GOTTFRIED ACHENWALL

PROLEGOMENA to NATURAL LAW

Edited by Pauline Kleingeld | Translated by Corinna Vermeulen

University of Groningen Press

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Editor's Introduction

Pauline Kleingeld

In this book, Gottfried Achenwall presents the philosophical foundation and basic concepts for a theory of natural law, in particular for his own comprehensive account, presented in his handbook *Natural Law* (*Ius naturae*, eight editions, 1750-1781). Both his *Prolegomena to Natural Law* and *Natural Law* itself are of interest not only because they offer a careful, systematic, and well-respected eighteenth-century theory of natural law in the Leibniz-Wolffian tradition, but also because they shed valuable light on the work of Immanuel Kant.

Achenwall's handbook was used widely for more than a generation to introduce students to natural law theory, thus shaping the background understanding of public and academic discussions of the subject, especially in the German-speaking world. The first English translation of the handbook, also by Corinna Vermeulen, was published by Bloomsbury Academic in 2020.[1] The present volume offers

1 Gottfried Achenwall, *Natural Law: A Translation of the Textbook for Kant's Lectures on Legal and Political Philosophy*, edited by Pauline Kleingeld, translated by Corinna Vermeulen, with an Introduction by Paul Guyer (London: Bloomsbury Academic, 2020). This volume

the first English translation of Achenwall's *Prolegomena* and complements the translation of his handbook.

Both works are highly relevant to Kant scholarship. Kant assigned *Natural Law* for his course on the topic, which he taught at least twelve times between 1767 and 1788.[2] Only one surviving transcript of these lectures is known, namely the *Feyerabend Lectures on Natural Law.* This transcript is based on lectures Kant held during the summer semester of 1784, at the very time he was writing his seminal work in moral theory, *Groundwork for the Metaphysics of Morals* (1785). These lectures include Kant's own legal and political philosophy of the mid-1780s, as well as his exposition and criticism of Achenwall's theory. In his lectures, Kant refers not only to *Natural Law* but also to specific passages and arguments in the *Prolegomena*. These works had a formative influence both on Kant's legal and political philosophy and on his ethics; that is, they informed Kant's "moral" philosophy in the broad sense as comprising both "right" (*Recht*)[3] and "ethics."

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provides a translation of the 5th edition of the handbook, published in 1763, which is the edition Kant used.

2 See Frederick Rauscher's introduction to his translation of Kant's Feyerabend Lectures, in Immanuel Kant, *Lectures and Drafts on Political Philosophy*, edited by Frederick Rauscher and Kenneth Westphal, p. 75-76 (Cambridge: Cambridge University Press, 2016).

3 Like *ius*, the term *Recht* is notoriously difficult to translate into English. Within Kant scholarship *Recht* is now commonly translated as "right." The resulting awkwardness serves to remind readers of the fact that the translation is imperfect. In the case of the natural law tradition and the relevant scholarship, however, *ius* is more often

Gottfried Achenwall

Achenwall was born in 1719 in Elbing (Elblag), which was then part of Poland. He studied law, philosophy, and history at the universities of Jena, Halle, and Leipzig and subsequently taught first as a private tutor in Dresden and then as an unsalaried university instructor (*Privatdozent*) in Marburg. In 1748, he became *professor extraordinarius* of philosophy at the University of Göttingen, a young and modern university that had been founded in 1737 by the Elector of Hanover (formally of Brunswick-Lüneburg), King George II of Great Britain. In Göttingen, Achenwall rose through the academic ranks with positions in law and philosophy, obtaining doctorates in both. He became a full professor of philosophy in 1753 and a full professor of law in 1761. With financial support from King George III, he undertook several trips to other European countries, where he studied their legal, political, economic, and cultural practices and institutions. He died in Göttingen in 1772.

Achenwall was well known at the time not only for his work in natural law but especially for approaching the political, economic, and social characteristics of states as a matter of systematic empirical academic research. He offered comparative descriptions of the forms of government and administration, the use of natural resources, the economic systems, and other features of several European states. As a

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rendered as "law," which is why this term was chosen for the title of this book. See also "Remarks on the Translation," p. xxvi.

result, he became known for promoting the methodical "science of states," or "statistics,"[4] by which he meant comparative political science.

Publication History and Present Translation

In the first two editions of Achenwall's compendium, then still published under the title *Elementa iuris naturae* (*Elements of Natural Law,* 1750, 1753)[5] and co-authored with Johann Stephan Pütter (1725-1807), the "prolegomena" formed a tiny section at the beginning of the book, amounting to eight pages in total. It included definitions of core notions such as *ius* (law, right) and *ius naturale* (natural law, natural right), as well as brief references to relevant authors such as Hobbes, Pufendorf, and Wolff. These eight pages of *prolegomena* (prefatory remarks) were followed by several lengthier chapters with *praecognita* (what should be known beforehand, viz., in order to understand the theory of natural law). In these chapters, Pütter and Achenwall carefully laid out their conception of action, free will, law, coercion, imputation, and related matters before moving to their exposition of the theory of natural law in the rest of the book.

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4 Note that this term is not used here in its current meaning as referring to a branch of mathematics. Achenwall is often credited with being the father of statistics in the latter sense, but this is a mistake. What he means by the term is rather a branch of political science.

5 There is a German translation of the first edition of the *Elementa iuris naturae* of 1750: Johann Stephan Pütter and Gottfried Achenwall, *Anfangsgründe des Naturrechts (Elementa iuris naturae)*, translated and edited by Jan Schröder (Frankfurt am Main: Insel Verlag, 1995).

Following the publication of the second edition of the *Elements of Natural Law*, Pütter was no longer involved, and Achenwall assumed sole responsibility for the compendium. Starting with the third edition (1755), he changed its title to *Natural Law* and expanded the book with subsequent editions. When the fourth edition was published in 1758, the book had become so large that it was impossible to cover its contents in a single semester. Achenwall therefore decided to publish the philosophical and conceptual preliminaries—the *prolegomena* and *praecognita*—separately under the title *Prolegomena to Natural Law*, to be treated in a course of its own. The first edition of the *Prolegomena* was published in 1758, and the fifth and final edition came out in 1781. Each new edition of the *Prolegomena* was published simultaneously with a new edition of *Natural Law*.

The present translation is based on the second edition (1763) of the *Prolegomena* and complements the English translation of the fifth edition (also from 1763) of *Natural Law*. In his handbook, Achenwall often refers the reader to passages in the *Prolegomena* for further explanation or justification of specific points. In the 1763 edition of the handbook, these references are to the 1763 edition of the *Prolegomena*. Thus, the publication of the present volume makes it possible to look up the references to the *Prolegomena* in Achenwall's *Natural Law*. Moreover, since the *Prolegomena* includes the philosophical groundwork and basic concepts of the handbook, it is indispensable for gaining a complete understanding of Achenwall's theory of natural law.

The earlier choice to translate the 1763 edition of *Natural Law* was in turn motivated by its importance for Kant scholarship. Kant's personal copy of Achenwall's handbook was a copy of the fifth edition (of 1763), and over the years Kant filled its two volumes with copious handwritten notes, often for the purposes of his lectures. His annotated copy of the first volume was lost. The notes from the second volume were transcribed and published in the *Akademie-Ausgabe* of Kant's writings (AA), together with the Latin text of the second volume of the 1763 edition of Achenwall's *Natural Law* (AA 19: 333-613). A selection of these notes was translated into English by Frederick Rauscher and published in the Cambridge Edition of the Works of Immanuel Kant.[6] The translation of the 1763 edition of *Natural Law* makes it possible for Anglophone readers to connect Kant's notes to the relevant parts of Achenwall's work. The publication of the present translation of the *Prolegomena* now also makes it possible to examine Achenwall's theory of natural law in its entirety.

The Contents of the *Prolegomena*

In the *Prolegomena*, Achenwall lays the foundation for the theory of natural law that he develops in *Natural Law*. Starting from very abstract general concepts and principles drawn from the "higher disciplines of philosophy" (Preface, p. 5), he gradually moves towards a specific conception of

6 See note 2 above.

natural law and its constituent elements. Both the form and the substance of his argument reveal the strong influence of Christian Wolff.

Achenwall begins with an exposition of very basic concepts such as "action," "will," "freedom," "obligation," "law," and "imputation." He claims that obligation is the moral necessity that springs from the representation of a true good that would result from a certain action. He then argues that self-perfection is known to be a true good and that humans consequently have an obligation to perfect themselves as much as they can. This involves, he argues, that they have an obligation to live in a way that suits their nature as *rational* animals, that is, to live a life consistent with sound reason (§§ 11-24). The obligation to perfect oneself is "the *general* and *first principle* of all obligations and laws to which a man[7] may be subject" (§ 23).

A proposition that states an obligation is called a *law*, the obligation to act in accordance with God's will is called a *moral* obligation, and a moral obligation that can be known by reason alone is a *natural* obligation (§§ 13, 43, 49). On this basis, Achenwall defines a *natural law* as follows:

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7 In order to avoid anachronisms, *homo* has been translated as "man." Achenwall's description of the relation between husband and wife, father and mother, master and mistress within the household is rather egalitarian (*Natural Law* II, §§ 41–84, but note the final sentence of § 43). Nowhere does he problematize the subjection of women outside the domestic sphere, however. See also "Remarks on the Translation," p. xxv.

> a natural law is a moral or divine law that can be known from philosophical principles, and it is a proposition in accordance with which we are obligated to direct our actions, because of God's will, in as far as we are able to know it by reason alone. (§ 50)

He claims that since there is no obligation without a proposed good or bad consequence, moral obligation requires prospective divine rewards and punishments (§ 55).

As the quoted passage makes clear, by saying that natural laws require that we act in accordance with God's will, Achenwall does not mean to imply that their ground is inscrutable to human beings. To the contrary, *natural* laws are precisely those (moral or divine) laws that can be known by reason alone. In good rationalist fashion, Achenwall explains that to this extent God has made it possible for humans to know his will by reason alone—in contrast to knowledge of the "positive divine laws," for which one needs special divine revelation (§§ 50, 64). The systematic knowledge of all natural laws taken together is called "natural law" in the broad sense, and this is the subject matter of moral philosophy. The positive divine laws are the subject matter of theology (§ 51).

Since natural obligations are "common to all men," Achenwall subsequently argues, there is an obligation to "join forces with the rest of mankind" in order to fulfill them. This involves an obligation to form a *society* (§ 82). Of the "greatest interest" is that type of society known as the state, but the state is composed of families, which in turn are

composed of several types of "domestic society"—the matrimonial, parental, and master society (§ 95). For each of these types of society, as well as for the relations among states, there is a specific subset of natural laws (discussed in detail in *Natural Law*).

After having thus determined the concept and scope of natural law, Achenwall then moves on to a discussion of obligations, rights, and coercion. He defines a *perfect obligation* as an obligation where, "if you violate it, I have the moral ability to coerce you for that reason" (§ 98), and this moral ability on my part is called a *perfect right* (or simply a right, § 100). He argues that everyone has a natural obligation of self-preservation as part of the obligation to perfect oneself, and hence that everyone has "the right to his own preservation," that is, the authority to apply force against those who violate it. Other natural obligations—"duties toward God, toward oneself, and the other duties toward other men"—are not perfect but *imperfect* (§ 106). Imperfect obligations are those that are not linked to the authority to coerce.

Those obligations that are connected with the threat of human coercion are called *external* obligations and are to be distinguished from the merely internal obligations that cannot be humanly coerced. Only the former can be judged in a human court; the others require divine judgment (§ 112, § 140).

Achenwall then discusses what it means for someone to have something as "one's own" and defines notions such as "wrong," "loss," and "proprietorship." For some object to be

"yours" is for you to "have an (external) right to use [it] and to exclude others from its use" (§ 119); others have a corresponding perfect obligation to abstain from its use, an obligation which is external, that is, subject to human coercion. Moreover, not only the object but also the right itself can be said to be "yours" or your "proper right" (§ 119).

In the final chapter, Achenwall lists the principles of natural law that he derives from the preceding account. They are the following perfect laws: "*wrong no one*, *cultivate justice*, *give each his own*, *do not take away anyone's proper right*, *abstain from that which is another's*, *do not cause anyone a loss*, *restore the loss that you have caused*" (§ 131). For each of these laws, there are corresponding principles of strict natural rights (§ 132). Having thus laid the foundation for his handbook's detailed account of specific natural laws and rights in particular domains, Achenwall ends with a brief discussion of conflicts of duty (§§ 142-149).

Achenwall and Kant

Kant regularly taught Achenwall's handbook and also referred to the *Prolegomena to Natural Law* (e.g. AA 27: 1330-31, 1332). He valued Achenwall as a "cautious, precise, and modest" author (AA 8: 301). In his own work, Kant employs many of the concepts and distinctions found and explained in detail in Achenwall's work. This is clearest in Kant's *Feyerabend Lectures on Natural Law*, of course, since these lectures were designed around Achenwall's handbook. But Kant also makes use of Achenwall's work elsewhere, especially in his later legal and political theory, such as "On the

Common Saying: This May Be Correct in Theory, But It Is of No Use in Practice" (1793) and the "Doctrine of Right" of the *Metaphysics of Morals* (1797). As Sharon Byrd and Joachim Hruschka have shown, even as late as the "Doctrine of Right," Kant was still using the 1763 edition of Achenwall's work on natural law.[8]

The relevance of Achenwall's work is not limited to Kant's legal and political theory, however. It also sheds light on Kant's distinction between perfect and imperfect duties in the *Groundwork for the Metaphysics of Morals*, which, as he explains, differs from the ordinary understanding of these terms (AA 4: 421n.), and on Kant's account of the relation between "right" and "ethics," to mention just a few prominent examples.

This should not be misunderstood as implying that Kant *agrees* with Achenwall on matters of philosophical substance. He strongly disagrees with Achenwall's justification of natural law, for example, and he generally presents his own theory not as a form of *natural* law (*Naturrecht*) but simply as a theory of "law/right" (*Recht*). In the Feyerabend Lectures, Kant rejects Achenwall's claim that moral obligation requires rewards and punishments (AA 27: 1329). Furthermore, in contrast to Achenwall, he includes certain duties to oneself under the heading of perfect duties. These are just a few examples; for an illuminating in-depth discussion of the

8 B. Sharon Byrd and Joachim Hruschka, *Kant's Doctrine of Right: A Commentary* (Cambridge: Cambridge University Press, 2010), 15-19.

relation between Achenwall and Kant, I refer the reader to Paul Guyer's introduction in Achenwall's *Natural Law*.

Acknowledgments

I am very grateful, first of all, to Corinna Vermeulen for producing an outstanding translation. Many Kant scholars have asked me why Achenwall's books on natural law were not translated into English much earlier, and part of the answer—in addition to the relative neglect of Kant's *Feyerabend Lectures on Natural Law*—is undoubtedly the difficulty of the task. It requires not just an excellent command of early modern Latin, but also background knowledge of the history of philosophy, as well as a willingness to take on the challenge of translating the juridical terminology of a Roman law framework into a language that often lacks fully adequate counterpart terms. Corinna combines all of these qualities with her remarkable talents as a translator. I would also like to thank Linda Ham for putting together the indices, and Carolyn Benson, Michael Gregory, and Corinna Vermeulen for helpful comments on a draft of the introduction.

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Remarks on the Translation

Corinna Vermeulen

The use of italics and capitalization of entire words mostly follows the original text, in which Achenwall uses italics to highlight the important points for his students and capitalizes whole words to make definitions stand out. I have added some italics of my own following modern usage, to signal words in foreign languages, and have tacitly corrected obvious typographical errors in this respect. The corresponding page numbers in the original edition[1] are given in the margin.

Achenwall's bibliographical references—there are few in the *Prolegomena*, especially in comparison to the *Ius naturae*—have been checked and corrected or supplemented where necessary. Achenwall often provides Latinized versions of the authors' names, which do not always correspond to the names under which they published their work. In this translation the authors are given the names by which they are known nowadays, so as to make it easier for current

1 Gottfried Achenwall, *Prolegomena iuris naturalis in usum auditorum*, denuo curatius exarata ("written anew with greater care") (Göttingen: Victorinus Bossiegelius, 1763).

readers to recognize to whom Achenwall is referring and to track down their work.

I had already translated Achenwall's *Ius naturae* (*Natural Law*)[2] when I came to his *Prolegomena iuris naturalis*, the preliminaries to the main work. Translating the *Prolegomena* was, in a way, far more straightforward than translating *Ius naturae*, because in the *Prolegomena* Achenwall simply lays out the basics, systematically explaining the notions upon which the two parts of *Ius naturae* are built. I had already made most of the terminological choices; some, of course, had to be revised in the process, and a lot of cross-checking between the *Prolegomena* and the *Ius naturae* was involved. Evidently the "Remarks on the Translation" in both books overlap in part, but they also complement one another and may mutually provide an interesting perspective.

The nature of the work—a textbook for students—and Achenwall's noticeable predilection for airtight systems and consistent structuring present the translator with specific difficulties. The many definitions and frequent references to preceding paragraphs involve a lot of cross-checking to guarantee a consistent translation. On the other hand, the different idioms of Latin and English sometimes make one-to-one translations impossible. Language is not mathemat-

2 Gottfried Achenwall, *Natural Law: A Translation of the Textbook for Kant's Lectures on Legal and Political Philosophy*, ed. Pauline Kleingeld, transl. Corinna Vermeulen, introd. Paul Guyer (London: Bloomsbury Academic, 2020).

ics, not even in a highly systematic text such as this one, and not even Achenwall is always consistent in his use of certain terms.

To give some examples of varying translations of a single Latin word: depending on the context, I have used both "obligate" and "oblige" for *obligare*, have translated *existimatio* with "esteem" or "reputation,"[3] and have used "enforcing" as well as "exacting" to render *extorsio*.[4] In the latter case and a few others, I took the liberty of adding the synonyms to the definition or explanation, as Achenwall himself often does. Vice versa Achenwall sometimes adds synonyms for Latin technical terms that he apparently thought would be of use to his students, while English has no useful equivalents: in such cases I have left out the untranslatable synonyms.

I have aimed for a readable translation that respects English usage as much as possible while being as faithful as possible to the original and avoiding anachronisms. The latter means that I have kept the old-fashioned "man" for *homo* instead of introducing human beings: to Achenwall and his contemporaries, men were the self-evident norm and women were naturally invisible in discourse on almost any subject.

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3 In the *Prolegomena* (§ 72), only the sense of "reputation" occurs, while in the elaboration on *ius bonae existimationis* in *Ius naturae* it turns out that "esteem" often is the more suitable translation.

4 *Prol.* § 98, 137, 106ff.

Respecting English usage means that I have rendered *ius* with either "law" or "right," instead of always using "right" as historians of philosophy working on Kant have tended to do.[5] After long deliberation I have chosen "rightful" and "wrongful" for *iustus* and *iniustus*, at least in the case of acts and the like; for persons I have used "just" and "unjust."[6]

Respecting English usage also means avoiding the numerous false friends that the English translator finds in Latin. To name a few: *merus* rarely means "mere," *affirmativus* usually should not be translated with "affirmative," *ratio* is not always (a) reason, *habitus* often does not mean "habit," and a *facultas* is not always a faculty. Likewise, I have rendered *factum commissivum* with "positive act" (introduced as a synonym in *Prol.* § 7) in all occurrences after § 7, because "act of commission" no longer is the neutral term that it was to Achenwall and for most current readers will have the connotation of committing a crime.

