …

Hence, unless there is evidence of another cause of change (which is not presumed), he will not be Catholic.

Who is presumed that he will not be Catholic should also not be King.[[24]](#endnote-24)

Here, one presumption—the presumption against change—figures among the grounds of another presumption—the presumption concerning a person’s state of mind. As Leibniz indicates in the fifth manuscript of the *Elements of Natural Law*, the presumption against change is an instance of the presumption against difficulty and in favor of a small number of requisites [*pro minore*].[[25]](#endnote-25) Thus, change is not to be presumed because change requires some additional factor that need not be present if things continue unchanged.

 The presumption against change is not only relevant for presumptions concerning states of mind but also for presumptions concerning actions arising from states of mind:

A turbulent family certainly had causes for turmoil.

A change of these causes is not presumed.

Hence, while the cause remains, the effect will remain: turmoil.[[26]](#endnote-26)

An analogous argument runs as follows:

What the family is like, such an education is presumed.

What the education is like, such a frame of mind [is presumed].

What the frame of mind is like, such an action [is presumed].

Hence, from a prince belonging to a turbulent family, turmoil is to be presumed. [[27]](#endnote-27)

These arguments document that the connection between the notions of easiness and presumption plays a substantial role in Leibniz’s early account of political decision making. Moreover, this conceptual connection indicates a sense in which political decisions can be rational, even if we do not know probabilities in the sense of relative frequencies. In fact, Leibniz clearly distinguishes presumptions from probabilities. As he explains, the degree of probability (in the sense of a relative frequency) is a matter of the easiness of a thing’s or an event’s coexisting with all other things or events in the universe.[[28]](#endnote-28) By contrast, what matters for presumption is only the easiness of a thing’s or an event’s existing.[[29]](#endnote-29) In the deleted variants to this passage, Leibniz also tries to establish how presumption and probability are connected. In a first try, he suggests that presumption based on the easiness of a thing or an event also creates a presumption concerning its relative frequency.[[30]](#endnote-30) Obviously, if the distinction between the easiness of existing and the easiness of coexisting is taken seriously, this cannot be exactly right. But, again in the deleted variants, Leibniz offers a second try which seems to be compatible with his distinction between the easiness of existing and the easiness of coexisting: a presumption based on the greater easiness of existing leads to a presumption concerning higher relative frequencies, *ceteris paribus*.[[31]](#endnote-31) The last clause apparently pays attention to the factors responsible for coexistence: If A and B coexist equally easily with all things and events in the universe, the greater easiness of A will lead to a greater frequency of A. Conversely, in the deleted variants Leibniz points out that knowledge of relative frequencies may provide grounds for presumptions.[[32]](#endnote-32) Nevertheless, the crucial point is that, even if presumptions can be based on probabilities, we can form presumptions without knowing probabilities. In this sense, presumptions genuinely expand our ability to act rationally in situations of uncertainty.

Still, characterizing the metaphysical grounds of presumptions in terms of easiness leaves us with further methodological problems: Would not each possible future action involve an enormous amount of requisites, namely, the entire causal history of all the events that have some remote influence on the action? Would not such an enormous amount of requisites be too big for limited human minds to survey and compare with each other? And would not different possible future actions have requisites of entirely different kinds, such that we would not know how to compare them with each other?[[33]](#endnote-33) These are serious problems that, on first sight, seem to undermine the suggestion that we should base presumptions on easiness.

Leibniz develops some ideas that could provide him with a partial solution to these problems. Already in the fifth MS of the *Elements of Natural Law*, he gives the following explication of the sense in which something could be said to involve “smaller” or “fewer” requisites than something else: “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.”[[34]](#endnote-34) Also in the time between 1678 and 1680, Leibniz emphasizes that a comparison of degrees of easiness involves a part-whole relation: “What contributes [*conferens*] is what brings about a greater easiness. Easy is what has few or small requisites. Greater is whose part is equal to the whole of something else.”[[35]](#endnote-35) While this way of characterizing easiness as a comparative notion coincides with Leibniz’s earlier characterization, in the time between 1678 and 1680 there is a further characterization that contains a substantial addition: “*Easiness* is having fewer requisites compared with the greater number of similar [*similia*] and equal [*aequalia*] requisites of something else.”[[36]](#endnote-36) According to the latter characterization, a comparison between degrees of easiness can take place in two kinds of settings.