In *Prol.* § 7 our author distinguishes between *actio* (which I have translated with "action" whenever possible) and *factum* (which I have rendered mostly with "act" and occasionally with "deed"); then there is *actus* ("act," usually), which is not defined as a technical term and which Achenwall uses at will as Latin usage dictates. A further difference (which Achenwall doesn't have to make explicit and which is lost in translation) is that a *factum*—as opposed to *actio*

5 See *Prol.* § 44 and note.

6 See *Prol.* § 116 and note.

and *actus*—is always thought of as something in the past, because the noun derives directly from the perfect participle of *facere* ("to do/make").

In § 4 and § 6, Achenwall defines the two related human faculties of *voluntas* and *arbitrium* respectively (although he appears to use them as synonyms in *Natural Law* I § 77). While in *Natural Law* I had sometimes chosen "wish" for *voluntas* because "will" didn't fit the context, in the *Prolegomena* I have used "will" throughout. I have rendered *arbitrium* with "choice" everywhere, because in the *Prolegomena* it is used strictly as a technical term for that faculty and combined with *liberum* ("free") in all cases occurring after § 6.[7]

The complex structure of technical terms that Achenwall uses to discuss aspects of property presented its own problems. In *Natural Law* I decided to render *dominium* with "dominion" everywhere, following the Oxford translation of Pufendorf's *De jure naturae et gentium*[8] ("ownership" didn't fit all the occurrences), *dominus* with "owner," and *proprietas* with "proprietorship." I have maintained the latter here and was surprised to see that dominion, an important concept in *Natural Law*, does not occur in the *Prolegomena* at all.

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7 In *Ius naturae* on the other hand *arbitrium* is used rather loosely, without *liberum*, and in translating I could use "discretion" as well.

8 Samuel Pufendorf, *De jure naturae et gentium libri octo*, 2 vols. (photographic reprod. of the edition of 1688; transl. C. H. and W. A. Oldfather), The Classics of International Law, vol. 17 (Oxford: Clarendon Press, 1934).

The cluster that includes *suum/meum* etc., *ius suum/meum* etc., *(ius) proprium, alienum* is pivotal to both texts; it is hard to translate, let alone to translate elegantly, and impossible to translate consistently. I have chosen solutions using "proper," "property," "another's," "another's own," "his" etc., "his own" etc., and "to own."[9] Just as *suum* poses a problem in Latin sentence construction because it must refer to the syntactical subject (which probably gave rise to the use of *proprium* as a synonym), in English one cannot always use "own" without creating confusion.

Achenwall's Latin is typical of eighteenth-century academia: one could call it practical or ugly. His sentences, although sometimes long and treacherous (which is often due to the punctuation system that he used, quite different from ours), are never nearly as complicated as Cicero's or as elegant as Erasmus's. I have tacitly corrected the few real mistakes that he makes, and have occasionally retained a clumsy phrasing with pleasure.

Textual criticism of the source text is an integral part of translation. Circumstances dictated using the edition of 1763, which goes with the *Ius naturae* edition that I used. I made emendations as I went along; they are listed on p. 113. I have left out my corrections in the use of italic versus roman type.

My work on the *Prolegomena* naturally profited from the support I received while translating the *Ius naturae*. As was

9 See, for instance, *Prol.* § 119–125, 130, 135.

the case then, Pauline Kleingeld initiated the project and read through the translation with hawk-eyed care, once more providing useful comments from a philosophical point of view as well as attentive support throughout the process. Mike Gregory gave some helpful suggestions as well, while Christoph Pieper and Jan Waszink generously shared their thoughts on some problems with the Latin. It goes without saying that I alone am accountable for the remaining errors—I know they are there, because perfect translations do not exist (*non dantur*, Achenwall would say).

Leiden, December 2019

Prolegomena
to
Natural Law

Gottfried Achenwall

PROLEGOMENA IVRIS NATVRALIS

IN VSVM AVDITORVM

AVCTORE
GOTTFRIEDO ACHENWALL D.
PROF. IVRIS NATVRAL. ET POLITIC. PVBL. ORDIN.
IN ACAD. GEORGIA AVGVSTA

DENVO CVRATIVS EXARATA.

GOTTINGAE
SVMTIBVS VICTORINI BOSSIEGELI
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Prolegomena to Natural Law

for the Use of Students

by

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at the Georg August University

Written afresh with greater accuracy

Göttingen
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To the Reader

It is my intention to lay out in these preliminaries the philosophical arguments that pave the way to a more correct establishment as well as a fuller understanding of the specific natural rights and obligations. Knowledge of these arguments should thus precede dealing with the single parts of natural law, in order to understand the higher and primary reasons of any eternal laws whatsoever, from which the proximate reason of any single law—each to be noted in its proper place—arises, and from which their connection and system may be grasped at the same time. And so what I plan to teach in this little work mostly comes under two headings: I have to explain the more general principles that are sought from the higher disciplines of philosophy and on which universal law is built as upon a foundation, and I also have to examine the principles that pertain to forming a genuine concept of natural law and that concern this field generally and as a whole.

These *Prolegomena*, which so far were part of my book *Elements of Natural Law*, I have now decided to separate from that body and publish them in a single booklet, because once I had made an improved and largely rewritten version, they had become too sizeable to be thoroughly discussed together with the entire system of natural law itself, in the

same series of lectures that must be finished within a semester. For that reason the *Prolegomena* also remain intended for separate lectures.

Göttingen, July 20, AD 1758.

CHAPTER I

THE FREE ACTIONS OF MAN

§ 1.

Man consists of an organic body and a soul provided with various faculties, united by very close communication, by means of which man's astonishing aptitude is brought about to bring forth innumerable actions: both EXTERNAL ACTIONS, which can be perceived with the external senses, and INTERNAL ACTIONS, which cannot be perceived in that way. The former are performed by movement of the body's organs, the latter by the soul's power only. 2

§ 2.

As concerns our soul in particular, it possesses both a *cognitive faculty*, by which it knows, and an *appetitive faculty*, by which it strives for that which we represent to ourselves as good, and hence avoids what we represent as bad.

§ 3.

Both these FACULTIES are either HIGHER, in as far as we can know objects distinctly and on the basis of distinct representations can strive for or avoid some things; or LOWER, in as far as we can know objects only obscurely or confusedly, and on the basis of such indistinct ideas can strive for or avoid some things. *We have both the cognitive and the appetitive faculty* that is *lower in common with irrational animals*, but *the faculty* that is called *higher is proper to man*.

3

§ 4.

The higher cognitive faculty is in one word called the INTELLECT, to which also REASON belongs, i.e., the ability to understand the connection between things. The higher appetitive faculty is called the WILL, which includes *not-willing*.

§ 5.

Therefore *the will depends on the intellect* in the sense that the former builds upon the latter, § 3. From this it follows that 1) *if man were without the faculty of understanding, he would lack the faculty of willing* as well, and 2) *in any man in whom the use of the intellect is impeded, the use of the will is impeded as well*. Moreover, it is clear that *every act of* a man's *appetitive faculty*, and consequently also his every *act of will* (volition and nolition) *stems from striving for some good or avoiding something bad*, in one word: *from a man's propen-*

sity to his own perfection, i.e., from the instinct to perfect himself, § 2.

§ 6.

Man furthermore enjoys the faculty of determining himself (by an intrinsic principle) both to acting and to not-acting, BY SPONTANEITY (choice).[1] This faculty of man as a being gifted with intellect, i.e. in as far as he is SPIRIT, is called LIBERTY OF THE MIND (internal liberty, free choice) and in law is often simply called choice or discretion; hence man himself is called a PERSON, that is: a substance that is free, or gifted with free choice. Like all the other faculties of our soul, *the liberty of the human mind should be viewed as a faculty of a finite spirit*. 4

§ 7.

Action that depends on man's free choice, i.e. whose reason lies in his liberty of mind, is called man's FREE ACTION (human action *par excellence*). If a FREE ACTION is conceived of in a positive way, it is called an ACT OF COMMISSION (a

1 Achenwall here introduces the concept of *arbitrium*, a faculty related to *voluntas*. In order to keep the distinction between these two clear, I have consistently translated them with "choice" and "will" respectively, even though the word "choice" sometimes sounds a little strange. See also "Remarks on the Translation," p. xxvii.

positive act);[2] if it is conceived of negatively, it is an ACT OF OMISSION (a negative act). In as far as free action is regarded as particular, that is: under particular determinations, or *in concreto*, it is an ACT (a free deed). Hence an act is either a *positive act* (an act strictly speaking) or an *act of omission* (a non-act).

5 § 8.

Thus without intellect there is no free choice, § 6, and hence if the use of the intellect is impeded, so is the use and action of free choice, § 5; it follows that *only the action of a man who has the full use of his intellect is free*. Moreover, for me to actually do something, it is required that I am physically able to do it, i.e. that doing it is *in my power*, i.e. that I am provided with sufficient powers to do it. From this it is clear that *that which I am physically unable to do as such* does not depend on my free choice and therefore *cannot be regarded as a free action of mine* either. Indeed *only that* which I am physically able to decide to do or to omit equally *is freely done by me*, § 5, i.e. that *which is in*

2 In the subsequent occurrences of "act of commission" I have replaced it with its synonym "positive act," because "act of commission" no longer is the neutral term that it was to Achenwall and is always associated with committing a crime. By the same token I have avoided the verb "commit" where Achenwall uses *committere* in combination with a rightful act. Incidentally, Achenwall uses *actio* here, as *factum* has not yet been introduced; but translating it with "action" would be undesirable in this combination. See also "Remarks on the Translation," p. xxvi-xxvii.

my power to do, together with its opposite. For this reason, *anything that is physically impossible* (either simply or in a certain respect) and *every* PHYSICALLY NECESSARY ACTION whose opposite is not in the agent's power (simply or in a certain respect) *cannot be counted among the free actions if it is considered by itself*.

6

* In *free actions*, especially *positive* acts and *external* actions (which can be perceived externally, § 1), we can distinguish the act by which we determine whether we should act or not from the act by which what we have determined is performed by the actual use of our faculties, i.e. *actualized*; and, in external actions in particular, from the motion of the body's organs by means of which we achieve what we had determined. Hence by a logical abstraction free action is divided into *free as regards determination* and *free as regards execution*. As we have said, for an action to be free it is required that it be in the agent's power, together with its opposite; as a consequence for an action to be free both as regards determination and as regards execution, it is required that it be in the agent's power to determine that he should act and equally that he should not act, and likewise both to execute and not to execute what he has determined.

§ 9.

All the actions of our will can be numbered among the free actions in as far as there is no volition or nolition of ours

that is found to be independent of our free choice in such a way that it cannot be directed by it at all, § 7. Consequently *the human soul is free in willing and not willing*. But we
7 moreover experience that *many actions of our soul's other faculties*, many *movements of our body* and sometimes even our *very passions* are controlled by our free choice, albeit indirectly, and therefore *we can* to that extent rightfully *assign* them *to our free actions*.

* An *act of will*[3] and a *free action* thus differ in idea, and indeed there are many free actions that are not volitions at the same time; nonetheless, because every act of our will is in fact inseparably linked to free action and the liberty of the mind is evident mainly and directly in our volitions and nolitions, it has come to pass that many regard them as synonyms and that that which should properly be deduced from an action under the aspect that it is free, is simply asserted with regard to an act of will. Among jurists in any case, in whose fields free action and liberty of mind are of the greatest importance, practically no mention is ever made of these terms, but there is all the more talk of the will and consent as a kind of acts of will. And there is no harm in talking like jurists, as long as our views are those of the philosophers.

3 As in § 7, Achenwall uses *actio* here; see the note there.

** In as far as the actions of man's other faculties depend on the liberty of his soul, it is considered to have *overlordship* over them and *over itself*, consisting in the faculty of the human soul to freely produce actions now of this, then of that faculty, then again their opposites; and on similar grounds our soul is considered to be *in control of our body*. 8

*** On the liberty of the mind, it is worthwhile to consult Jean Jacques Burlamaqui, *Principes du droit naturel*, 2 vols., Geneva 1747 (quarto) and 1748 (octavo), vol. I ch. 2 § 3–13. His thorough discussion of free choice is as insightful as it is solid. See also [Jean Astruc], *Dissertation sur l'immatérialité, l'immortalité et la liberté de l'âme*, Paris 1755.

§ 10.

The complex of a being's determinations that are posited once its existence is posited is called a being's NATURE, which thus consists in a being's essence and powers taken together. *To man's nature,* therefore, *belong* his *organic body;* his *soul*, gifted with intellect and *rational*; the very close *communication of the two*, § 1; *the faculties of the soul*, *liberty of mind* first and foremost, § 5. It also includes the *propensity*, essential to man, *to perfect himself*, § 5, together with the specific instincts that originate from this general propensity: to obtain this or that good and to ward off and flee this or that bad thing. These instincts are called the FIRST THINGS OF HUMAN NATURE *par excellence*. 9

Everything that has a reason that lies in man's nature is NATURAL to man. Man's generic nature, that is: the nature that all men have in common, is called HUMANITY. So *everything that falls to man as such is natural to him and belongs to humanity*.

CHAPTER II

OBLIGATION

§ 11.

The representation of some good that someone intends to obtain, i.e. that someone considers a goal, is an IMPULSIVE CAUSE. If that representation is distinct, it is called a MOTIVE; if not, i.e. if it is merely unclear or confused, it is a STIMULUS. The representation of a bad thing that someone intends to avoid also comes under the impulsive causes, because avoiding a bad thing can be regarded as a negative good.

If you posit some motive for yourself, then you will also posit—because of the propensity to your own perfection which is in you—an impulse or propensity to act in a way that conforms to the given motive, and therefore you will feel a certain need to act; but at the same time you will feel that the opposite of such an action is nonetheless in your power as well. Therefore an action that originates from such a need still remains free and as a consequence is not physically necessary, § 8; and hence a free action in as far as it is necessary through a certain motive is called a MORALLY NECESSARY

ACTION, and that necessity itself is called a moral necessity. So the need, arising from a certain motive, to determine a free action is a MORAL NECESSITY *in the broader sense*. And so it is clear that *moral necessity* cannot exist where there is no liberty of mind and therefore that *although it restricts the exercise of liberty* in some way, it *does not take away liberty*, indeed rather it supposes it as a *sine qua non*.

§ 12.

Now the good whose representation is comprised in a motive either is a good or is not, but in any case appears to be one to the agent. From this it is understood that there are two kinds of moral necessity: one springing from the representation of a true good, one from that of an apparent good. The moral necessity that is born from the representation of a true good is called a (passive) OBLIGATION. Since
12 it suits human nature and hence good sense to strive for a true good, § 10, it follows that every *obligation of man* springs from some *rational motive*, i.e. one that is in accordance with good sense, and therefore from a certain *rational goal*, § 11.

* An *obligation* is called *passive* to the extent that this notion is linked to him who *is obligated*, i.e., on whom such moral necessity lies. If, on the other hand, you would like to consider it in relation to him who *obligates*, i.e. who imposes such necessity to act, you will have an *active obligation*. So in him whose free action is connected with some motive containing a true good,

we see a *passive obligation;* an *active obligation* is seen in him who connects or creates such a motive with another's free action. From this it is clear that the notion of obligation in general, abstracted from both relations, consists in the connection of a (rational) motive with a free action; so this definition comprises both relations of obligation.

We owe this definition to Leibniz and Wolff; it is doubted by Barbeyrac in his notes to the French edition of Pufendorf's *De iure naturae et gentium*,[1] and by Treuer in his annotations to Pufendorf's *De officio hominis et civis* ch. II § 5 p. 53.[2] It is defended by Emer de Vattel in his booklet *Le loisir philosophique*, Geneva 1747.

13

§ 13.

A proposition (a rule or norm for free actions) stating an obligation, i.e. an obligatory proposition, is called a LAW (a law for free actions, a moral law in the broader sense, as opposed to physical laws). For this reason all laws neces-

1 Samuel von Pufendorf, *Le droit de la nature et des gens*. In *Natural Law*, p. 23, Achenwall says about this translation: "A French translation with notes was published by Jean Barbeyrac, 2 vols., Amsterdam 1706, corrected and augmented Amsterdam 1734, sixth and latest ed. of this translation 2 vols., Basel 1750."

2 Samuel von Pufendorf, *De officio hominis et civis secundum legem naturalem libri duo annotationibus illustrati (...) auctore Gottlieb Samuele Treuer*, Leipzig 1734.

sarily consist in propositions according to which someone is obligated to direct (determine) his free actions.

§ 14.

An obligation and law requires 1) *free action* of the obligated subject, i.e., of him who is under a certain obligation and law, § 11, 12. Consequently *obligation does not apply* 1) *to that which is physically impossible*, § 8 (either as regards determination or at least as regards execution, § 8n.); 2) *to that which is physically necessary;* 3) *to him who lacks the use of his intellect*, § 8. 4) The physically necessary actions include the PURELY NATURAL ACTIONS, which are determined
14 through man's nature alone, § 10, independently of free choice. So *no man is obligated beyond his* (physical) *ability*. In obligations that extend to an indefinite degree we are not obligated *to more* nor *to less than we can*.

§ 15.

It moreover requires 11) *some good* that is not only apparent but also true, as the goal of the obligated subject that has to be attained by means of his free action, § 12, and therefore as consequent to his action. So *if some obligation appears to originate* 1) *from the representation of some* object as *good that* in fact *is not good*, i.e., that is taken for a good by mistake, 2) or *from the representation of a good* as *consequent to* some *action that is not* in fact *consequent to it*, that *obligation itself is not true either, but false* (erroneous, imaginary, fictitious). Consequent good things include the avoidance of a bad thing, § 10.

§ 16.

Then it requires III) *distinct knowledge* on the part of him who is obligated, both *as to what he has to do* (positively or by omission) and *as to why* he has to act in this way and no other, § 12. Therefore *no man is obligated to unknown things*, if they are considered by themselves, and *no man is obliged beyond his knowledge*. And this knowledge of the obligated man is supposed *in abstracto* as distinct, as a motive, because in the obligation a man is supposed who has full use of his intellect, § 12, and therefore a mere stimulus is excluded, § 11—the kind of principle of action proper to irrational animals which are not susceptible to obligation. Not excluded, however, is knowledge that is partly indistinct, and consequently neither is a motive mixed with a stimulus. Hence *in concreto* there are varying degrees of distinct knowledge.

* Just as all distinct knowledge of men, as finite spirits, contains some obscurity or confusion, so on the other hand a man with the use of his intellect should not be considered to do whatever he freely does—even if he acts from an impulsive cause that is mostly a stimulus—from a pure stimulus in which there is no distinct representation at all.

§ 17.

Lastly, it requires IV) that that *knowledge precede the action itself* and its execution, and therefore that *the agent be able to foresee* (that is: know before he acts) *the consequence of the action to be executed;* for a free action, in as far as it is

conceived of as subject to obligation, is the effect of a free cause, § 15. To that extent *obligation only applies to future actions* and therefore it *cannot be imposed on past acts* as such, which, if only because what is done cannot be undone, are among the physically impossible things which do not come under obligation, § 14.

§ 18.

If one of two connected things is given, the other is necessarily given as well; from this it is clear that *he who is obligated to pursue a certain goal is* also *obligated to the things without which that goal cannot be attained*, i.e. to the things that are necessary to attaining this goal, and hence *to applying remedies* for it, and consequently also *to removing hindrances* to it, *as much as he can*, § 14.

17

§ 19.

Given a free action, it is also given that both of two opposites are in the agent's power, acting and not acting, § 8; but given an obligation, a moral necessity is given to determine one of these opposites, § 11. Therefore *one obligation* is *to* actualizing or EXECUTING A FREE ACTION; *another to* not actualizing or OMITTING it. The former is called a POSITIVE OBLIGATION, the latter a NEGATIVE one. A LAW that obligates positively is called PRESCRIPTIVE (prescribing, stating), a LAW that obligates negatively is PROHIBITIVE (prohibiting, denying).

Since a positive proposition is a negation of the contrary, and hence a law obligating to doing something also obli-

gates to omitting the contrary, *a prescriptive law also contains a prohibitive law of the contrary*. And because obligation does not extend beyond ability, § 14, a prescriptive law 18
does not obligate him who either lacks sufficient powers to do what the law prescribes or has no OCCASION to act, i.e., a concurrence of the circumstances necessary to do something. In the case of lacking sufficient powers there is an intrinsic obstacle; in the case of lacking occasion the obstacle is extrinsic.

* Now the reason becomes clear why *free action is distinguished into positive acts and acts of omission*,[3] and hence *free deed into deed and non-deed*, § 7, and why this distinction must be made once an obligation is given. For the omission of a free action, not-acting, not-doing, can be thought of as a free action and a free deed in as far as it is a consequence of liberty and in as far as it consists in a non-use of our faculties that depends on our free choice. Therefore, given an obligation to do something, not only that which you do in accordance with that obligation is your free act, but also that which you omit against that obligation, because omitting and doing equally depended on you. And to that extent the non-use of the powers of your body, will and intellect, while you could freely have executed, willed or understood something external, belongs to your free acts— 19

3 As in § 7, Achenwall uses *actio* here; see the note there.

whether for the rest you actually determined that omission freely or in any case you could have freely determined it in accordance with your obligation.

§ 20.

Since an obligation is a moral necessity originating from the representation of a good or a bad thing, § 12, the means of creating an obligation and law in general consists in linking someone's action that is to be executed freely to some good or bad consequence and proposing, i.e. representing, that consequence to the person to be obligated. For in this way it will become morally necessary for him to direct his free action in accordance with the proposed consequence—either a good one for which he hopes or a bad one which he fears. To that extent it can be admitted that every *means of obligating* consists in *proposed hope* or *fear*.

20 Specifically, however, 1) a *positive obligation* is created by linking either a good consequence with execution of the act only or a bad one with its omission only, *disjunctively*; or a good one with its execution and a bad one with its omission at the same time, *jointly*; 2) a *negative obligation* by linking either a good consequence with omission only or a bad one with execution of the act only, *disjunctively;* or both at the same time, *jointly*.

§ 21.

The more good or bad consequences, or the greater (more serious) the single consequences, or the more jointly the good and bad things are linked to both of the opposite

actions, or the more closely they are linked to them (i.e., the more difficult it is to separate them from the action itself), or the more known they are to the agent, the *greater* (stronger) the *obligation* and *law*. Hence conversely it is also clear what a *lesser* (weaker) *law* and *obligation* is.

§ 22. 21

Supposing that you are a man who has the full use of his intellect, you cannot deny that you are not only capable of being obligated because of the liberty of your mind, but through your human nature itself are also actually obligated in many of your free actions, namely in those from which you can foresee that good or bad consequences will arise for you, § 11 and 12. Therefore *there exists some obligation* that rests on you.

§ 23.

Since furthermore there is no obligation without a true good that someone represents to himself as the goal to be attained by means of his free action, § 15, it follows that of every obligation that may fall to a man 1) the *principle of its existence* is a *true good*—one that is such as we have stated to be required for producing an obligation, § 12; 2) the *principle of its knowledge* (if it is conceived of as a proposition; such a *principle* of knowledge is called *objective* and *complex*) is this proposition: *perfect yourself*. For by our very nature we are obligated to seek the good and avoid the bad, and our very nature makes it impossible for us to be obligated otherwise. Now the use of the imperative in the practical disciplines indicates that a man is being obligated. 22

Therefore *perfect yourself* is an obligatory proposition, it is a law, indeed it is the *general* and *first principle* of knowledge of all obligations and laws to which a man may be subject; it is their sum, it is their *center* and *home*, so to speak.

§ 24.

PERFECT YOURSELF: therefore seek the good things and avoid the bad, § 5; apply remedies and remove hindrances to your perfection, § 18; preserve each and all of your perfections, preserve yourself. Seek *internal good things*, those of your soul, as well as *external* ones, those of the body and external state. Live in a way that suits your nature (*human* nature, which is not only animal but also rational), live in a way that
23 suits your natural instincts, guided by reason; live a human life, that is to say: a life consistent with sound reason.

Perfect yourself as much as you can, § 14: so of good things that are each other's opposites in such a way that they cannot both be attained, seek that which is better (intensively, extensively and long-term better); more than the other good things, seek the best. Of truly opposite bad things, avoid the worse, and the worst more than the others. Increase, amplify, strengthen your perfections, the internal and external good things. Seek your HAPPINESS, i.e., the complex of perfections that suit you: both the INTERNAL HAPPINESS (beatitude) of your soul and the EXTERNAL HAPPINESS (prosperity) of your body and external state. Avoid things that can decrease, diminish and weaken your perfections; avoid your *unhappiness*, both *internal* and *external* (misery).

Seek that which is better: so prefer a greater good to a lesser and vice versa a lesser bad thing to a greater one, that is to say: obtaining a greater good to obtaining a lesser good, and avoiding a greater bad thing to avoiding a lesser one. 24
Prefer a greater positive good to a lesser negative good and a greater negative good to a lesser positive one, that is to say: prefer obtaining a good that provides you with a greater perfection to avoiding a bad thing that takes a lesser perfection away from you: a good whose perfection, which is bestowed upon you once the good is obtained, is greater than the perfection that is removed from you by the bad thing inflicted, and the same vice versa.

§ 25.

He who acts in accordance with the obligation and law to which he is subject SATISFIES his OBLIGATION and LAW, OBSERVES THE LAW. If in an occurrence several laws cannot be satisfied at the same time, there is a CONFLICT OF LAWS (collision of laws), the impossibility to observe several laws at the same time. Therefore in this case in order to satisfy the one law it is necessary not to observe the other. He who does not observe a law that conflicts with another law, MAKES AN EXCEPTION to that law; the law that must be satisfied WINS, and the law to which an exception must be made CEDES to it. So *if there is a conflict of laws, an exception is necessarily made to either of the two*. And since we are obliged to perfect ourselves as much as we can, and hence to prefer that which is better, § 24, it follows that *in a conflict of laws and obligations the stronger law and obligation wins* 25

and the weaker one cedes to it, § 21. *Seek that which is better:* so *in a conflict of laws observe the stronger one and make an exception to the weaker one*, i.e., *prefer the stronger to the weaker law*. This proposition is the general *law of exception in a conflict of a stronger* and *a weaker obligation* and *law*, and it is called the *perfective law*.

§ 26.

If a free action comes under a certain category of laws, it either goes against one of those laws or against none of them. The former is called an ILLICIT ACTION (as regards the given category of laws), the latter a LICIT one. Furthermore a free action is determined either by none or by one of these laws; the former is called an INDIFFERENT ACTION, the latter an OBLIGATORY one. Lastly, an obligatory ACTION is either PRESCRIBED or PROHIBITED, as it is determined either to be performed or to be omitted. From this it is clear 1) that *every action that is not indifferent is obligatory*, 2) that *an indifferent action is licit, whether it is performed or omitted*, while on the other hand *an obligatory action that is performed licitly is omitted illicitly, and one that is omitted licitly is performed illicitly.* An action conforming to a law of a certain category is called an OWED ACTION in as far as we are obligated to make it conform to such a law. An action conforming to a law of a certain category in every way, i.e. in all determinations required by the law, is called a RIGHT ACTION in the given sphere of laws, one that does not conform in every way is called NOT RIGHT.

26

CHAPTER III

IMPUTATION

§ 27.

If for someone there arises a good or a bad consequence from a certain free act of his, a consequence that he could physically foresee would come from that act for him, then both the act and its consequence must be attributed to his free choice. Hence that agent is called the FREE CAUSE or AUTHOR of both the act and the consequence. The author of the consequence is said to DESERVE it (be worthy of it) and such a consequence itself is called DESERTS, and specifically a REWARD if the consequence is good and a PUNISHMENT if it is bad.

§ 28.

The judgment by which a deed's deserts are assigned to its author is called IMPUTATION, which therefore consists in the act by which someone is deemed to deserve a reward or punishment because of a certain deed. So there is *imputation toward a reward* and *toward a punishment*, § 27; and IMPUTATION is EFFECTIVE if the judgment with which it is made

is coupled with the actual conferment of the reward or infliction of the punishment; if it is not, it is INEFFECTIVE.

§ 29.

Deserts comprise a good or a bad consequence that the agent could foresee would arise for him from his act, § 27, and that consequently has been linked with his free action as a motive, § 20, and therefore deserts suppose an obligation and law, § 22; thus all *imputation is the conclusion from an act and a law* and therefore consists in the application of the law to the act, that is to say: in a conclusion deduced from the act as the minor premiss and the law as the major premiss. Hence an ACT is IMPUTABLE if it can be attributed to someone as its author and at the same time can be taken as subject to a certain law; in this condition of someone's act lies its *imputability*.

29

* Imputation, therefore, by logical abstraction can be distinguished into two acts, two affirmative judgments: one by which some free act is attributed to someone, by which someone is stated to be the author of some act; the other by which the deserts of his act, i.e. the consequence coupled with such a free act by some law, are assigned to him. They call the former judgment *imputation of an act*, the latter *imputation of law* (of a law).

§ 30.

Because, therefore, every imputation contains a reasoning, prec. §, it follows that for a true imputation the same things

are required that are necessary for a true syllogism, and hence that it is required that an imputative syllogism be true, both as regards its substance or principles and as regards its form or method of concluding.

§ 31.

The *substance* of an imputative reasoning consists 1) in a *free act*, resulting in the minor proposition of the syllogism. For this act to be true, it is required that a) something has been *done* either positively or by omission, § 7; b) *by the person to whom it is attributed*—for this reason things that happen by pure *chance*, and *another person's acts* as such *are not imputable;* c) as its *author* and *free cause*, either the *efficient* cause of the positive act or the *deficient* cause of the act of omission, § 7.

30

Since only free actions are imputable and obligation exists to free actions only, § 14, it follows that *the things to which and the extent to which a person cannot be obligated cannot be imputed to him*.

Several persons together can also be the author of an act; individually, they hence are a *free co-cause* of the act. This also applies to persons who *contribute* to another's act, i.e., who by their own free act contribute something to its actuality. So it can happen that *another man's act to which you contribute is imputed to you as well*. Someone who has part in the act has part in the imputation, all other things being equal.

§ 32.

The *substance* of an imputative reasoning consists 2) in a *law*, resulting in the major proposition of the imputative

syllogism. Therefore there must be a true law at hand, so that it can be applied to some act and as a consequence a true imputation can be made. For this reason a) *if there is no*
31 *law, there is no imputability of the act*, § 29, and b) *in accordance with the varying categories of laws, the* same *act can be more or less imputable; imputable or non-imputable;* and, lastly, *imputable towards punishment or towards reward*.

§ 33.

The *form* of an imputative syllogism requires *a given act to be a case of a given law*, that is: to be comprised in the law as the inferior proposition is comprised in its superior proposition, and thus to come under the law both as regards the predicate—the act—and as regards the subject—the author of the act.

For this reason, if one of these requirements, regarding either the substance or the form, is missing in an imputative reasoning, it is clear that the truth of the imputation collapses, in the way that every reasoning collapses that contains a paralogism or a sophism.

Therefore whosoever wants to impute correctly must have sufficient knowledge of a) the act, b) the acting person, c) its dependence on this person's free choice, d) the law, and e) the act's and the person's dependence on that law.

32 § 34.

An action that goes against an obligation and law in any way is called a VIOLATION OF AN OBLIGATION and LAW and TRANSGRESSION OF A LAW *in the broader sense*. For this

reason every transgression of a law necessarily poses an incorrect act, § 26, and therefore such an act in which there is some lack of rectitude, whatever it may be, is found out. The agent, however, either was physically able to remedy such a lack of rectitude or not; the former LACK of rectitude of an act is (physically) SURMOUNTABLE, the latter UNSURMOUNTABLE. Since an act's unsurmountable lack of rectitude cannot be imputed, § 14, *only the lack of rectitude that is surmountable is imputable* (towards punishment).

§ 35.

An act's imputable lack of rectitude is called GUILT (blameworthiness *in the broader sense*), and hence *transgression of a law* and *violation of an obligation* are divided into culpable (inexcusable; transgression of a law and violation of an obligation *in the stricter sense*) and inculpable (excusable); the 33
incorrect act itself is also divided into *culpable* and *inculpable*. For this reason *only a transgression of a law and violation of an obligation that is culpable can be imputed towards punishment*. From this it is also clear that *only that whose contrary the agent both should* (was obliged) *and could* (physically) *have done is imputable towards punishment;* and in as far as and to the extent that someone should and could have done the contrary, his incorrect act can correctly be imputed to him towards punishment.

§ 36.

Guilt linked with the intention to violate a law, i.e. whose agent acts consciously, is called MALICIOUS INTENT

(malice); guilt whose agent is not conscious in that way is called BLAMEWORTHINESS *in the stricter sense*. Hence the *transgression of a law* and *violation of an obligation* that is *culpable* and imputable is either *malicious* or *blameworthy*; likewise the *act* in which there is guilt is either *malicious* or *blameworthy*; and thus the *agent* transgressing the law who is *guilty* himself is either called *malicious* or *blameworthy*.
34 The *malicious* transgressor violates the law while he *knows* and *wills* it, in as far as he must be considered to know the law distinctly, § 16n.; the *blameworthy* one *not to the same degree*, but although he is in fact ignorant of his own guilt, nonetheless *for your blameworthiness it is sufficient that you do not know what you could have* and should have *known*, prec. §. Malicious intent stems from a defect of the will, blameworthiness mostly from a fault of the intellect, hence *the guilt of a malicious transgressor is greater than that of a blameworthy one*.

§ 37.

A higher degree of malicious intent is the one that is connected with a direct plan to violate a law. Ignorance ([and] error, which contains doubled ignorance) comes under blameworthiness, as do the other faults of the human intellect that the agent could and should have overcome; but the faults that he either could not or is not obliged to overcome are free of blameworthiness, § 35. So the former ignorance is harmful to the ignorant person, i.e., can be imputed towards punishment; the latter is not. From this it is clear to what extent there is blameworthiness and imputability in

1) ignorance and mistake both of an act and of a law (of the law), 2) in ACTIONS FROM IGNORANCE, which a man would not have executed if he had not been ignorant of something (this applies to actions from error as well). 35

§ 38.

Because a prescriptive law only obligates to the extent that one's powers are sufficient and there is occasion to act, § 19, *powerlessness to act* and *lack of occasion are not as such subject to punishment*. And since a prescriptive law obligates us to use our faculties (powers) in accordance with the law as much as we can, in this case *the non-use of our faculties while we could have used them had we wanted to, or their use that was less than we were accountable for, and much more their use to the contrary, is imputable towards punishment*. The use of our faculties in the things that must be done for a certain goal, i.e. doing them, is called DILIGENCE; the blameworthy omission of *due* diligence, that is: of diligence to which one is obligated, is NEGLIGENCE; the use of our faculties that goes against a law is their ABUSE. For this reason all *negligence* and all *abuse of* one's *powers that could have been avoided is imputable towards punishment*. Non- 36 use of one's powers, their use that is less than it should be, and their abuse may sometimes come under blameworthiness and sometimes under malicious intent.

§ 39.

In general, actions contrary to a law can only be imputed towards punishment in as far as they are free, § 27. Therefore

both omission of that which a law prescribes and doing that which a law prohibits is imputable only if it is free. Because, however, there are quite a few human actions that may not be free directly and regarded in themselves, but do belong to the free actions indirectly, § 9, it cannot be denied that *there are actions that are not free in themselves which nonetheless are imputable*. This includes the *omission of a prescribed action from a powerlessness to act that has come about in a blameworthy fashion*. And from this the decision should be sought to what extent the actions of an agent who is *drunk*, *asleep*, *ill*, *angry* or *perturbed by another emotion*, or who acts from *attitude* and *habit* are subject to imputation.

37

§ 40.

An ACTION AGAINST ONE'S WILL is an action whose opposite the agent would have preferred to do if he had not feared some bad thing emerging from it. Actions against one's will include the things someone does out of *fear struck into him by another*. An action against one's will is an act of will and hence free, § 9, and therefore *if something is admitted against the law, albeit against one's will, it is imputable towards punishment nonetheless*.

§ 41.

Since laws, § 21, as well as free actions, and lastly the conformity of actions with the law as well as transgression of the law come in varying degrees, it follows that *the imputability of acts comes in multiple degrees* as well, and thus that

the imputability of one act is greater and of another act lesser. An act with malicious intent is imputable toward a greater punishment than a blameworthy act, all other things being equal, § 36.

§ 42.

Once a law is posited, 1) the obligation to direct some free action in a certain way is posited, § 13, and 2) the imputability of an act that is directed in accordance with the law or against it in a blameworthy manner is posited, § 29. Hence a twofold *virtue* or force can be attributed to any law: 1) to *obligate* with the hope of a good or the fear of a bad consequence, 2) to *impute* by assigning the good or bad consequence that is coupled with such an act by means of the law.

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CHAPTER IV

MORAL OBLIGATION

§ 43.

Man's obligation to act in accordance with the will of God is man's MORAL OBLIGATION (obligation of conscience) and hence a proposition stating such an obligation is called a MORAL LAW (*in the stricter sense*, § 13, and *simply* in the way it is used here). For this reason every moral law is about adjusting our free actions to God's will, contains the will of God regarding the things man must do or omit, and is the norm for free actions to which God obligates us, § 12n.; hence it contains an obligation whose author is God, and thus moral laws are also known as *divine laws*.

§ 44.

Whatever is impossible, possible, or necessary for us to freely do because of God's will (because of a divine law, i.e., in order to fulfill our obligation to the Almighty) is called *morally impossible, morally possible,* or *morally necessary* (*in the stricter sense*, § 11, and *simply* in the sphere of moral

laws). Thus through the moral laws some human actions turn out to be morally impossible, some morally possible, and some morally necessary. A man's physical ability, in as far as it does not go against any moral law, is his MORAL ABILITY, his RIGHT in one word (namely in the sphere of
40 moral laws; otherwise it is called his moral right), the word "right" being taken subjectively,[1] i.e., as it affects a person.[2] So an ability to act that is conceded by some moral law is a right.

§ 45.

Because 1) we are obligated to the opposite of that which is morally impossible, § 44, it is clear that *we are not morally obligated to that which is morally impossible*, and hence that *we are not morally obligated beyond our ability* both *physically*, § 14, and *morally*; as a consequence, *we are* only *obligated as much as we can be, both physically and morally*, or, which is the same: *we are* only *obligated to the extent that there is no physical or moral obstacle in the way*. A MORAL OBSTACLE is something that makes attaining a goal morally

1 The 1763 edition reads *objectiue* here by mistake; it was corrected in the 1774 edition. Achenwall consistently uses *subiectiue* in this context in his *Ius naturae* (e.g. I § 22).