The first kind of setting—the one already envisaged in Leibniz’s earliest writings—consists of situations in which a set of requisites is part of another set of requisites. In this case, it would not even be necessary to have a complete analysis of the requisites that are contained in these sets. It would be enough to know that the requisites of action A are also the requisites of action B and to know that the set of requisites of action B contains at least one requisite in addition (while the same is not the case for action A). Situations of this kind thus involve sets of strictly identical requisites. This way of characterizing a comparative notion of easiness can be instructively applied to the cases of political decision making in Leibniz’s work on the election of the King of Poland. Take the case of a prince who comes from a turbulent family. The future actions of this prince have a number of requisites, including the impressions from education and family life. Since these impressions form part of the biography of the individual in question, they will be among the requisites of any future action, no matter whether the prince will act turbulently or otherwise. This is why we do not have to be able to specify them one by one. It suffices to see that, no matter how large their number is, they are common to the different sets of requisites for different actions. But if no further impressions are at work, the prince would be determined to act turbulently by this set of requisites, while in order to be determined to act differently some additional requisites must be present. Hence, the peaceful future course of action has more requisites than the turbulent behavior. In this sense, growing up and being educated in a turbulent family constitutes a determination towards acting turbulently—a determination that can be turned into a different determination by some additional requisites. And this is why one should presume that the prince will act in a turbulent way.

By contrast, the second kind of setting—the kind of setting that goes beyond what is envisaged in Leibniz’s earliest writings—consists of situations in which we are able to identify relevant similarity relations between requisites. Situations of this kind thus do not require sets of strictly identical requisites, thus expanding the applicability of the idea of a comparison between degrees of easiness. Obviously, the similarity-oriented concept of degrees of easiness presupposes an account of how we identify relevant similarity relations. In fact, in other writings from the same period, Leibniz offers an account of similarity that has a strong epistemic component. In his view, what matters for similarity is not just the presence of some identical qualities; rather, what also matters are the conditions under which we are capable of telling two things apart: “Similar are those things that have the same form, or that can be distinguished only when they are both accessible to experience.”[[37]](#endnote-37) Leibniz explicates what he has in mind by using the following example:

Let us imagine that there are two ships, one of which is a little bigger than the other but built in such a way that, unless someone sees them both at the same time, he would be unable to distinguish them; unless perhaps he would measure something like the height of some door and, keeping the measure, goes to the other ship, and, when asked, again applies the measure and makes a pronouncement. These two ships are called similar; and hence two similar things must not be distinguished through sensation of the one and the recollection of the other, as in the case of other, dissimilar things, but through sensation of both of them ... [[38]](#endnote-38)

If we use such an essentially epistemological understanding of similarity between requisites, one action could be understood as being easier than another action when it requires fewer requisites of a kind that can be distinguished from the requisites of the other action only when they are accessible to experience. This, of course, does not preclude considering the easiness of possible actions in the future. But if some of the requisites of these actions can only be imagined and, on the basis of imagination, cannot be distinguished from the requisites of other future actions, then they should be regarded as similar. In such a case, a comparison of the degrees of easiness could be carried out even if the actions compared do not share any requisites with each other. Still, such comparisons allow us to form presumptions on the basis of what comes about more easily.