2 Achenwall carefully distinguishes the two meanings of *ius*, "right" and "juridical discipline/body of law": the former is the subjective, the latter the objective sense. Since in English we use "right" and "law" respectively to convey these meanings, Achenwall's explanation does not apply to the translation, but I decided against leaving it out. See also "Remarks on the Translation," p. xxvi.

impossible. Because, moreover, 2) that which is necessary must be possible, it follows that *to whichever action there is a moral obligation, there is a moral ability* and a moral right *as well*, § 44. And lastly, 3) given an obligation to something, an obligation to the things connected with it is also given, 41
§ 18, and given a moral obligation to something, the moral ability to it is also given; from this it is clear that *he who is morally obligated to some goal also has a moral ability with regard to the things required to attain that goal*, i.e. *with regard to the things without which he cannot fulfill his obligation*, and therefore the moral ability to *apply the means to it and remove the obstacles to it*, in as far as they are considered *by themselves* and *absolutely*.

§ 46.

Human actions related to moral laws are either illicit or licit, § 26, and therefore—in as far as, given the divine laws, they are such—they are called *morally illicit* or *morally licit actions*. From this it is also clear which human actions, given the divine laws, i.e. in the sphere of the moral laws, are indifferent, obligatory, prescribed, prohibited, owed, correct, incorrect, imputable, culpable, inculpable, blameworthy or malicious; and why they are called MORALLY *indifferent, obligatory, prescribed*, etc., *actions*. It is likewise clear 42
what guilt, imputation and imputability are in this sphere; and why they are called MORAL *guilt, imputation*, and so forth. When discussing the field of moral laws, however, we can use these terms simply and without adding "morally" and "moral."

§ 47.

An action that is determined by some moral law (that is morally obligatory, i.e., not morally indifferent) is called a MORAL ACTION. This makes it clear that the MORALITY OF AN ACTION consists in the determination by force of which it is either prescribed or prohibited by a divine law, § 26. A morally owed action is called a MORAL DUTY.

The culpable violation of a moral obligation, i.e. the culpable transgression of a divine law or moral guilt, is a SIN and is also called a MORALLY BAD (evil) ACTION; a morally right action, on the other hand, is known as a MORALLY GOOD ACTION.

43 A man's attitude, and particularly his relatively intense promptness to conform his actions to God's will, is called his (moral) VIRTUE. Thus there can be no virtue without *observance of the* moral *laws* (the attitude of keeping the laws). Someone's virtue, in as far as others know about it, is called his PROBITY. A culpable lack of virtue in a man is called his DEPRAVITY, and every attitude of his that goes against God's will a VICE. So every vice comprises the *neglect* or contempt *of* moral *laws* (the attitude of violating laws).

§ 48.

From what has been said above it is clear 1) that *everything that a man does freely* is *either morally owed or morally illicit or morally indifferent* in relation to the divine laws; 2) that actions that are morally illicit or morally prohibited, sins, actions that are morally bad, culpable or malicious, depravity, all vice, and the neglect of moral laws *come under the*

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things that are morally impossible; 3) that morally prescribed and morally owed actions, moral duties, morally right or morally good actions, virtue and observance of the moral laws belong *to the morally necessary things;* 4) that all these things, together with morally licit and morally indifferent actions, come *under the morally possible things*, § 44; 5) that *there is nothing between the morally illicit and the morally licit actions*, but *there are many things between the morally bad and the morally good actions;* 6) that *all morality of human actions comes from the divine law* and from the will of the Almighty (which hence is called *objective morality*), and that as a consequence without the divine law there can be no morality of our actions. Therefore preceding the will of God no action of man can be called morally good or morally bad—but it is better to discuss the rest on the subject of moral obligation in the next chapter.

CHAPTER V

NATURAL OBLIGATION

§ 49.

A moral obligation that man can know from philosophical principles is called a NATURAL OBLIGATION. Hence because philosophical principles include the nature, essence and first concept of things, indeed in general everything we can know by reason alone, it follows that every moral obligation is natural that man can know, gather or demonstrate from his own essence and nature, from the philosophical notion of God, from the natural character of the things in this universe, from the first concept of human actions, as is every moral obligation that he can understand without a revelation by the Almighty (a special one, that is: cp. § 64n.) and without faith, and every moral obligation that can be comprehended with reason alone, i.e., with the light of correct reason.

The MORAL OBLIGATION that is opposed to the natural one is called POSITIVE: every moral obligation that man is unable to know from philosophical principles, without a special revelation by God, by the light of reason alone.

In a *more general* sense, if you look at the etymology of the word "natural," every obligation can be called a NATURAL OBLIGATION—and is actually called that by WOLFF and others—that can be understood from philosophical principles, whether it is moral or not. Then the *natural laws* and the meaning of the whole of natural law are also stretched to a vast circumference. But once one has understood the following, one will easily note how far that notion strays from the objective of this discipline, which excludes the pure rules of philosophical prudence.

§ 50.

From this notion of natural obligation we gather that the
47 NATURAL LAWS consist in propositions stating a natural obligation, § 13. Therefore a natural law is a moral or divine law that can be known from philosophical principles, and it is a proposition in accordance with which we are obligated to direct our actions, because of God's will, in as far as we are able to know it by reason alone, § 43 and 49.

Divine laws that are not natural are called POSITIVE DIVINE LAWS, which therefore comprise moral laws whose obligation man can only know from a special revelation by God.

§ 51.

The knowledge of natural laws is called NATURAL LAW (law of nature) in the *broader* and *objective* sense,[1] but often [this]

1 See § 44n.

also denotes the natural laws themselves taken together. Because in natural law other universal truths are deduced from philosophical principles, this discipline is *part of philosophy;* and because its business is establishing the rules for free actions, it is *part of practical philosophy*, and in particular is called MORAL PHILOSOPHY to distinguish it 48
from other disciplines of practical philosophy. Its opposites are *moral positive* (revealed) *theology* and especially *Christian moral theology*, which denote the knowledge of the positive divine laws.

§ 52.

GOD exists, the maker of this universe, and consequently also the creator and preserver of men, on whose will and command everything depends, whatever it may be, as does any man's existence, duration, happiness and unhappiness; the wisest, holiest, benignest, omniscient and omnipotent Being. By reasoning on from these principles of *philosophical* (natural) *theology*, we can understand sufficiently:

1) that *God* as *the wisest Being*, in as far as he gave us the ability to know what he wants us to do or not to do and at the same time the ability to act in accordance with our free 49
choice in a way that either conforms to his will or not, necessarily set himself this goal when making us, that we, not driven by some physical necessity like machines but as authors of our acts, in accordance with our free choice should act in a way conforming to his will and that we should adjust all our free actions to His supreme will as

much as we can, and consequently that we should act morally well and not act morally badly;

2) that *God* as *the holiest Being* cannot but punish our morally bad actions, while on the other hand

3) *God* as *the benignest Being*, who created us in order that we would be happy, cannot but reward our morally good actions;

4) that *God* as *the omniscient Being* knows absolutely everything that we do morally well or badly; and finally,

50 5) that as *the omnipotent Being* there is nothing he is physically unable to do in order to satisfy not only his benignity but his sanctity and himself in distributing punishment as well as reward in accordance with the deserts of our actions.

§ 53.

Now from this it firstly follows, *in general,* that in as far as we are able to know the will of the Almighty regarding our free actions, we are morally obligated to fulfill it. And to that extent the *moral obligation* of men *exists*.

§ 54.

Furthermore, this is also understood from it, *specifically*, that in as far as we are able to sufficiently know God's will regarding our free actions from philosophical principles, from nature itself, without a special revelation by God, by the light of reason alone, we are naturally obligated to act in

51 accordance with God's will. And therefore *there exists a natural obligation* of men and *a natural law*. It is such that if

from it we descend to conclusions by reasoning, a number of specific obligations and laws are elicited, the whole and knowledge of which constitute natural law in the broader sense, § 51. For this reason *natural law exists*, which must be posited once men's natural obligation is posited to do what is in accordance with God's will.

§ 55.

There can be no doubt that all *moral laws* and therefore also the natural laws *are armed with divine rewards* and *punishments*, § 52; indeed if you were to imagine them lacking rewards and punishments, you would remove the very existence of moral laws, because without a proposed good or bad consequence there is no obligation at all, nor, as a consequence, does there exist any law, § 12, 13.

> * Therefore I cannot agree with the opinion of those who claim that natural laws exist only because of God's will regarding our free actions, without any regard for the reward or punishment that awaits us for the observance or transgression of those laws. Those who conceive of such laws do not pay enough attention to human nature, which is such that it can only be obligated through good or bad consequences. With these people it is the same as with those who demand man's *pure love* for God: they impose an obligation upon man that he cannot receive because of his nature. So true are the words of the poet: "... for who embraces virtue itself, if you take away reward?" (Juvenal, [*Satires* x 141f.])

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§ 56.

Since the rewards with which the Almighty repays men's morally good actions, just like the retributions with which he punishes bad actions, can only be in accordance with God's attributes, it is clear that in general these *rewards* are the *greatest*, which no reward can equal, let alone surpass, that is to be hoped from elsewhere for the opposite action; and that the *punishments* likewise are the *greatest*, unequaled by any to be feared from elsewhere; and that both are
53 also *indissolubly* tied to moral actions, in such a way that no mortal man can disconnect such consequences, established for such actions, from those actions; and therefore they are the *most certain*, of whose existence we can be sure in as far as they are the consequences of our moral actions, and hence are *rewards that cannot be removed* and *punishments impossible to avoid* from which neither the agent himself, nor anyone else can free the agent, § 52.

§ 57.

Now that this has been established, it cannot be unclear that *moral obligation* is *stronger than any other obligation* and that it is the *strongest of all* obligations that can be conceived of. As a consequence in a conflict all other obligations must cede to it as weaker, while it alone always wins, § 21, 25. Therefore *all other obligations admit exception in a conflict with a moral obligation*, i.e. in a case *where a moral obligation is in the way*, that is to say: where *there is a moral obstacle*, § 45. And thus it is in moral obligation only that we find
54 the MORAL POINT: the determination of obligation that

excludes all exception, while *the other obligations admit* some *exception* in accordance with their essence, i.e., have a MORAL LATITUDE (tacit restriction, essential limitation).

§ 58.

The *principle of existence* of every moral obligation is *the will of God regarding a certain direction of our free actions*, § 23 and 43, and particularly of natural obligation: *in as far as we are able to know His will by reason alone*, § 49.

The (complex) *principle of knowledge* of every moral obligation is: *adjust your free actions to God's will*, § 23 and 43, and that of natural obligation in particular: *in as far as you are able to know God's will by reason*. And thus this proposition is the *general* and *first principle* of the natural obligations and laws, and their home and center, § 23.

§ 59. 55

Since that from which we can know something else, in as far as it is not conceived of as a proposition, is called its *incomplex principle of knowledge* (source[2] of knowledge), it follows that *anything that is such that from its nature we can conclude something of that which God wants us or does not want us to do, belongs to the* incomplex *principles of knowing the natural obligations;* and that the sum of these partial principles—so, to that extent, *nature* considered in general—*constitutes the*

2 Achenwall uses the word *fons* here, which will take on its literal meaning of "well" in § 64.

comprehensive principle of knowledge and the universal source of knowledge of the natural laws and natural law.

§ 60.

ACT IN ACCORDANCE WITH GOD'S WILL, § 58, AS MUCH AS YOU CAN, § 14, for the sake of your own happiness and hence, more in general, of perfecting yourself, § 52. Live, therefore, in a way that agrees with God's perfections, attributes, aims and glory, the ends of things (with regard to God) and the perfections of things.

56 *Illustrate the glory of God*, perfect everything, seek the best of the universe, the best of the moral world, the best of mankind, the best for yourself, perfect yourself, preserve yourself. Take free actions that are determined through the same final reasons as the purely natural ones.

Perfect yourself, not just as an *end*, but also as a *means to God's ends*. Seek your own perfection and preservation, subordinate to God's will, § 57.

Love God, and therefore love yourself and love others.

* Our natural perfection and obligation thus are tied together by a twofold knot of relations. For in accordance with the different respects *our perfection* is the *reason of* our natural *obligation*, since otherwise our obligation would be impossible, § 12 and 7, 54n.;[3] and

3 The reference to § 54n. is incorrect, but it is unclear to which paragraph Achenwall meant to refer. The reference to § 7 is probably incorrect, too.

at the same time it also is its *consequence*, since our perfection and happiness itself must certainly come under God's aims as well.

§ 61.

Now it is easy to understand which *actions*, given the natural laws, i.e. *in the sphere of natural law*, are *morally impossible, possible* or *necessary;* moreover, which actions are NATURALLY *illicit, licit, owed, prescribed, prohibited, obligatory, morally good, morally bad* and *evil, moral, morally indifferent*, § 46; and lastly, what *moral ability* is in this sphere, § 44, what a *natural right* is, taken subjectively,[4] *natural sin, natural duty* and *natural virtue*, § 47. A natural right, as stated, applies to that without which a natural obligation cannot be fulfilled, § 45. 57

§ 62.

Man's *moral duties* are different according to the difference in object, since they may regard God more closely, or one's self, or any other beings, especially other men. Hence moral duties, the natural ones as well, are divided into (direct) *duties toward God*, duties *toward one's self*, and duties *toward other beings*, particularly *toward other men*.

4 See § 44n.

§ 63.

58 The reason why the divine laws taken together, and particularly the whole of moral philosophy also, were given the name of *law* can be demonstrated from their similarity to our civil laws, the body of which we call *law*. Civil laws are made by our *superior* and obligate us because he established them under *fear of punishment*, i.e., they have been equipped with *penal sanction; law* of that kind are called LAWS *in the juridical sense* or JURIDICAL LAWS, and the superior himself as the author of such laws, that is to say: as the author of their obligation, is known as the LEGISLATOR. Now someone is called a SUPERIOR in as far as another is his subject, while *subjects* is the term that no man can avoid to use for those who are obligated to adjust all their actions to another man's will.

Since 1) any mortal is God's subject, § 53, 60, and the Almighty hence is the superior of all mankind, and 2) the greatest punishments undoubtedly await men's morally bad actions and those who violate the divine laws, § 56, it is clear
59 that our civil laws and the divine ones have this in common that both consist in propositions to which because of the will of our superior we are obligated to adjust our free actions under fear of the punishment established by him; and therefore it is clear that the *divine laws* are all *laws in the juridical sense*, and that since we always call a body of such laws of the same type *law*, the name of *law* must deservedly be given to the divine laws taken together, both the positive and the natural ones, and consequently to moral philosophy or natural law as well.

And so the reason is also evident why natural law is called *divine law* and opposed to *human law:* because the author and legislator of the natural laws is the Almighty, while the legislators of our other laws in the juridical sense are men. Hence natural law is rightly called *philosophical law* as well, because this knowledge belongs to the philosophical disciplines, § 51.

It should moreover be noted here that from the notion of the juridical law the notions of *duty*, *punishment*, *obligation* and *right* (taken subjectively)[5] IN THE JURIDICAL SENSE are conceived of: in the *sphere of juridical laws*, 1) DUTY (duty of law, duty in general) denotes an action that is owed under a juridical law, 2) PUNISHMENT the harm that a superior inflicts on a subject of his who is guilty of an admitted act against his law, 3) OBLIGATION the obligation of a juridical law as such, 4) RIGHT a physical ability in as far as it does not go against a juridical law. 60

For the rest an action that is owed under a juridical law is also called a COMMANDED ACTION, with this distinction that in an action as owed there is more regard for the obligated subject, while an action as commanded regards the obligating legislator more. An action that the legislator neither prescribes nor prohibits is called PERMITTED with regard to him, whether he determined nothing regarding such action—which action in particular is called IMPLICITLY (tacitly) PERMITTED—or determined that it could licitly be

5 See § 44n.

either executed or omitted—an EXPLICITLY PERMITTED ACTION.

61 * This notion of natural law, that it consists in laws that originate from the will of God as our superior, is quite well accommodated to the understanding of those who study positive law, and indeed is exceedingly fruitful as well; so that if we proceed in investigating the likenesses of natural law to civil law, we may gather and understand by logical abstraction a rich harvest of most useful conclusions, that the right of the Almighty as the divine Creator, that is to say the most powerful, wisest and benignest Being, with regard to the created spirits, mankind in particular, is the fullest, highest and most absolute overlordship, from which men depend as *natural* and *inevitable subjects*, bound to unlimited *obedience* to him, from which the notion of the *state of God*[6] and *theocracy* is born; and furthermore that God is the *Monarch* and *Autocrat* of this greatest state, that men are bound to moral and natural laws by force of his supreme *legislative power*, that the primary aim of these laws with regard to men themselves is the *public good of* their *state*, that morally bad actions all end up being *offenses* and in some cases *crimes of lèse-majesté against God*, and so forth.

6 *Civitas Dei* is often translated with "City of God," and rightly so; here, however, Achenwall is using *civitas* as he always does.

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** It suffices, however, to have touched upon these matters, since understanding them more fully would require a more elaborate explanation than can be undertaken on the threshold of natural law; particularly that which I have indicated regarding the notion of *superior* and *subject* must suffice all the more as the real force and power of these terms, in my humble opinion, cannot be exhausted without first establishing the definition of *overlordship*, which itself, however, builds upon several other notions which either I could not develop at all here, or in any case it would take too long. Nor is it necessary to further pursue these matters here, because 1) they can be deduced more easily, and indeed shine out with a brighter light, once we have come to universal public law and that has been dealt with thoroughly, the discipline in which the proper home of these terms is found; and 2) I have already shown in a plainer and more practical way, if I am not entirely mistaken, the things that are necessary to establish the notion and the existence of natural law. For the rest, he who wishes to read more on *God's overlordship* over men should consult, if he likes: Canzius, *De civitate Dei;*[7] Burlamaqui, *Principes du droit*

7 Israel Gottlieb Canzius, *De regimine Dei universali sive jurisprudentia civitatis Dei publica*, Tübingen 1744.

63 *naturel*, partie II, "Des loix naturelles";[8] and HANOVIUS, *Philosophia civilis*, part I.[9]

*** Let me make this one observation: since everyone agrees that *advice* is the opposite of a *law in the juridical sense*, I am far from embracing the opinion of those who believe that all of natural law and all moral philosophy consist in *mere advice*.

§ 64.

We are able to know natural obligation *by reason alone*, § 49. God Almighty has granted us sufficient means of knowing the natural laws when after placing us in this world he made us partake of reason, by whose use we are able to draw knowledge of the natural laws as from a well, § 59, from our own nature and that of the things that lie open to our reason, and to perceive which free actions of ours are in accordance with or contrary to His most holy will. Hence the natural laws and natural law are called the *laws of reason* and *law of reason,* as opposed to the *laws* and *law of revelation* (faith),
64 that is: the divine law and laws that man cannot know without a special revelation by God and whose knowledge can only be drawn from such revelation as from a well of knowledge, which is true of the positive divine laws and positive divine law, § 50.

8 Jean-Jacques Burlamaqui, *Principes du droit naturel*, Geneva 1747.

9 Michael Christoph Hanov, *Philosophia civilis sive politica*, Halle 1756–1759.

* A *revelation* by God generally signifies an act by which God makes manifest, i.e. makes known, his mind to us. Thus the granting of reason—by which we can perceive from the very nature of the things on offer the will of the Almighty concerning a certain direction of our free actions, and therefore perceive the natural laws—contains a general revelation; hence in order to produce in us the knowledge of these laws there is no need for yet another *revelation*, which therefore deserves to be called *special*, such as is required to know the positive divine laws.

§ 65.

Since *natural laws* are a type of laws in the juridical sense, § 63, their opposite as such is the other type of juridical laws: *positive laws*, which cannot be sufficiently known by reason alone. And as the positive laws whose legislator is God are called divine laws, § 43, so those whose legislator is a man are called *human positive laws*. From this we understand 1) what is called *positive law* in general and *human positive law* in particular, 2) that *duty, punishment, obligation* and *right* taken subjectively,[10] all in the juridical sense, § 63, are either *natural* or *positive*.

65

10 See § 44n.

§ 66.

An act by which those for whom an obligation is established through a juridical law are brought to knowledge of that law is called PROMULGATION (publication) OF A LAW. A positive law originates from the will of the legislator, which cannot be known by reason alone, and therefore is a law of the kind that can only be known once the promulgation has been made; consequently, before it is published it does not obligate, being a thing unknown, § 16. It follows that *for establishing obligation by a positive law, be it divine or human, promulgation of*
66 *that law is required*, and on the other hand it is clear at the same time that *natural laws*, knowledge of which we are able to attain ourselves by the use of our reason, *do not need such promulgation*, and therefore *we are bound by them, although they have not been so promulgated*.

* The promulgation of positive divine laws is included in their special revelation, § 64n.

§ 67.

Given a man who has the use of his intellect, his obligation is given to act in accordance with God's will to the extent that he is able to know it, and thus natural obligation is given, § 53; from this it follows that NATURAL OBLIGATION *taken in general* is

1) INEVITABLE in as far as it is given once a man with the use of his intellect is given, that is to say, necessarily exists in him, hence is inherent to such a man simply through his nature, and man can neither free himself from it nor be freed

from it by anyone else; it is not an *arbitrary obligation,* which is given only after the will of the legislator has been made manifest (through special revelation or promulgation); 67

2) *(subjectively)* UNIVERSAL in as far as it rests on all men who have the use of reason; it is not a *particular obligation*, which applies to certain men only;

3) UNCHANGEABLE in as far as it cannot change as long as this nature of man lasts, and therefore it cannot be taken away; it is not a *changeable obligation;*

4) ETERNAL in as far as it lasts while there exist men who have the use of their intellect; it is not a *temporary obligation*, which is limited to a shorter period of time.

And so we also understand that the *first natural law*, § 58, is inevitable, universal, unchangeable and eternal; hence the whole of *natural law* itself as the sum of the conclusions from the first natural law is called inevitable, universal, unchangeable and eternal law.

1. It should, however, duly be noted that a number of natural laws that derive from the first natural law are deduced from it only *after a certain state of man is given*, and that therefore they only obligate those who are in this state, and that such specific laws of nature consequently are inevitable, and so forth, under a certain condition only. 68

2. The doubt that may rise from a *conflict* of natural laws, regarding their immutability, will be removed below.

3. If no one at all can *free* us from natural obligation, it follows that God himself, the author of all natural obligation and the legislator of natural law, cannot achieve this either, and therefore cannot grant *dispensation* (an act of the legislator that is thought of as a kind of liberation or exemption from an obligation) with regard to natural laws; hence *natural obligation* is called *indispensable*. That this is rightly stated regarding natural obligation taken in general and regarding natural law, in as far as its entire reach is proven from the insight that such an act of God by which he were to release one or more mortals from all the natural laws and from nature law in its entirety would go against God's attributes, his supreme wisdom in particular, § 52. But that God could not exempt some man from the
69 obligation of a specific natural law concerning a particular act—which is called *dispensation in the proper sense*—is more easily assumed to be true than proven. Of course if you wanted to posit dispensation of this kind, you would take a highly extraordinary matter that should be considered equivalent to a miracle, but would not be completely impossible even as such. Are there miracles in the physical world, and do we concede that they do not conflict with God's wisdom? Then what prevents us from wondering whether God could not work *miracles* (if it is permitted to put it like this) in the *moral world* as well?

§ 68.

The *divine punishments* connected with morally bad actions are bad things, and to contrast them with *moral badness*, which is conceived of in a morally bad action, § 47, they are called *physical bad things;* they affect the sinner's soul, body and/or external state, separately or jointly, and they can be conceived of *negatively* or *positively*.

Divine punishments are, moreover, either natural ones, whose connection with morally bad actions we are able to know from philosophical principles, i.e. from the nature of things itself, or arbitrary (positive) ones, which we are unable to know in that way. Of course it has been clearly proved with arguments from philosophical theology that there are *fortuitous bad things* (adverse fortune) that[11] God uses to punish sinners and that consequently there are arbitrary divine punishments.

70

And in the same way *divine rewards* also are *physical good things* that are conferred upon us because of *moral goodness*, which is conceived of in morally good actions, § 47, either *positive* or *negative*, either *natural* or *arbitrary*, and including the *fortuitous good things* (good fortune) with which divine providence graces those who cultivate virtue.

11 Here and in the next sentence (after "*good things*"), I have chosen "that" over "which," but in fact Achenwall could have meant "which": in his Latin there is no marker for the difference between a restrictive and a non-restrictive clause.

§ 69.

The *natural rewards for* our *morally good actions* include the *pleasure* that comes from considering *our moral perfection, that is: the agreement of* our free *actions* with moral obligation, the mother of joy, delight, internal satisfaction, contentedness with one's self and trust in God and his benevolent providence. Vice versa to the *natural punishments*
71 belongs the state of the sinner that is devoid of these good things, his *disgust* from considering his *moral imperfection*, that is: the disagreement of his action with moral obligation, which is born from a sense of moral guilt, § 35, the mother of sadness, grief, sorrow, penitence, terror with respect to divine punishment, and despair.

§ 70.

For this reason if you are aware of a morally good deed of yours, you will feel pleasure; if you are aware of a morally bad deed, you will have a sense of disgust. This awareness of the morality of one's own act is called MORAL CONSCIENCE, indeed in the moral disciplines is *simply* known as CONSCIENCE, which thus consists in the judgment with which a man attributes moral goodness or badness to a particular action of his. In as far as someone is aware of a sin that he has committed, he has a BAD CONSCIENCE; and a GOOD CONSCIENCE, on the other hand, in as far as he is not aware of a sin, or is aware of a morally right deed that he has done. Because awareness of right acts is thus naturally coupled
72 with a feeling of pleasure and hence with internal satisfaction and other agreeable sensations, while awareness of evil

acts is naturally coupled with a sense of disgust and hence with sadness and other unpleasant feelings, § 69, it follows that a *good conscience belongs to the natural rewards for right acts*, just as a *bad conscience* belongs *to the natural punishments for evil acts*. *Conscience* is also understood to mean the faculty, or also a man's habit, of judging the morality of one's own actions.

§ 71.

Moreover the *natural rewards* also *include morally good habits*, by which observance of the divine laws is gradually made easier as well as more agreeable to the corrected mind, just as conversely the *natural punishments include evil habits*, by which observance of the divine laws is gradually rendered more difficult as well as more troublesome to the corrupted mind.

§ 72.

Our *reputation* likewise belongs to the *natural deserts of* our *moral actions*. A man's (moral) REPUTATION[12] consists in 73
the judgment with which others attribute to him moral perfection or imperfection, § 69: specifically, GOOD reputation if it is moral perfection that is attributed, and BAD if it is moral imperfection. Our good reputation wins the hearts of others for us and makes them more inclined to help us, while a bad reputation alienates others from us, making

12 See "Remarks on the Translation," p. xxv.

them less inclined to assist us, indeed more inclined to do the opposite, and hence in the former there is an important aid to our happiness, just as in the latter there lies an enormous obstacle to our happiness. For this reason a *good reputation is a natural reward for* our *morally good actions* from which it results, and a *bad* one is a *natural punishment for* the *evil actions* from which it is born.

Considering our good reputation gives us *internal satisfaction*, § 69, just as considering our bad reputation creates a *sense of shame;* hence that *satisfaction should be counted among the natural rewards*, and that *shame among the natural punishments*.

74 Observance of the natural laws, in as far as it produces a good reputation, is called RESPECTABILITY; contempt of the natural laws that produces a bad reputation, SHAMEFULNESS (dishonor). *Respectable* and *dishonorable* can be used both of persons and of actions.

§ 73.

Lastly, in this consideration of divine punishments and rewards I do not hesitate to add a mention of our *eternal future life* after death and the *greater happiness* or *unhappiness* connected with it in accordance with the deserts of any man's acts in this life. For although I definitely admit that in a certain sense this life that we are living is the boundary of all philosophy and natural law, this view, confirmed more or less unanimously by all the peoples of every era, should by no means be left out here since, brought to moral certainty by the arguments of philosophy itself, it has great strength,

both to move our will concerning actions to be taken and to render our mind either tranquil and joyous or restless and sad concerning the acts that we have performed. Therefore, as conscience, § 70, linked with the fear of something bad or the hope of something good, as long as there is probability to that hope or fear, belongs to the natural punishments and rewards, this *expectation* that we have *of a* future *life after death should* definitely also *be counted among the natural rewards and punishments* that exist in this life already, even though this expectation rests on verisimilitude alone and even though the rewards and punishments that will exist some time in the other life are arbitrary, because we only expect that they will come, but do not know which they will actually be. 75

§ 74.

The things that have been mentioned in §§ 68–73 are some of the kinds of divine reward and punishment that bring about the *force to impute*, § 42, of moral *laws* and in particular of the *natural* ones. Although the more particular consequences of particular actions cannot be discussed here, and although indeed they are completely unknown, this *force* in general must be considered *very great*, § 57. Hence the representation of these divine rewards and punishments in the mind of the agent, as so many motives, § 11, will make the *force to obligate*, § 24, of these laws *very great* as well. And since a *juridical law's* AUTHORITY consists in its state in as far as it is given due observance, it follows that the moral *laws*, the *natural* ones in particular, because of their very 76

great force to obligate *are highly suitable to carry the greatest authority* with those who have not been taken by bad habits and are not hindered in determining their will in accordance with sound reason.

§ 75.

We have seen the motives for natural duties, § 11, i.e. the *reasons that move* us to do them, which must be distinguished from the *reasons that prove* those duties. Since natural duties arise from natural laws, § 47, 61, and therefore
77 must be proved from them, it follows that *the reasons proving natural duties must be taken from the agreement of actions with God's will, attributes and aims*, § 60, in as far as these can be known by reason alone. And knowledge of this agreement does convince the intellect of a natural duty's truth, just as knowledge of a divine reward or punishment moves the will to do a duty; but because the observance or violation of natural duties is connected, the former with divine rewards and the latter with divine punishments, it is easily understood that *the reasons proving natural duties are* also *among the moving reasons, indirectly,* because of this connection, and thus can take on the role of motives in bending the will. And so it is true that the motives of our actions must be sought from God's will, and that in *determining our* free *actions we should care more for what God wants* regarding any one of them *than for what good or bad consequence it is going to have for us*. Hence for those who have grown up in virtue, who are less worried about the
78 particular punishments or rewards for their single actions,

the same thing that is their primary norm of life becomes their strongest motive by habit: *to do that which pleases God*.

§ 76.

Since for the rest it is evident that the natural laws obligate all those who, although in fact they do not know them or are mistaken regarding them, could have known them or could have been right, § 37, 60, it follows that *ignorance of a natural obligation* in the general sense *does not excuse any man who has the use of his intellect*, § 67, and therefore not an *atheist* either, who thinks that God does not exist, nor a *deist*, who believes that God does not care about human matters and does not punish the bad or reward the good, as atheism and deism are surmountable errors and therefore are imputable toward punishment by that very fact, because we must avoid such practical errors as much as we can, § 60.

§ 77. 78

Act in accordance with God's will, *as much as you can*, § 60. Therefore, before other actions do, i.e. *prefer in acting, that which is more in accordance with God's will, do before other things that which is the most in accordance with His* supreme *will*; prefer that which agrees more with God's higher aim, rather than anything else do that which most suits God's supreme or primary aim; prefer in acting that by which God's glory is manifested more, that which contributes more to the best of the world, to the perfection of others, to your own happiness, § 60.

If, therefore, *you take the example of two actions,* each of which considered by itself is morally owed, but *which* as it happens *cannot* both *be achieved together, that* action *must be taken which is more in accordance with God's will, and the one that is less so must not be taken*. And in this conflict of actions 1) you will not only not be morally obligated to the latter, 2) but you will also be morally obligated to do the
80 contrary of the latter action, in such a way that you would sin and take a morally bad action if you were to do the latter.

Thus an *action* that by itself or under a certain condition is *morally good can degenerate into a morally bad action* under another condition, in a conflict with another morally good action that is more in accordance with God's will.

Act morally well, as much as you can, § 46, 60, so prefer that which is morally better, and give the highest preference to that which is morally best.

§ 78.

Because once a moral action is given, a moral law, obligation and duty is also given, § 46, if from this conflict of actions that we have set out you conclude that there is a conflict of two moral laws, obligations and duties, you have at hand the rule of exception: *in a conflict of moral laws, that law wins whose observance suits God's will more*, and the other one cedes to it. Hence the former law must be considered
81 stronger and the latter weaker, § 12. It is self-evident that this applies in a conflict of obligations and duties as well.

But, if we have to say how things really are, *a true conflict of moral laws is impossible*, for if it were to exist, God would

at the same time obligate us and not obligate us to the same action, and he would want the same thing that at the same time he did not want; indeed, as I have shown in the previous paragraph, an action that is morally good in itself ceases to be morally good in a conflict with a morally better action, so to that extent moral obligation and law ceases with regard to it as such, and it ceases to be a moral duty. Therefore, if in this case laws and duties appear to conflict with one another, this must be attributed to the weakness of the human intellect, because this conflict of moral laws is apparent only and contains an error and a flaw of logic.

So there never is a real conflict of a natural law with another natural law, nor of a natural law with a positive divine law.

§ 79. 82

If, therefore, there appears to be a *conflict of natural duties*—which may occur with duties of the same order and with duties of a different order—, 1) in duties of a *different order, the lower one cedes to the higher one;* 2) *in duties of the same order, that one wins which agrees more closely with the closest higher duty* that both duties of the same order have in common, § 77.

§ 80.

If you assume that a *positive divine law* of which you know for certain that it is one *conflicts with a natural law, the positive law wins*, because if a special revelation is given, it is necessarily given to supplement a defect of our reason, and

therefore the light of revelation is more certain and greater than the light of our reason left to its own resources, which is naturally subject to error.

> * What if God had at some point commanded by a positive law that something should be done that goes against a natural law—could he, by his supreme right of dispensation, require men to make an exception to the natural law in this case? § 67n.

83

§ 81.

Therefore 1) *specific natural laws* admit of some exception that agrees with their essence, § 77, 79, and hence *have a certain moral latitude* or tacit restriction, § 57. 2) Since observance of such a law and duty in a conflict with a stronger one becomes morally impossible and contains a moral obstacle, § 44, *if in this case you view neglect of the weaker law and duty as a defect of rectitude of the act, such defect will be morally unsurmountable*, § 34, and therefore morally inculpable, § 35, *indeed it is so far from being imputable that its contrary would be imputed toward punishment*, § 77.

§ 82.

Act in accordance with God's will, as much as you can, § 60: therefore join forces with the rest of mankind, i.e. *join the others to fulfill the will of God as toward a permanent goal* (regarding a non-transient matter) that is *common to all men*, § 67.

84

Several men joining to pursue some common and permanent goal are called an ASSOCIATION; the *union* (the associates' state based on the association) resulting from it, a SOCIETY; and the individuals thus united, ASSOCIATES (members of the society). Because there is this natural obligation for men to fulfill the will of the Almighty with joint forces, to that extent *we can rightly state that there exists a* SOCIETY of men that is 1) UNIVERSAL, since all men are its associates, and 2) INEVITABLE, as they are obligated to it by their very nature, § 67. So as far as God's will extends, which must be pursued with men's united forces as a natural law, extends the goal of the universal society and the obligation of men as members of this society. Therefore the goal of the universal society includes illustrating the glory of God, the best of mankind and all the other things that come under these, § 60. *Society* is also used of the group or gathering of the associates.

§ 83. 85

This UNIVERSAL SOCIETY, however, is mostly taken *in the stricter sense* for the union of men to mutually promote common happiness, and hence the *obligations, laws* and *duties* that are given once this universal society is given are also simply called *social;* hence a man's virtue in fulfilling this universal society's duties is known as SOCIALITY. Because the object and goal of the social duties of this universal society *strictly* and indeed *simply* is the same as that of the duties toward others, § 62, it is clear that *man's natural duties toward others can be viewed as social duties*. These duties are also called *duties of sociality*.

§ 84.

Seek the best of mankind is a natural law, although subordinate to the care for God's glory, § 60. *Contribute*, therefore, *to the preservation, perfection and happiness of others, as much as you can;* be another's means of preservation and perfection; *do for others what you want them to do for you.*

86 *Do not do that which goes against the preservation, perfection and happiness of others;* so omit such things *as much as you can*, that is to say: in as far as possible without violating a greater moral obligation. Be careful not to be an obstacle to another's preservation and perfection; *do not do to others what you do not want done to you. Do not hinder another in the things that he does in accordance with his natural obligation or right.*

§ 85.

Unimpeded progress to attaining a society's goal is called a SOCIETY'S WELFARE. *Do the things that promote the welfare of mankind; do not do the things that go against it.* So *whatever is such that mankind would perish if it were neglected by all men is naturally prescribed; whatever is such that mankind would perish if it were done by all men is naturally prohibited*, prec. §.

87 What is good for another is USEFUL, and therefore USEFULNESS is mutual goodness. *Be useful to mankind*, contribute to anyone's benefit *as much as you can*, *§ cit.*

§ 86.

To the cultivation of sociality we are 1) naturally obligated by *God's will*, and 2) compelled by a *natural human need*,

and 3) invited by that instinct to love others that has been placed in us, i.e., *innate philanthropy*.

§ 87.

Perfect yourself and *preserve yourself* are natural laws, although subordinate to other laws that are stronger, § 60. So *we are naturally obligated to the things without which we cannot be preserved or perfected*, to applying the means and removing the obstacles to our perfection and preservation, *in as far as this use of remedies and removal of obstacles does not conflict with a greater obligation;* as a consequence *we* also *have a moral ability* or *natural right to the use of the former and removal of the latter*, § 44, 45, in as far as *there is no stronger obligation in the way*.

§ 88. 88

Since, moreover, there is a moral ability not only to that to which we are morally obligated, *§ cit*., but also to that which does not conflict with any moral law, § 44, it follows that *we naturally have the right* 1) *to do any duty toward God, ourselves* or *others*, and therefore also *to any duty of sociality whatsoever*, unless a more important duty is in the way; 2) *to everything that is morally permitted* or *morally indifferent*, § 46; 3) *to every use of our physical abilities that is not morally prohibited;* indeed it even follows that 4) *a moral ability regarding the end* also *grants a moral ability regarding the things without which that end cannot be attained*, so regarding the *means* and the *removal of obstacles*, unless a more important moral law is in the way.