3. Presumptions Concerning the Moral Quality of Actions

There is thus a high degree of continuity between Leibniz’s earliest remarks concerning the metaphysical foundation of presumptions concerning future actions and his treatment of presumption in his metaphysics of action in the period between 1678 and 1680. Yet, there are some more, related aspects of continuity. Another element of his metaphysics of action from the 1660s that Leibniz takes up in notes from the time between 1678 and 1680 concerns the connection between presumption and normative notions such as an action’s being allowed, being non-obligatory, and being free. As Leibniz claims, “[e]verything is presumed to be allowed [*licitum*], everything is presumed to be non-obligatory [*indebitum*].”[[39]](#endnote-39) Likewise, he holds that “[e]verything is presumed to be free [*liberum*],”[[40]](#endnote-40) where “free” is to be understood as “what is neither obligatory nor illicit.”[[41]](#endnote-41) Although Leibniz does not make this explicit here, I would like to suggest that the view that there is a presumption in favor of an action’s being allowed, being non-obligatory and being free are closely connected with his conception of easiness. To see that this is the case, note that Leibniz’s claims concerning the presumption in favor of an action’s being allowed and an action’s being free stem from a group of manuscripts in which Leibniz takes up his early theory of justice. In a piece written between 1678 and 1681, he expresses the central idea of his theory of justice as follows: “Justice is well-ordered love or the virtue that upholds the proportion in the affect towards other rational beings.”[[42]](#endnote-42) This closely corresponds to the conception of justice in his early manuscripts on natural law. To be sure, in his early manuscripts he formulates objections against the specific formulation that Aristotle has given to the notion of justice. In the third MS of the *Elements of Natural Law*, Leibniz objects to Aristotle’s suggestion that we should look for the mean only in relations between things:

[I]f one has obtained a more precise insight into this problem, one realizes that justice governs love and dislike of a human being towards another human being ... Now there are two rules to moderate this emotion: 1. to hurt nobody, 2. to help everyone, as far as no-one else is hurt by this.”[[43]](#endnote-43)

Leibniz’s alternative idea of the mean consequently is described as a process of deliberation between various affects: “What is just is not precisely enough defined as what is useful for the community, since it is permissible to prefer the death of many to my own death … The just is the well-proportioned relation between self-love and the love for another person.”[[44]](#endnote-44) Thus, in this context the search for rational proportions underlying the Platonic component of Leibniz’s theory of justice is introduced as an alternative to the specific Aristotelian conception of what the mean in the case of justice consists in; but at the same time it is an alternative that does not deny the validity of Aristotle’s general conception of virtue as a mean in affects but rather tries to integrate the virtue of justice into this general Aristotelian conception. This is why Leibniz in the period between 1678 and 1680 takes up the idea that justice can be characterized as involving a specifically affective side.

What is more, in his early writings on natural law Leibniz formulates a presumption closely analogous to the presumptions concerning an action’s being free, allowed, and non-obligatory. In the fifth MS of the *Elements of Natural Law*, Leibniz claims that we should presume a given action to be just.[[45]](#endnote-45) This claim is puzzling if read in conjunction with his view that we should presume what comes about more easily. 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*), centered around the maxim “Not to hurt anyone” (*neminem laedere*); the second degree is equity (*aequitas*), centered 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*), centered around the maxim “To live honorably” (*honeste vivere*).[[46]](#endnote-46) 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”.[[47]](#endnote-47) 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.[[48]](#endnote-48) 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.[[49]](#endnote-49)

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 has no 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.

To dissolve this puzzle, it will be helpful to start with 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.[[50]](#endnote-50)

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.[[51]](#endnote-51) 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 Hans 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.[[52]](#endnote-52) 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.

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.”[[53]](#endnote-53) 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. According to him, a just action is “an action that is possible for a good person (*vir bonus*)”.[[54]](#endnote-54) To be sure, as far as the characterization 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*).[[55]](#endnote-55) Nevertheless, *caritas* is implicit in his definition of justice as “the habit of loving everyone”[[56]](#endnote-56) and of the good person as “the person who loves everyone.”[[57]](#endnote-57) As the variants to the manuscript document, Leibniz also considered including prudence (*prudentia*) in the definition of the good person.[[58]](#endnote-58) 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.[[59]](#endnote-59) 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.[[60]](#endnote-60)

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 conceived of as 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.