§ 89.

Using one's right (exercising it) is actually taking an action to which one has a right. Because there is no right to
89 do something unless that action is licit, § 44, *anyone has the right to use his right* if the matter is considered by itself. And since to my natural right corresponds your natural obligation not to hinder me in the use and exercise of my right, § 84, it follows that 1) no man should be impeded (disturbed) in the use of his natural right, and 2) your natural obligation toward me extends as far as my natural right extends, § 87 and 88. Duly note, however, the essential or tacit limitation of every specific obligation: that any man is obligated in as far as he physically and morally can be, § 45.

§ 90.

If a juridical law determines that a certain action, although it is not prescribed, must not be hindered either, it is a law and a kind of prohibitive law, § 19. But as it has a different effect with regard to him to whom it attributes the ability to do something licitly and with regard to him onto whom it imposes the obligation not to hinder the other man, with
90 respect to the former it is a permitting (permissive) law, with regard to the latter a commanding one. In the former respect the law is called permitting, because by force of such law the legislator grants the ability to execute a certain action as permitted, § 63. For this reason every moral ability of man, every natural right, and every right in the juridical sense is based on either a commanding or in any case a permitting law. A right based on a commanding law differs

from one deriving from a permitting law as a commanded action differs from a permitted one, § 46, 47.

> * So every true moral ability has these two connected things, 1) with regard to God, that it supposes God to command or at least permit something, 2) with regard to other men, that it posits that others are bound to acknowledge this moral ability of mine to the extent that they are obligated not to hinder me in the exercise of my moral ability.

§ 91.

From the various states of men there arise various kinds of obligations, laws, duties and moral abilities or natural rights in the broad sense, § 44; hence natural law in the broad sense, i.e. moral philosophy, can be viewed as the whole and distributed into various parts. 91

In particular it is worthy of notice that man, apart from that *universal society* of which he is a member by his very nature, either lives in some *particular society* at the same time or does not. The former state of man is called the SOCIAL STATE *in the stricter* and *simple sense*, the latter the EXTRASOCIAL (solitary) STATE and man's NATURAL STATE *par excellence*. And so, in accordance with the matter underneath, *social obligation, social law, social duty,* and so forth, are also used in a stricter sense: of the obligation, duty and law that must be observed in the state of particular societies.

The knowledge of natural laws that must be observed in the social state in the strict sense is UNIVERSAL SOCIAL LAW

(natural social law, the natural law of particular societies) *in the broader sense*. So universal social law is the knowledge
92 of the social natural duties and laws and the knowledge of the universal social obligations and rights. Non-social natural law as opposed to social natural law is called *purely natural law*.

§ 92.

If a *society*, taken as a group of associated men, § 82, is considered in general, abstracting from the things that concern this or that individual member, it *can only be viewed as a single entity*. Because, however, a society considered in this way is a whole composed of a number of individual associates that are as many parts of it, every one of which is a man, and every one of whom thus also has natural obligations and rights, it follows that *the whole society considered* in general *must be attributed the same natural obligations and rights that are attributed to any single one of its members, unless a reason for divergence can be demonstrated from the*
93 *very nature of the society*. For this reason so far *every particular society with regard to the non-associates* (non-members) *is bound by natural human obligations* and *provided with natural human rights*, and hence a society is called a *moral person* (mystical person, moral body, mystical body), as opposed to an individual man as a single person.

§ 93.

From this it is understood that *the natural obligations, rights, laws and duties that have been established with regard to*

individual men can be applied to any particular societies of men, with the exclusion of those that must be determined differently because of the divergent nature of the individual and the society. And since everyone who deals with the natural laws of particular societies uses this shortcut, it is clear why universal social law is defined as natural law applied to particular societies.

§ 94. 94

On the basis of the types of particular societies the more specific parts of universal social law can be formed.

In general a SOCIETY that has other societies for its parts is COMPOSITE; one that is not composite is SIMPLE. Thus in a composite society there are members or associates who are mystical persons; in a simple society there are no associates other than individual persons. All societies that *can be* simple usually come under the simple societies; and once this meaning is given, only those societies are called composite that can only be composite and therefore are necessarily composite.

§ 95.

Before the other kinds of particular societies, which are practically innumerable, the one that is called *state* is of the greatest interest. For nowadays practically all of mankind is found distributed over states, and therefore this society is 95
most illustrious among the others, its study most fruitful, and knowledge of it that has been tested against the norm of the natural laws is highly useful as well as the most neces-

sary of all. From this *universal state law* originates as the most important part and type of universal social law.

So if in a thorough examination of the natural rights and obligations of particular societies a discussion of state law is determined to be the aim, i.e. the primary goal, then it is necessary to first explain the societies that are relevant for a clearer knowledge of the state, leaving out the others, before one starts considering the state. The state is composed of families, the *family* or *house* of the *matrimonial*, the *parental* and the *master society*. The latter societies either are or at least can be *simple*; the former is a *composite* society, but a *smaller* one if it is compared to the state as a more composite one. Both the family and the societies of which it consists are known by the shared name DOMESTIC SOCIETIES. From
96 this another part of universal social law is conceived of: *universal law of domestic societies* (household law).

§ 96.

Every society in as far as it is not part of another society is in the natural state, § 91, is therefore called *free*, and consequently should be viewed as a free person, § 92. Hence purely natural law, § 91, can be applied to free societies with regard to one another, i.e., free societies use purely natural law with regard to one another.

§ 97.

1) With regard to the families from which it coalesces, the *state* is called a *greater society*, and every society that is a composite of families is indicated with that name; 2) the

state is an *eternal society*, as it will last into the posterity of the united families, by their intention; 3) a free state is specifically called a NATION, but more in general "nation" means any free, greater, eternal society. Thus it is clear that nations with regard to one another are ruled by purely natural law and that *universal* or *natural* LAW OF NATIONS is purely natural law applied to nations, prec. §. 97

CHAPTER VI

PERFECT OBLIGATION

§ 98.

Suppose that some natural obligation rests on you in such a way that if you violate it I have the moral ability to coerce you for that reason: that is what we call a perfect obligation. So a natural obligation is a PERFECT OBLIGATION if in case of violation it is connected with another man's moral ability to coerce the violator; one that is not linked to such moral ability of another man is called IMPERFECT. COERCING another *in the strict sense* means invading his body, i.e., inflicting harm upon him by which his body is affected; such coercion is also known as *violence, external force*, and in the sphere of perfect obligations simply as *force*. In as far as it is applied with the objective that the other man, who is still resisting, should satisfy his obligation, it is called *enforcing* or *exacting*. But the word "coercion" is also used *in a broader sense*, which will become clear below.

So if there is some natural obligation to whose fulfillment a man can compel another even by external force, [i.e.,] to

which he is morally able to coerce him even by a violent means, [i.e.,] the fulfilling of which by another man may be enforced: that is a perfect obligation.

§ 99.

Hence a natural law that contains a perfect obligation is called a PERFECT LAW (a peremptory law, a natural law in the strict sense); one that contains an imperfect obligation only is called an IMPERFECT law. For this reason a perfect law is a natural law in accordance with which someone is
99 perfectly obligated to determine his free actions. The knowledge of perfect laws is NATURAL LAW *in the strict sense* (peremptory natural law), the word "law" being taken *objectively*, i.e., as a body and knowledge of laws (§ 51).[1]

§ 100.

A man's moral ability that is given once another man's perfect obligation is given, i.e. that correlates with another man's perfect obligation, is called a PERFECT RIGHT (taken *subjectively*, i.e., as it affects a person)[2] (a strict natural right, § 44, 61), and in the sphere of perfect obligations it is even *simply* called a RIGHT. A moral ability that is given without another man's correlated perfect obligation is an IMPERFECT RIGHT. Thus a man's perfect right is his moral ability to coerce another if the latter has violated a natural obligation,

1 See § 44n.
2 See § 44n.

as vice versa the natural obligation that is linked with another man's right *is a perfect obligation*.

§ 101.

It is clear from the above that once a perfect law is posited, two men are posited, one on whom there lies a perfect obligation, the other who has a strict right. Consequently 1) *every perfect obligation of mine corresponds with a perfect right in another*, and vice versa *every perfect right of mine corresponds with a perfect obligation in another, provided that in the given case there is no physical or moral obstacle in the way of the obligation*, § 45. 2) Peremptory natural law can be defined as the knowledge of perfect rights and obligations. 100

§ 102.

I am naturally obliged to preserve myself, § 87, and particularly, therefore, to preserve my body and my life, as much as I can; therefore I have a moral ability regarding that without which I cannot be preserved, and a moral ability to apply the remedies and remove the obstacles to my preservation, same §. Suppose that another man takes an action that goes contrary to my preservation; then my moral ability arises to remove this obstacle to my preservation. Suppose that it cannot be removed without applying force against the other man; then I have the moral ability to use force against the other as a necessary means to my preservation. Therefore *there is a* certain *moral ability that falls to me naturally, to coerce him who does something that goes against my preservation*, in as far as there is no stronger law in the way, § 87. 101

§ 103.

You are naturally obliged not to do that which conflicts with my preservation, § 89. This obligation of yours, if you violate it, is connected with my moral ability to apply force against you, prec. §, and therefore *this obligation of yours is a perfect obligation* and *my moral ability corresponding with your obligation is a strict right*, § 100. For this reason *we are naturally and perfectly obliged not to do that which goes against another man's preservation*, and *anyone has a strict natural right*, i.e. *a perfect right, to his own preservation*. Thus *there exists a certain natural right, a certain perfect obligation and a certain perfect law;* if by reasoning from this starting point we deduce other perfect laws,
102 rights and obligations, the whole and the knowledge of them will constitute *peremptory natural law* or *natural law in the strict sense*. Hence *natural law in the strict sense exists*, since it must be given once everyone's strict right to his own preservation is given.

§ 104.

To cut short the doubts that may arise regarding the truth of a perfect natural law on not doing that which goes against another man's preservation, let me remark that in the proposed demonstration the following are supposed: 1) two men who have the use of their intellect and who are considered according to their *pure humanity*, i.e. human nature in general, which is, and in as far as it is, common to all men, § 10, and who therefore are in a *natural state*, § 91, *without regard for* any *previous acts* by which one or both of these

men may have done some natural duty for each other, or violated it; 2) one of them performs some *external action* that conflicts with the *preservation of* the other's *life* or *body*; 3) the use of violence is a *necessary remedy* to preserve life or body; and 4) there is no *greater moral obligation* that hinders the use of the right to preserve oneself and hence the very obligation to self-preservation in this case, § 87. 103

All these things having been posited, I think there is no doubt left that we have a true moral ability, originating from the natural obligation to preserve ourselves, to coerce another not to achieve what he has begun, hindering our preservation. Therefore *any man has a perfect obligation, in as far as he can have it, not to do that which conflicts with another's preservation; and any man has a perfect right, in as far as he can have it, to his self-preservation*. For beyond one's ability, both physically and legally, there can be neither obligation nor right, § 45 and 88.

§ 105.

This position on the right to preservation of one's life and body is confirmed 1) by the fact that God, since he gave us these gifts, necessarily wants us to use them to pursue his goals in accordance with our obligation, and consequently also necessarily wants us to preserve them; 2) by the fact that, whatever God's aim was when he created man, in any case for the sake of that same aim for which he made man he necessarily also wants man's preservation, and hence that of his life and body; 3) by the *instinct to preserve oneself* and hence the *fleeing of* death and *destruction*, which is more 104

vehement than the other propensities innate to human nature and which would be completely useless if its use were not permitted even in this case.

§ 106.

A man with regard to another man naturally has the moral ability to coerce him in as far as 1) the latter does things that go against the former's preservation, and 2) the use of violence is a necessary remedy for his preservation, § 102. On this basis, the natural obligation not to do that which conflicts with another's preservation is perfect; hence, just as from an imperfect obligation an *imperfect duty* is conceived
105 of, so from this perfect obligation the *perfect duty* is conceived not to do that which is contrary to another's preservation.

The other natural duties, on the other hand—*duties toward God, toward oneself* and the other duties *toward other men—cannot be perfect*, that is to say: no man can be forced by another to do them. Imagine that Gaius *forces* you to worship God, to perfect yourself and to promote Gaius's or another man's perfection: in that case Gaius will invade your body, § 98, and therefore will execute such acts as go against your preservation, and hence will do what he morally cannot and is perfectly obligated not to do because of your strict natural right, § 103. For even if Gaius's objective in this case is licit and morally good, and he therefore has a moral ability regarding the means to it as well, nonetheless in fact he only has that ability in as far as he morally can, and therefore to the extent that these means are not illicit in

themselves, § 88; as a consequence this moral ability cannot be extended to coercive means, as they are prohibited in themselves.

For this reason, natural duties toward God, duties toward yourself and the other duties toward others that do not come under the duty not to impede another's preservation, if you violate them still do not give another the ability to coerce you, i.e. cannot be exacted from you, and therefore *all these duties*, concerning men among each other, *are imperfect duties only*. Imperfect duties toward others are called DUTIES OF CHARITY (of love, benevolence; some call them duties of humanity), as opposed to DUTIES OF NECESSITY, i.e., perfect duties toward others. 106

§ 107.

Since natural duties toward God, toward oneself and duties of charity therefore are imperfect, *we are* morally and *naturally obligated not to exact these duties from anyone*. This obligation is also confirmed by the one that requires us to cultivate *sociality*, § 83, 84, and hence to abstain from all violence as much as possible; because in this case from the use of violence more evil would come for mankind than is to be feared from another's non-observance of some imperfect duty. 107

§ 108.

It is also clear, however, that *this natural obligation not to exact imperfect duties from anyone is perfect* as well, since its violation conflicts with the other's strict right to self-preservation, § 106.

§ 109.

Peremptory natural law is a kind of natural law, § 51, therefore it is divine law, § 63, and hence it is armed with divine punishments, § 54; this is something that peremptory natural law has in common with natural law in the broader sense.

§ 110.

Moreover, peremptory natural law is also equipped with the fear of coercion by the man whose perfect right is violated; this is something in which strict natural law differs from the rest of natural law, § 106.

CHAPTER VII

EXTERNAL OBLIGATION

§ 111.

Perfect natural obligation has this in common with man's positive obligation that both consist in a juridical obligation, § 65, in case of whose violation another man has the ability to licitly use force against the man who violates it. Thus *any notions and propositions that are deduced from this similarity between perfect obligation and man's positive obligation*—setting aside that which is different in these two juridical obligations—*are more general notions and propositions that strict natural law has in common with human law, and hence are applicable both to peremptory natural law and to all human law* as kinds of one and the same more general law.

§ 112.

A juridical obligation in case of whose violation another man has the ability to licitly use force against the man who violates it, i.e. that is brought about by fear of human coercion, is called an EXTERNAL OBLIGATION. It can

therefore be distinguished from a juridical obligation, be it natural or positive, that is brought about by fear of divine punishment, that is to say: from a moral obligation, and to that extent a moral obligation is called an INTERNAL OBLIGATION. And so moral obligation and internal obligation are one and the same thing, but the former is given a new name in as far as it is viewed as the opposite of external obligation. Now in the same action internal and external obligation may coincide, although there also exist actions to which we are obligated internally only and others to which we are obligated externally only, i.e., in which there is an *obligation* that is either *purely internal* or *purely external*. An *internal obligation* is also called an *obligation in the divine* (internal) *court*, just as an *external* one is called an obligation *in the human* (external) *court*.

110

§ 113.

From these notions of external and internal obligation the idea of *external* and *internal duty*, § 65, is conceived of, as is that of *external* and *internal juridical law*, § 63, and of *external* and *internal law* in the sense of the body and knowledge of juridical laws.

§ 114.

Now it is also clear what is meant by *externally* and *internally illicit* or *licit*, § 26. The ability to do something externally licitly is called an EXTERNAL RIGHT or *simply* a RIGHT (in the sphere of external laws and external law), the word

"right"[1] being used subjectively for a person's ability, which is connected to another man's external obligation. So an *external right* differs from an *internal right* as an external law does from an internal law, and an external right consists in the ability to licitly use force against him who violates some external obligation with regard to us. An external right is often also called a *moral ability*, although it mostly does not deserve that name; at least [it does] in the sense 111
that it is distinguished from a *physical ability* that goes against an external law, and because an external right and a moral ability usually have the same effect in the sphere of external laws. MORAL *necessity, possibility* and *impossibility* must be understood in the same sense in this sphere, and therefore also that which we call MORALLY *necessary, possible, impossible*, as well as *moral obstacle* and other terms of that kind. It is preferable, though, to use the term *legal* instead of *moral* in the sphere of external laws, to prevent a confusion of notions. In that way, just as they differ in idea, they are also distinguished in its sign and name: *moral* ability, necessity, obstacle and so forth, i.e. such by force of an internal law, from *legal* ability, necessity, obstacle and so forth, i.e. such by force of an external law.

§ 115.

Furthermore it is clear from the above what EXTERNALLY *obligatory* means, § 26, and EXTERNALLY *owed*, § 47, *com-*

1 See § 44n.

112 *manded*, § 63, *prescribed* or *prohibited*, § 46, *indifferent*, § 26, and *permitted*, § 63. An action that is externally indifferent, i.e. indifferent in the human court, is called an ACT OF PURE CHOICE (a purely voluntary matter, a purely facultative right, an action that can be determined at will or at one's discretion).

§ 116.

An externally illicit action is also called an (externally) WRONGFUL ACTION, an externally licit one an (externally) RIGHTFUL one. He who is guilty of a wrongful act is UNJUST; if he is not, he is called JUST. Therefore 1) a wrongful action involves transgression of an external law, § 34, violation of an external obligation, § 34, and violation of another man's external right, § 114. 2) Both injustice and justice signify a state, sometimes of an action, sometimes of a person.[2] 3) *Justice* (*external*, as it is thought of in the sphere of external laws and in the human court, and in that sphere it is *simply* called justice) can consist in the mere absence or negation of external injustice and therefore this
113 justice, as the predicate of a person, is not conceived of as a virtue; consequently, as the predicate of an act, it is not thought of as the effect of virtue either: because a person's

2 Achenwall uses *iustus/iniustus* and *iustitia/iniustitia* of actions as well as persons, while in translating I have mostly used "rightful/wrongful," "rightfulness/wrongfulness," "just/unjust" and "justice/injustice" as English usage dictates. See also "Remarks on the Translation," p. xxvi.

external justice does not necessarily suppose virtue, just as it does not exclude it. A person's *internal justice*, on the other hand, as it is demanded in the court of conscience, definitely supposes and involves virtue, § 60, 61. 4) *An external law* may be conceived of as the norm of just and unjust, and *external law* as the knowledge of just and unjust. 5) *There exists an external right to do anything that is not externally wrongful*, § 114, which shows the reach of external law.

§ 117.

Thus an (externally) *wrongful act* can be viewed as a certain kind of an act that is not right, § 26, 34. Hence 1) a wrongful act either involves guilt or not; the former is formally wrongful and imputable as a demerit, and implies the person's injustice;[3] the latter is only materially wrongful and not imputable, and hence an *act* that is *inculpable* in the sphere of external law, and excludes injustice of the person because it involves the sole wrongfulness of the act. 2) A *wrongful act* in which there is guilt can be *culpable*, *malicious* or *blameworthy* (in the strict sense), § 36. A wrongful act with malicious intent can be called MISDEED in one word, which agrees with normal usage. He who is guilty of a misdeed is called MALFEASANT. 114

3 See § 116n.

§ 118.

A wrongful action is also known as a WRONG, which thus consists in transgression of an external law, in the violation of an external obligation and in the violation of another's external right, § 116. Furthermore a *wrong* either involves guilt or does not, and in the former case again it either involves blameworthiness or malicious intent, prec. §, whence a *wrong* is either *culpable* or *inculpable* and the former is either *blameworthy* or *malicious*. A culpable wrong is an INJURY in the broader sense, which thus supposes a violation of another man's right in which there is guilt as well. So there is wrong without injury, and every *injury* is either *blameworthy* or *malicious*; both a *wrong* and an *injury* can be an act of *commission* or one of *omission*, § 7.

115 As for the rest, from the above it is self-evident that once an external law is given, an external obligation is given not to act (externally) wrongfully, to cultivate (external) justice, not to commit a misdeed, not to wrong, not to commit injury. For this reason, the following propositions can be regarded as the first principles and general laws of all external law: *do not act wrongfully, cultivate justice, wrong no one,* and so forth.

§ 119.

If you have an (external) right to use some object and to exclude others from its use, in the juridical disciplines that object is *par excellence* called *your own*. *Using* is actualizing utility in general, and *excluding* another man *from use* is achieving that another man is unable to use some object, i.e.

that he abstains from its use, i.e. preventing another from using it. Therefore that which someone can rightfully use to the exclusion of others is HIS OWN from the perspective of that person and in accordance with the varying perspective of persons is called *my, your, another's* or *our own*.[4]

Now *his own* (proper) is also used of the *right* itself that someone has to use a certain object to the exclusion of others; indeed, every right regarded in itself that someone has while excluding others is called *his proper right*.[5] And then the *use* of one's proper right is the same as the exercise of the right, in such a way that you are said to *use your proper right* if you do that which you have a right to do, to the exclusion of others; and you are said to *exclude another man from the use of your right* if you prevent the other from doing that which he is prohibited from doing by virtue of your right.

116

§ 120.

If someone does something that goes against another man's right to that which is his own, or simply something that conflicts with another's proper right, he DOES NOT GIVE the other man HIS OWN, he DISTURBS ANOTHER'S PROPER RIGHT. The following phrases also belong here: *to invade, to remove, to diminish, to take away that which is another man's own*. He who does not do something like

4 Achenwall of course adds *vestrum:* "your" (plural).

5 See "Remarks on the Translation," p. xxvii-xxviii.

that, or does that which does not conflict with such right of another, GIVES the other man HIS OWN, GRANTS HIM HIS PROPER RIGHT. The following locutions likewise belong here: *to leave another what is his, to abstain from that which is another's*. Both can be done either *by commission* or *by omission*.

117

§ 121.

Once my external right is given, for another man an external obligation is necessarily given, § 114; from this it is clear that once some object is given as my own, or my proper right is given, the other man has the obligation not to do anything that conflicts with my right. From this the *obligation* is deduced *to give each his own* (and his own right), *to abstain from that which is another's*, *not to take away any man's proper right, to hinder no one in the use of his proper right*, as the general principles of the external obligations of external law. Therefore 1) every act by which another is not given that which is his own, by which another's proper right is taken away, by which he is disturbed in his right, is a wrongful action and a wrong, § 116, 118. 2) A person's external justice may consist in his mere abstinence from that which is another man's, § 116. 3) He who uses his own right does not wrong, does not injure anyone and does not act with malicious intent.

§ 122.

My PROPRIETORSHIP *in the broader sense* is nothing else than the right that I have to exclude another from the use of

what is mine, and hence from an act by which my right is disturbed, prec. §; a thing regarding which proprietorship falls to someone is OWNED by him (his property) *in the broader sense*. Because such a right of exclusion (right to prohibit) goes with all that is one's own, § 119, *all that is someone's own comprises proprietorship and is owned*. From this it is understood what someone's *own (proper) right* is, and that every right that is someone's own is a proper right and comprises proprietorship, same §. 118

§ 123.

For some object to be called Gaius's own, it is required 1) that it is useful to Gaius, 2) that Gaius has the right to use it and thus is not prohibited by an (external) law from using it, 3) that Gaius can legally (as no external law forbids it) exclude another man from its use, and 4) that if another man hinders Gaius in that use or exclusion, Gaius can legally coerce the other man not to hinder him.

§ 124.

From this it is also clear that that which is Gaius's *own* is a useful object regarding which Gaius has the right of use, while another man has the obligation to abstain from its use. Indeed because every right necessarily has for its objective some utility, whatever it may be, for him who has that right, in such a way that a right that is completely useless is not a right, that which is someone's *own* can also be defined as that to which someone has a proper right, prec. § and § 122. 119

§ 125.

Although everything that is someone's OWN is owned, § 122, it can either be owned by one person alone or by several people at the same time; in the former case it is called OWNED *in the stricter sense*, in the latter COMMON. Hence my PROPRIETORSHIP (of my right, of that which is my own) *in the stricter sense* is proprietorship that falls to me alone, while *communion* (of a right, of that which is one's own) is proprietorship *in the broader sense* that falls to several people at the same time.

§ 126.

The harm that a wrong causes the wronged party, i.e. that is felt by the wronged party because of the wronging party's action as such, is called LOSS. Therefore 1) from every wrong there arises a loss for the man wronged, § 123; 2) harm that arises for a man in such a way that it cannot be ascribed to another's action as an effect, is not loss, and therefore *accidental loss* does not exist; 3) the harm that is caused for a
120 man by another's action while that action is not wrongful and is not a wrong, likewise does not classify as a loss. Such harm is denoted with the word *damage*.

§ 127.

A loss is the effect of a wrong on the wronged party, prec. §. Hence, based on the types of cause, it is distinguished 1) with respect to the person causing or inflicting the loss, into a *culpable loss* (caused by injury, § 118) and an *inculpable* one (caused without injury), and a culpable loss

into a *blameworthy* and a *malicious* one. 2) With respect to the act and the law, into a *loss of commission* and one *of omission*.

§ 128.

The wronged party with regard to the wronging party has the right not to have his proper right taken away by the wronging party, hence not to have a loss inflicted upon him, and consequently, if some loss has been caused, that it should cease; for otherwise his proper right would be useless. So to this right of the wronged party corresponds the (external) obligation of the wronging party to ensure that the loss he has caused the other man ceases, which is called the OBLIGATION TO RESTORE A LOSS. Thus *given a wrong the obligation is given for the wronging party to restore the loss to him to whom it was caused*, and therefore *the wronged party has the right to demand restoration of the loss* caused to him by the wronging party. 121

§ 129.

From the notion of external law that we have established we could derive several other notions and propositions that human law and natural law have in common. But that which remains should be investigated in the treatise on natural law in any case, and once it has been thoroughly dealt with in its proper place, it can easily be extended by means of logical abstraction and thus transferred to use in all human law; therefore, to avoid repetition and the impression of being too occupied with rather general and purely hypothetical

matters, the above can suffice. On the basis of what I have deduced, however, I would like to remark that the primary and ultimate *goal* of all external law lies in this, that *everyone should grant each his proper right*, while the *means* to this end consists in the *fear of coercion* as a motive, by which everyone is obligated to abstain from what is another's; but if this fear does not suffice to produce this effect, it consists
122 *in the act of coercion itself*, i.e. *in the use of the right to coerce*, so that the other man fulfills his obligation to me and I am given my right. From this it is understood what the *obligating force* of external laws is and what their *imputing force*, § 42, and that the former is their *principal* force or *virtue* and the latter the *subsidiary* one.

CHAPTER VIII

PERFECT OBLIGATION AS EXTERNAL OBLIGATION

§ 130.

An *external obligation* can be either *natural* or *positive*, § 111 and 49; a perfect obligation is a natural external obligation, § 98 and 49. Because a perfect obligation thus is a kind of external obligation, and peremptory natural law hence is a kind of external law, it follows that *the principles of external law can be applied to peremptory natural law in as far as it is viewed as external law*. So if the terms of external law, e.g., *illicit, licit, prescribed, prohibited, permitted or wrongful action, wrong, injury, one's own, proprietorship, loss,* and so forth, are applied, they must be considered *in as far as they are such by force of a perfect natural law*. Hence in natural law these terms must be given the addition *naturally* or *natural*, to distinguish them from the ones occurring in positive external law, which are thought of there *as they are by force of a positive external law*. Thus a wrong, for instance, that is such by force of a perfect natural law is a NATURAL

wrong; the harm to the wronged party from a natural wrong is a NATURAL *loss*; something to which someone has a natural proper right is *his* NATURAL *own*; whatever is licit, prohibited, permitted or wrongful by a perfect natural law is NATURALLY *licit, prohibited, permitted* or *wrongful*. If this addition to terms of external law in the discussion of peremptory natural law is not always explicitly made, it should nonetheless be understood to be there.

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§ 131.

If, furthermore, by a correct reasoning and on the basis of the natural law on not hindering the preservation of others, something can be deduced as *one's own, a wrong, loss,* and so forth, then it is clear that the principles of these notions can also be applied to it in peremptory natural law. And because an inference from genus to species is valid and certain, we understand to what extent the following propositions must be admitted as principles of natural law, and especially as principles of perfect obligations, i.e., as perfect laws: *wrong no one, cultivate justice,* § 118, *give each his own*, § 124, *do not take away anyone's proper right, abstain from that which is another's*, § 121, *do not cause anyone a loss, restore the loss that you have caused,* § 128.

§ 132.

Now it follows from the above that by the same token the following theses must be admitted as principles of natural law, and especially as principles of the strict natural rights: *anyone has a strict natural right not to be wronged, not to*

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have injury inflicted upon him, to be granted that which is his, not to have his proper right taken away, not to be disturbed or hindered in the use of his right, not to have any loss caused to him, that any *loss caused* to him *be restored* by the person who caused it, prec. §. And so any man's natural right to preservation of his body and life, which I have demonstrated in § 102 and 105, by hypothesis can be thought of more generally as any man's *natural right to preservation of* all *his natural rights*.

Because, furthermore, an external right consists in the ability to act in as far as it does not go against some external law, § 114, it follows that *there naturally exists an external right to do everything that does not conflict with another man's right to preservation,*[1] *that does not go against some perfect law, that is indifferent by perfect law,* and *by which another man is not wronged naturally*. And so the concept is born of a natural external right and, as a consequence, of a perfect right as external right, that has a very wide reach. This right often is definitely not a moral ability, but contains a moral impossibility and a sin; but with regard to you, it should nonetheless be viewed naturally as an external right that you should acknowledge as such, because you have to acknowledge your perfect obligation not to hinder another by force in doing these things, and consequently you have to acknowledge the other man's right corresponding to this

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1 *Sui* in *sui conservatio* has a double meaning, as it is the genitive of *se* (oneself) and of *suum* (that which is one's own). This paragraph and the next make it clear that Achenwall in fact means both.

obligation, which is strict, being external, and which arises indirectly from your obligation. For you it can suffice that this obligation of yours is a true obligation that agrees with the will of God and the welfare of the universal society, and hence with the duties of sociality.

§ 133.

Thus the goal of peremptory natural law as external law is that we should preserve ourselves and everything that is naturally ours, and hence that we should not be naturally wronged; the means to this end lies in coercion, which we can licitly use against a wronging party by virtue of our natural right, § 103, 129. From this the *natural right* is deduced *to use force against him who wrongs us*, that is: the RIGHT TO DEFEND ONESELF AND THAT WHICH IS ONE'S OWN; therefore also the *right to repel with force the force of him who wrongs us*, or to RESIST *him who tries to wrong us;* indeed also the *right not to allow another man to begin actually wronging us*, and thus *the right to use force against him from whom a wrong threatens us*, i.e. is to be feared with probability, *and to resist him*.

§ 134.

A man THREATENS A WRONG if by an act he betrays the intention (intent, plan) to wrong, that is: if he manifests it with an external act. So *it is licit to use force against one who*
127 *threatens a wrong*, prec. §. To that extent *the intent to wrong*—when it is manifested—*is the equivalent of an actual wrong*. Now he who is threatened with a wrong is in

DANGER, which denotes a state of imminent harm, and the opposite of danger is SECURITY, a state free of danger: therefore from anyone's right against one who threatens a wrong follows anyone's *natural right to avert danger* (of a wrong) *with force* and *to protect his security* (from a wrong), which is succinctly called the *natural right to* SECURITY and consists in the right to use force against him who threatens a wrong against us.

§ 135.

Coercion or violence for the reason that, and in as far as, it is a necessary remedy to preserve ourselves is naturally licit, § 106. Hence it follows that for the same reason and to the same extent it is also licit to invade and take away anything that is the wronging party's own. And so the more general notion is conceived of *coercion, force, violence in the broader sense*, cp. § 98, as it is thought of in all external law: meaning any *act* by which *another man is not given his own* or *his own right*. Thus *coercion* and *force* in this broader meaning as the act of the wronged man against the wronging one in order to preserve himself and that which is his own, naturally is licit and rightful; but any other, that is: any that is exercised against one who does not wrong, is naturally illicit and wrongful. 128

§ 136.

For the rest, since *coercion* can be viewed as a *rather harsh remedy*, it is self-evident that the use of *milder means* to preserve oneself and that which is one's own not only is natu-

rally permitted, but also, in as far as it is sufficient to attain this goal and one's right, is prescribed, and violence prohibited, § [102–107].[2] For this reason the *right* that one naturally has *to coerce the wronging party also comprises the right to protect oneself and that which is one's own against the wronging party by any milder means whatsoever and by inflicting any lesser harm whatsoever.*

§ 137.

Violence is rightfully exercised against one who wrongs. *If the wrong is thought of as culpable*, § 118, and consequently as morally imputable toward punishment, the *violence* that we use against the wronging party *should be considered a kind of imputation toward punishment*—an *effective* imputation, to be precise. And so it is clear that *peremptory natural law for naturally wrongful acts establishes imputability toward coercion that is to be pursued by the wronged man* as a specific *type of natural punishment*, § 109, *that is proper to peremptory natural law*, since the other natural duties cannot be enforced and hence the other naturally evil acts are not subject to another man's coercion, § 106, 109.

129 § 138.

Thus not only *God* as legislator *imputes a culpable wrong*, but the *man* whose right was violated can also impute it:

2 The paragraph number is missing in the Latin edition; it probably was one of these.

man by coercing, God by punishing in the stricter sense. Imputation by God is called IMPUTATION IN THE DIVINE COURT (in the heavenly court, in that of conscience, the internal court, divine imputation), and imputation by man IMPUTATION IN THE HUMAN COURT (in the earthly court, the external court, human imputation). *Imputation in the divine court is infinitely superior to human imputation*, 1) because the former also extends to internal acts, while the latter is limited to that which can be known by another man and consequently to certain external acts; 2) because divine imputation is always true, effective and in proportion to the acts, while human imputation on the other hand is often erroneous, ineffective and out of proportion.

§ 139.

There also *exists*, however, *a naturally rightful coercion that is not imputation*. Take, for instance, an inculpable wrong, § 118, i.e. a wrongful act free of guilt, e.g., by a man who lacks the use of his intellect or who finds himself in a case of conflict of a perfect duty with a greater moral duty, § 104. Because such an act is inculpable, § 117, it cannot be imputed toward punishment. Nonetheless in this case the wronged 130
man is allowed to use violence as a necessary remedy to preserve himself and his right to coercion remains intact, since it does not originate from the morally bad action of the wronging party but from the wronged party's obligation to preserve himself, § 102. For this reason there exists a naturally rightful coercion that does not come under imputation.

§ 140.

As for the rest, peremptory natural law is completely different from the rest of natural law in this respect that observing the duties of conscience and the pursuit of virtue are understood to be equipped with the greatest and most certain rewards to be hoped from divine providence, § 56, while observance of merely external duties and the pursuit of merely external justice 1) *with regard to God* not only is unworthy of rewards but, in as far as it is linked with the neglect of virtue and the duties of conscience, is also subject to the greatest and most certain divine punishments, § 56; 2) *with regard to other men*, in as far as that observance is viewed as pure abstinence from that which is another man's and from externally wrongful acts, does not contribute anything but freedom of imputability toward coercion, i.e. the exemption from punishment of peremptory natural law, that is: IMPUNITY. To that extent peremptory natural law lacks rewards.

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§ 141.

If, moreover, peremptory natural law is thoroughly discussed as external law, 1) *external actions are taken into account only*, leaving out the internal ones, because purely internal actions cannot be known to another man, 2) *in as far as they can be known to another man*, so in as far as their truth can be made certain, that is to say: can be *proved*. In human actions, though, *moral certainty* suffices even for proving, since demonstrative certainty is impossible to have.

§ 142.

Finally some things remain to be explained about the *conflict of duties* as regards peremptory natural law. If *a duty of necessity that is owed to one man conflicts with a duty of love owed to another, the former will win to the extent that, all other things being equal, the law that is equipped with the other man's right of coercion is stronger than the one that lacks this right*, § 21.

§ 143.

There is, however, also a conflict of a *duty of necessity* with the *preservation of life:* when a duty of necessity cannot be fulfilled without loss of the life of the man who is obliged to do such duty. This state of a man in as far as he finds himself in a conflict of a duty of necessity with the preservation of his life is called an EXTRAORDINARY STATE (irregular state, case of need, ultimate need, extreme danger); its opposite is a state that is free of such conflict, the ORDINARY (regular) STATE. 132

§ 144.

Man's life is his fundamental perfection: when it is taken away, all the other perfections, whichever they were, with which he was provided in this world are taken away as well, and so his very humanity ceases to be. For this reason *the loss of life must be viewed as the greater evil compared to the loss of many other human perfections*. To that extent *the obligation* to preserve one's life, i.e. *to flee death and destruction, is stronger than the obligation to do duties of necessity*, and

the law *do not perish* is more important than the law *do not violate perfect duties;* so in a conflict the former wins and the latter cedes to it. Thus it is clear that perfect duties admit some exception in an extraordinary state and hence admit some moral latitude, § 57. To that extent the following is true: *necessity knows no law* and *every way to ensure one's safety is honorable.*

§ 145.

For this reason a man in an extraordinary state naturally has a certain moral ability to ignore a perfect duty in order not to perish, which is called the PRIVILEGE OF NECESSITY.

§ 146.

It should be noted, however, that the privilege of necessity
133 cannot be claimed if there is no extraordinary state, and thus if 1) not the loss of his *life*, but only that of a lesser perfection is connected with the fulfillment of a *perfect duty*, or 2) his life and the perfect duty do not conflict in such a way that the former cannot be preserved in any way unless the latter is violated, that is to say: *unless the neglect of such duty is a necessary* and hence the only *means to avoid his perishing*.

* Therefore 1) a merely *apparent* and *supposed extraordinary state* does not provide an occasion for the privilege of necessity, nor is it necessary to claim that privilege if 2) the matter is about fulfilling a *duty of charity*, nor if 3) one's life must be protected *against one*

who wrongs, because the force that the wronged party uses against the wronging party is not violation of a duty but the *exercise of a proper right*, § 135.

§ 147.