This structure carries over to the presumption of an action’s being free, the presumption of an action’s being allowed, and the presumption of an action’s being non-obligatory. This is so although, in the period between 1678 and 1680, one finds some modifications of his earlier theory of justice. As in his writings from the period of the *Elements of Natural Law*, in the period between 1678 and 1680 Leibniz defines the Roman law concept of the good person (*vir bonus*) with respect to the notion of justice: “A *good person* is the one endowed with justice.”[[61]](#endnote-61) But unlike in the period of the *Elements of Natural Law*, he adds a reference to the public good: “A *good person* is someone endowed with justice and therefore seeks the public good as far as it is allowed.”[[62]](#endnote-62) What is the conception of the public good that Leibniz has in mind here? In a first variant, he suggests analyzing the notion of the good of society in terms of a sum of individual goods: “The *good* (*evil*) of society is the difference between the sums of the good and evils of the members of the society …”[[63]](#endnote-63) However, he deleted this variant and replaced it by the following set of definitions:

A *good of society* is something that is a greater good for the one than it is an evil for the other.

An *evil of society* is something that is a greater evil for the one than it is a good for the other.

A *good* for someone is what contributes more to his happiness than sadness.

An *evil* for someone is what contributes more to his sadness than happiness.[[64]](#endnote-64)

This indeed goes beyond what is found in Leibniz’s writings from around 1670 (and it also shows that the portrayal of Leibniz’s conception of the common good as an early version of utility maximization misses the qualms that Leibniz himself had about understanding the common good as the maximization of the goods of the individuals[[65]](#endnote-65)). What matters for present purposes, however, is that even in this modified version his theory of justice, Leibniz takes up a series of modal claims involving the notion of the good person:

 *Obligatory* [*debitum*] is what is necessary for a good person as such.

*Non-obligatory* [*indebitum*] is what is contingent for a good person as such.

*Allowed* [*licitum*] is what is possible for a good person as such.

*Forbidden* [*illicitum*] is what is impossible for a good person as such.[[66]](#endnote-66)

Why would Leibniz advise us to presume that a given action is non-obligatory? Already in the fifth MS of the *Elements of Natural Law*, he regards this presumption as a consequence of the presumption in favor of the justice of an action: “An action is presumed to be non-obligatory. For everything non-obligatory is just [...] and everything just is easier than something unjust, hence it is presumed.”[[67]](#endnote-67) Or, to put it differently, an action should be presumed to be non-obligatory because “an action is easier to be non-obligatory than to be obligatory.”[[68]](#endnote-68) Also, in the *Elements of Natural Law* Leibniz regards the presumption in favor of an action’s being free and in favor of an action’s being allowed as a further instance of the precept to presume what has fewer requisites.[[69]](#endnote-69) This carries over to the version of the modal aspects of Leibniz’s theory of justice in the manuscripts from the period between 1678 and 1680. An allowed action is an instance of a possible event, namely, something that is possible for a good person. Hence, it involves fewer requisites than an action that is impossible for a good person. This is so because, compared with an action that is possible for a good person, it involves at least one additional requisite that is responsible for the contradiction. Likewise, if one understands what is “free” as what is “neither obligatory nor illicit,”[[70]](#endnote-70) then a free action is neither impossible for a good person nor impossible not to be performed by a good person. Thus, again a free action is a kind of possibility, and the presumption in favor of an action’s being free can be understood as a special case of the presumption in favor of possibility.

4. Conclusion

In the treatment of presumption there is thus a remarkable continuity between Leibniz’s writings from the period between 1669 and 1671 and his writings from the period between 1678 and 1680. Leibniz’s few and scattered remarks about presumption are more unified than may be evident at first glance because they can be understood as forming a part of a quite systematic account of the role of requisites in the metaphysics of action. What makes presumptions concerning future actions and presumptions concerning the moral quality of actions rational, even when we do not know the relevant relative frequencies, is that they can be based on a consideration concerning what has a smaller number of requisites than the closest alternatives. As we have seen, closest alternatives could be considered as cases that have a set of requisites in common with the action under consideration. This argumentative strategy can be applied to future actions as well as to the moral quality of actions—in the latter case, too, what matters is a set of requisites that is identical for an action that is possible for a good person and for an action that is impossible for a good person. Apart from such a situation in which the requisites of one action are a part of the requisites of another action, Leibniz also considers cases in which the requisites of two actions are not identical but similar in the sense that we could not distinguish them except by direct comparison. This seems to be a genuine extension of his earlier views concerning how degrees of easiness could be compared with each other. The intuition, however, that presumptions concerning future actions and the moral qualities of actions are rational when they are grounded on the metaphysical structure of the actions themselves remains recognizably the same.

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1. See below, note 52. [↑](#endnote-ref-1)
2. See, e.g., Alciato 1617: vol. 4: cols. 579-584. [↑](#endnote-ref-2)
3. On the notion of *indicium* in medieval and Renaissance law, see Franklin 2001, 27-43; on the theory of interpreting *signa* in Renaissance law, see Maclean 1992. Evidence-based presumptions played a significant role in the early modern controversies over excepted crimes (see Blank 2012) and territorial rights (see Blank 2011; Blank 2013). [↑](#endnote-ref-3)
4. Mascardi 1607: vol. 1: 32: “Praesumptio est coniectura, seu divinatio in rebus dubiis, collecta ex argumentis, vel indiciis per rerum circumstantias frequenter eventibus.” [↑](#endnote-ref-4)
5. Menochio 1608: 7: “Est indicium coniectura ex probabilibus & non necessariis orta, a quibus potest abesse veritas, sed non verisimilitudo veri, quae quandoque mentem iudicantis ita perstringunt, ut cogant conscientiam iudicis iudicare secundum ipsa.” [↑](#endnote-ref-5)
6. A VI, 4, 1426. Leibniz takes this thought up in a slightly later manuscript: “Something is determined towards some state or action when something else follows from it considered in itself or when no obstacle occurs, and relates to what is absolutely determined towards causing something (which includes all requisites) as demonstration relates to presumption: determination in this sense is a presumption based on what is naturally prior” (A VI, 4, 404). [↑](#endnote-ref-6)
7. A VI 4, 1428-1429. [↑](#endnote-ref-7)
8. A VI, 4, 1411. [↑](#endnote-ref-8)
9. A VI, 4, 1430. [↑](#endnote-ref-9)
10. A VI, 4, 1426. [↑](#endnote-ref-10)
11. A VI, 4, 1412-1413. [↑](#endnote-ref-11)
12. A VI, 4, 308. Here Leibniz takes up John Wilkins’s explication of the notion of “what contributes something” [*conferens*] as “a requisite according to a certain mode of production.” See A VI, 4, 39; see Wilkins 1668: 35. [↑](#endnote-ref-12)
13. For detailed accounts of Leibniz’s notion of requisite, see Adams 1994: 115-119; Piro 2002: 38-54; di Bella 1991; di Bella 2005a: 72-98;di Bella 2005b. [↑](#endnote-ref-13)
14. A VI, 2, 483. [↑](#endnote-ref-14)
15. See A VI, 2, 489. [↑](#endnote-ref-15)
16. See A VI, 2, 499. [↑](#endnote-ref-16)
17. A VI, 2, 567. [↑](#endnote-ref-17)
18. On Leibniz’s evaluation of the talents of the different candidates in this work, see Griard 2008. [↑](#endnote-ref-18)
19. A IV, 1, 11. [↑](#endnote-ref-19)
20. A IV, 1, 15-16. [↑](#endnote-ref-20)
21. A IV, 1, 5. [↑](#endnote-ref-21)
22. A IV, 1, 14. [↑](#endnote-ref-22)
23. A IV, 1, 43 [↑](#endnote-ref-23)
24. A IV, 1, 21. [↑](#endnote-ref-24)
25. A IV, 1, 471. [↑](#endnote-ref-25)
26. A IV, 1, 31. [↑](#endnote-ref-26)
27. A IV, 1, 32. [↑](#endnote-ref-27)
28. A VI, 1, 472. [↑](#endnote-ref-28)
29. Ibid. [↑](#endnote-ref-29)
30. A VI, 2, 565. [↑](#endnote-ref-30)
31. Ibid. [↑](#endnote-ref-31)
32. Ibid. [↑](#endnote-ref-32)
33. I owe this way of formulating the problems to a conversation with Mark Kulstad. [↑](#endnote-ref-33)
34. A VI, 1, 472. [↑](#endnote-ref-34)
35. A VI, 4, 303. [↑](#endnote-ref-35)
36. A VI, 4, 1412. [↑](#endnote-ref-36)
37. A VI, 4, 74. [↑](#endnote-ref-37)
38. A VI, 4, 380-381. [↑](#endnote-ref-38)
39. A VI, 4, 2764, marginal note. [↑](#endnote-ref-39)
40. Ibid. [↑](#endnote-ref-40)
41. A VI, 4, 2762. [↑](#endnote-ref-41)
42. A VI, 4, 2758. [↑](#endnote-ref-42)
43. A VI, 1, 455. [↑](#endnote-ref-43)
44. Ibid. On Leibniz’s attitude towards Aristotelian ethics, see Piro 1994. [↑](#endnote-ref-44)
45. A VI, 1, 471. [↑](#endnote-ref-45)
46. A VI, 1, 343-345. [↑](#endnote-ref-46)
47. Ibid. [↑](#endnote-ref-47)
48. Ibid. On Leibniz’s reasons to include love into his conception of justice, see Busche 1997: 307-310; Goldenbaum 2002: 209-231. [↑](#endnote-ref-48)
49. A VI, 1, 455. [↑](#endnote-ref-49)
50. A VI, 1, 471; Translation from Adams 1994: 204, with one sentence added. [↑](#endnote-ref-50)
51. See A VI, 1, 398; A VI, 1, 405; A VI, 2, 487, note 3; A VI, 2, 495 and 495, note 46; A VI, 3, 127. [↑](#endnote-ref-51)
52. Burkhardt 1980: 425-426; Adams 1994: 205. [↑](#endnote-ref-52)
53. A VI, 1, 471. [↑](#endnote-ref-53)
54. A VI, 1, 476; see also A VI, 1, 480. [↑](#endnote-ref-54)
55. See A VI, 4, 2777; A VI, 4, 2758, 2761 and 2767. On Leibniz’s theory of justice as *caritas sapientis*, see Grua 1953; Riley 1996. [↑](#endnote-ref-55)
56. A VI, 1, 465. [↑](#endnote-ref-56)
57. A VI, 1, 466. [↑](#endnote-ref-57)
58. See A VI, 2, 565 (variants to A VI, 1, 465). [↑](#endnote-ref-58)
59. A VI, 1, 470. [↑](#endnote-ref-59)
60. A VI, 2, 567. [↑](#endnote-ref-60)
61. Ibid. [↑](#endnote-ref-61)
62. A VI, 4, 2761 [↑](#endnote-ref-62)
63. Ibid. For a similar statement, see A VI, 4, 613. [↑](#endnote-ref-63)
64. A VI, 4, 2761. [↑](#endnote-ref-64)
65. For an utilitarian interpretation of Leibniz’s notion of common good, see Elster 1975: 129. Such an interpretation is criticized, for different reasons, in Riley 1996: 160-164 and in Basso 2005: 54-57. [↑](#endnote-ref-65)
66. A VI, 4, 2758. [↑](#endnote-ref-66)
67. A VI, 1, 471. [↑](#endnote-ref-67)
68. Ibid. [↑](#endnote-ref-68)
69. Ibid. [↑](#endnote-ref-69)
70. A VI, 4, 2762 (see above, note 41) . [↑](#endnote-ref-70)