For the rest, supreme happiness does not lie in this life that we live, § 73, and God's ultimate aim cannot lie in its preservation, § 60; hence the obligation to preserve this life is not the highest obligation either, but is entirely subordinate to other natural duties that are stronger, § 60. Therefore *the privilege of necessity is likewise restricted by this natural law: in as far as there is no greater obligation in the way*. From this it is clear that it is possible for a perfect duty to defeat the obligation to preserve one's life: if that duty turns out to be connected with some greater obligation.

§ 148.

Thus it is understood from the above to what extent there is a privilege of necessity and to what extent its use is morally and naturally licit, that is: not contrary to God's will in as far as it can be known by reason alone. To that extent *the privilege of necessity is rightly considered to be one of man's moral* and *natural rights* in the broader sense, § 87.

134

§ 149.

Because, however, a perfect duty and therefore another man's strict natural right is violated by the use of the privilege of necessity, *every action that is undertaken by virtue of the privilege of necessity belongs to the wrongful actions and*

to the wrongs, § 130. Therefore from the point of view of *external natural law* and from that of *him against whom it is exercised the privilege of necessity cannot be called a right, indeed that man as the wronged party has the right to resist and to defend himself and that which is his own*, § 133, and *to demand restoration of the loss caused to him*, § 132. It can suffice, however, that such an action undertaken on the basis of the privilege of necessity is a wrong that is free of guilt and that cannot be morally imputed, briefly put: an *inculpable wrong*, § 117, 118; because a lesser obligation is suspended by a greater one if and in as far as it conflicts with the latter, and a moral obstacle makes it impossible to correct the lack of rectitude of the act that is seen in this case.

> Therefore the extraordinary state *does not turn a perfect duty into an imperfect one*, as some think.

> The difference between a *culpable* and an *inculpable* wrong as to *juridical effect* will be shown in the treatise on *Natural Law*, section III.

Emendations to the Latin Text

§ 7, l. 5: *concipiatursi* should be *si concipiatur*
§ 9, antepenultimate l.: *Videsis* should be *Videbis*
§ 10, p. 9, l. 2: *4* should be *5*
§ 15, l. 9: *nepraesentatione* should be *repraesentatione*
§ 18, l. 1: *eonnexorum* should be *connexorum*
§ 19, p. 18, last line: *non vsus* should be *non-vsus*
§ 24, l. 6: *couenienter* should be *conuenienter*
§ 27, l. 7: *e auctor* should be *auctor*
§ 29, penult. l.: *imputionem* should be *imputationem*
§ 31, p. 29, last line: *funt* should be *sunt*
§ 31, p. 30, l. 4: *liberta* should be *liberae*
§ 44, p. 40, l. 2: *obiectiue* should be *subiectiue* (corrected in 1774)
§ 48, p. 44, l. 14: *Numenis* should be *Numinis*
§ 60, l. 4: *connenienter* should be *conuenienter*
§ 63, p. 61, l. 7–8: *Ciuilii* should be *Ciuili*
§ 63, p. 61, l. 14–15: *plenissimu* should be *plenissimum*
§ 63, p. 62, l. 11: *euoluer* should be *euoluere*
§ 75, p. 77, l. 9: *factiendum* should be *faciendum*
§ 90, p. 90, note, l. 4: *saltim* should be *saltem*
§ 107, l. 2: *officio* should be *officia*
§ 107, p. 106, last l.: *vuiolentia* should be *violentia*
§ 120, l. 8: *iure* should be *iuri*
§ 128, l. 6: *quo* should be *quod*
§ 130, l. 2: *iii* should be *111*
§ 132, p. 125, l. 8: *conseruationm* should be *conseruationem*
§ 135, l. 8: *89* should be *98*
§ 136, l. 7: supply paragraph number (see note *ad loc.*)
§ 138, l. 12: delete *§*
§ 149, l. 18: *perfectum* should be *perfecto*

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Index of Subjects, Latin-English

This is the original Latin index together with the English translation. Thus, this index doubles as a glossary.

References are to the paragraph numbers. Mistakes in the original index have been tacitly corrected.

Abusus facultatum suarum, abuse of one's faculties, § 38
Actio commissiva, act of commission, positive act, § 7
actio debita, owed action, § 26
actio ex ignorantia, action from ignorance, § 37
actio externa, external action, § 1
actio externe debita, externally owed act, § 115
actio externe iussa, externally commanded act, § 115
actio externe obligatoria, externally obligatory act, § 115
actio externe permissa, externally permitted act, § 115
actio externe praecepta, externally prescribed act, § 115
actio externe prohibita, externally prohibited act, § 115
actio honesta, respectable action, § 72
actio humana, human action, § 7
actio illicita, illicit action, § 26
actio indifferens, indifferent action, § 26
actio inhonesta, dishonorable action, § 72
actio iniusta (externe), (externally) wrongful action, § 116
actio interna, internal action, § 1
actio invita, action against one's will, § 40
actio iussa, commanded action, § 63
actio iusta (externe), (externally) rightful action, § 116
actio libera, free action, § 7

actio libera commissiva et omissiva, free positive act and act of omission, § 7, § 19n.
actio libera ratione determinationis et exsecutionis, free action as regards determination and as regards execution, § 8n.
actio licita, licit action, § 7
actio mere naturalis, purely natural action, § 14
actio minus recta, action that is not right, § 26
actio moralis, moral action, § 47
actio moraliter bona, morally good action, § 47
actio moraliter culpabilis, morally culpable action, § 46
actio moraliter culposa, morally blameworthy action, § 46
actio moraliter debita, morally owed action, § 46
actio moraliter dolosa, morally malicious action, § 46
actio moraliter illicita, morally illicit action, § 46
actio moraliter imputabilis, morally imputable action, § 46
actio moraliter inculpabilis, morally inculpable action, § 46
actio moraliter indifferens, morally indifferent action, § 46
actio moraliter licita, morally licit action, § 46
actio moraliter mala, morally bad action, § 47
actio moraliter minus recta, morally incorrect action, § 46
actio moraliter necessaria late, morally necessary action in the broad sense, § 11
actio moraliter necessaria stricte, morally necessary action in the strict sense, § 44
actio moraliter obligatoria, morally obligatory action, § 46
actio moraliter prava, morally evil action, § 47
actio moraliter praecepta, morally prescribed action, § 46
actio moraliter prohibita, morally prohibited action, § 46
actio moraliter recta, morally correct action, § 46
actio moraliter turpis, morally dishonorable action, § 72
actio negativa, negative act, § 7
actio obligatoria, obligatory action, § 26
actio obligatoria praecepta et prohibita, prescribed and prohibited obligatory action, § 26
actio omissiva, act of omission, § 7, § 19n.

actio permissa, permitted action, § 63
actio permissa explicite, implicite et tacite, explicitly, implicitly and tacitly permitted action, § 63
actio physice necessaria, physically necessary action, § 8
actio positiva, positive act § 7
actio prava, evil action, § 46
actio privativa, act of omission, § 7
actio recta, right action, § 26
Actus meri arbitrii, act of pure choice, § 115
Aeternitas obligationis naturalis, eternity of natural obligation, § 67
Alienum, that which is another's own, § 119, § 124
Animae humanae facultas appetitiva, appetitive faculty of the human soul, § 2
eaque inferior et superior, higher and lower appetitive faculty of the human soul, § 3
animae humanae facultas cognoscitiva, cognitive faculty of the human soul, § 2
eaque inferior et superior, higher and lower cognitive faculty of the human soul, § 3
animae humanae imperium in se ipsam, the human soul's overlordship over itself, § 9n.**
animae humanae regimen in corpus, the human soul's control of the body, § 9n.**
Anomia, transgression of a law, § 34
Antinomia, collision of laws, § 25
Arbitrium, choice, § 6
arbitrium liberum, free choice, § 6
Atheus, atheist, § 76
Auctor, author, § 27
Auctoritas legis iuridicae, authority of a juridical law, § 74

Beatitudo, beatitude, § 24
Bonum morale seu moraliter bonum, moral good thing, i.e., that which is morally good, § 46, § 68
bonum physicum, physical good thing, § 68

bonum physicum positivum et privativum, positive and negative physical good, § 68

Casus necessitatis, case of need, § 143
Caussa impulsiva, impulsive cause, § 11
Caussa libera, free cause, § 27
Coactio late, coercion in the broad sense, § 135
Coactio et cogere stricte, coercion in the strict sense, § 98
Collisio legum, collision of laws, conflict of laws, § 25
Commune, that which is common, § 125
Communio iuris, communion of a right, § 125
Concaussa facti, co-cause of an act, § 31
Concurrere ad factum, to contribute to an act, § 31
Conscientia moralis, moral conscience, § 70
eaque bona et mala, good and bad moral conscience, § 70
Conscientiae obligatio, obligation of conscience, § 43
Consociatio, association, § 82
Corpus morale, moral body, § 92
Corpus mysticum, mystical body, § 92
Culpa late, blameworthiness in the broad sense, § 35
culpa stricte, blameworthiness in the strict sense, § 36

Damnum, loss, § 126
damnum citra iniuriam datum, loss caused without injury, § 127
damnum commissionis, loss of commission, § 127
damnum culpabile, culpable loss, § 127
damnum culposum, blameworthy loss, § 127
damnum dolosum, malicious loss, § 127
damnum inculpabile, inculpable loss, § 127
damnum iniuria datum, loss caused by injury, § 127
damnum naturale, natural loss, § 130
damnum omissionis, loss of omission, § 127
damnum reparare, to restore a loss, § 128
Debitum (actio debita) externe, that which is owed externally, externally owed action, § 115

debitum moraliter, that which is owed morally, § 47
Defectus rectitudinis facti vincibilis et invincibilis, surmountable and unsurmountable lack of rectitude of an act, § 34
Defendendi se suumque ius naturale, natural right to defend oneself and that which is one's own, § 133
Deista, deist, § 76
Demeritum, demerit, § 28
Detrimentum, damage, § 126
Diligentia, diligence, § 38
Dolus (pro reatu sumtus seu malus), malice, malicious intent, § 36

Error vincibilis et invincibilis, surmountable and unsurmountable error, § 37
Excipere a lege, to make an exception to a law, § 25
Excludere alterum ab usu alicuius obiecti et ab usu iuris sui, to exclude another man from the use of some object and the use of one's right, § 119
Exercere ius suum, to exercise one's right, § 89
Exercitium iuris sui, exercise of one's right, § 119
Existimatio, reputation, § 72
existimatio bona et mala, good and bad reputation, § 72
Externe debitum, that which is externally owed, § 115
externe indifferens, that which is externally indifferent, § 115
externe iussum, that which is externally commanded, § 115
externe obligatorium, that which is externally obligatory, § 115
externe permissum, that which is externally permitted, § 115
externe praeceptum, that which is externally prescribed, § 115
externe prohibitum, that which is externally prohibited, § 115
Extorsio stricte, exacting in the strict sense, § 98

Factum, act, deed, § 7
factum commissionis, act of commission, positive act, § 7
factum externe culpabile, externally culpable act, § 117

factum externe culposum, externally malicious act, § 117
factum externe dolosum, externally blameworthy act, § 117
factum externe inculpabile, externally inculpable act, § 117
factum externe iniustum, externally wrongful act, § 117
factum externe iustum, externally rightful act, § 117
factum in genere culpabile, culpable act in general, § 35
factum in genere culposum, blameworthy act in general, § 36
factum in genere dolosum, malicious act in general, § 36
factum in genere excusabile, excusable act in general, § 35
factum in genere inculpabile, inculpable act in general, § 35
factum in genere inexcusabile, inexcusable act in general, § 35
factum liberum, free act, § 7
factum liberum omissionis, free act of omission, § 7, § 19n.
factum stricte, act in the strict sense, § 7
Facultas animae appetitiva, appetitive faculty of the soul, § 2
eaque inferior et superior, higher and lower appetitive faculty of the soul, § 3
facultas animae cognoscitiva, cognitive faculty of the soul, § 2
eaque inferior et superior, higher and lower cognitive faculty of the soul, § 3
facultas legalis, legal ability, § 114
facultas moralis, moral ability, § 44
Favor necessitatis, privilege of necessity, § 145
Felicitas hominis, happiness of man, § 24
felicitas interna et externa, internal and external happiness, § 24

Gens, nation, § 97

Honestas, respectability, § 72
Honestum, that which is respectable, § 72
Humanitas, humanity, § 10

Iactura, loss, § 126
Ignorantia vincibilis et invincibilis, surmountable and unsurmountable ignorance, § 37
Illicitum externe, that which is externally illicit, § 114
illicitum in genere, that which is illicit in general, § 26
illicitum interne, that which is internally illicit, § 114
illicitum iure naturali stricto, that which is illicit by strict natural law, § 130
illicitum moraliter, that which is morally illicit, § 46
illicitum naturaliter, that which is naturally illicit, § 61
Immutabilitas obligationis naturalis, unchangeability of natural obligation, § 67
Impedimentum legale, legal obstacle, § 114
impedimentum morale, moral obstacle, § 45
impedimentum physicum, physical obstacle, § 44
Imperfectio hominis moralis, man's moral imperfection, § 69
Impossibile legaliter, that which is legally impossible, § 114
impossibile moraliter, that which is morally impossible, § 44
Impossibilitas legalis, legal impossibility, § 114
impossibilitas moralis, moral impossibility, § 44
Impunitas, impunity, § 140
Imputabilitas facti, imputability of an act, § 29
Imputatio, imputation, § 28
imputatio divina, divine imputation, § 138
imputatio efficax, effective imputation, § 28
imputatio facti et iuris, imputation of act and law, § 29n.
imputatio humana, human imputation, § 138
imputatio inefficax, ineffective imputation, § 28
imputatio in foro conscientiae, impurtation in the court of conscience, § 138
imputatio in foro divino, imputation in the divine court, § 138
imputatio in foro externo, imputation in the external court, § 138
imputatio in foro humano, imputation in the human court, § 138

imputatio in foro interno, imputation in the internal court, § 138
imputatio in foro poli et soli, imputation in the heavenly and in the earthly court, § 138
imputatio in praemium et in poenam, imputation toward a reward and toward a punishment, § 28
imputatio moralis, moral imputation, § 46
Imputativitas facti, imputativity of an act, § 29
imputativitas moralis, moral imputativity, § 46
Indifferens externe, externally indifferent, § 115
indifferens moraliter, morally indifferent, § 46
Indispensabilitas obligationis naturalis, indispensability of natural obligation, § 67n.
Infelicitas hominis, unhappiness of man, § 24
infelicitas interna et externa, internal and external unhappiness, § 24
Inhonestas, dishonor, § 72
Iniuria (late dicta), injury (in the broad sense), § 118
iniuria commissiva, injury of commission, § 118
iniuria culposa, blameworthy injury, § 118
iniuria dolosa, malicious injury, § 118
iniuria omissiva, injury of omission, § 118
Iniustitia (externa) personae, a person's (external) injustice, § 116
Iniusta (externe) actio, (externally) wrongful action, § 116
Iniustum iure naturali stricto, that which is wrongful by strict natural law, § 130
Iniustus externe talis, an externally unjust man, § 116
Intellectus, intellect, § 4
Iussum externe, that which is commanded externally, § 115
iussum iure naturali stricto, that which is commanded by strict natural law, § 130
iussum moraliter, that which is commanded morally, § 47
Ius obiective sumtum, law, § 63
ius obiective divinum, divine law, § 63
ius obiective externum, external law, § 113, § 116

ius obiective gentium universale late dictum, universal law (in the broad sense) of nations, § 97
ius obiective humanum, human law, § 63
ius obiective internum, internal law, § 113
Ius naturale cogens, peremptory natural law, § 99
ius naturale late, natural law in the broad sense, § 51
ius naturale late aeternum, eternal natural law in the broad sense, § 67
ius naturale late gentium, natural law (in the broad sense) of nations, § 97
ius naturale late immutabile, unchangeable natural law in the broad sense, § 67
ius naturale late indispensabile, indispensable natural law in the broad sense, § 67n.
ius naturale late mere tale, purely natural law in the broad sense, § 91
ius naturale late necessarium, inevitable natural law in the broad sense, § 67
ius naturale late oeconomicum, natural household law in the broad sense, § 95
ius naturale late societatis universalis, natural law (in the broad sense) of universal society, § 83
ius naturale late societatum domesticarum, natural law (in the broad sense) of domestic societies, § 95
ius naturale late societatum particularium, natural law (in the broad sense) of particular societies, § 91
ius naturale late universale, universal natural law in the broad sense, § 97
ius naturale stricte, natural law in the strict sense, § 99
Ius perfectum, perfect right, § 100
Ius philosophicum, philosophical law, § 63
Ius positivum, positive law, § 65
ius positivum idque divinum et humanum, positive law divine and human, § 65
ius rationis, law of reason, § 64
ius revelationis, law of revelation, § 64

ius sociale universale late dictum, universal social law in the broad sense, § 91
ius societatis universalis, law of universal society, § 83
ius societatum domesticarum naturale late dictum, natural law (in the broad sense) of domestic societies, § 95
Ius universale late dictum gentium, universal law (in the broad sense) of nations, § 97
ius universale oeconomicum, universal household law, § 95
ius universale sociale, universal social law, § 91
ius universale societatum domesticarum, universal law of domestic societies, § 95
ius universale societatum particularium, universal law of particular societies, § 91
Ius subiective pro facultate morali sumtum, right in the sense of moral ability, § 44
ius subiective pro facultate personae, right in the sense of a person's ability, § 114
ius subiective pro facultate physica, right in the sense of physical ability, § 63
ius subiective idque naturale et positivum, right, natural and positive, § 65
Ius alienum, another's right, § 120
Ius alterius turbare, to disturb another's right, § 120
Ius externum, external right, § 114
Ius internum, internal right, § 114
Ius meum, my (proper/own) right, § 119, § 124
Ius merae facultatis, purely facultative right, § 115
Ius morale, moral right, § 44
Ius naturale ad periculum propulsandum, natural right to avert danger, § 134
ius naturale late dictum, natural right in the broad sense, § 87
ius naturale resistendi laedere conanti, natural right to resist one who tries to wrong us, § 133
ius naturale securitatis, natural right of security, § 134
ius naturale sese suumque defendendi, natural right to defend oneself and that which is one's own, § 133

ius naturale stricte dictum seu strictum, natural right taken in the strict sense or strict natural right, § 100, § 108
Ius proprium late, own (proper) right in the broad sense, § 122
ius proprium stricte, own (proper) right in the strict sense, § 125
Ius suum, one's (proper/own) right, § 119, § 124
ius suum alteri auferre, to remove another's proper right, § 120
ius suum alteri tribuere, to grant another's proper right, § 120
Iusta (externe) actio, (externally) rightful action, § 116
Iustitia externa et interna personae, person's external and internal justice, § 116
Iustum externe tale, that which is externally rightful, § 116
Iustus externe talis, externally just, § 116

Laesio, wrong, § 118
laesio commissiva, wrong of commission, § 118
laesio culpabilis, culpable wrong, § 118
laesio culposa, blameworthy wrong, § 118
laesio dolosa, malicious wrong, § 118
laesio imminens, imminent wrong, § 133
laesio inculpabilis, inculpable wrong, § 118
laesio naturalis, natural wrong, § 130
laesio omissiva, wrong of omission, § 118
Laesionem intentans, one who threatens a wrong, § 134
Latitudo moralis, moral latitude, § 57
Legem servare, to observe a law, § 25
Legi satisfacere, to satisfy a law, § 25
Legis iuridicae auctoritas, authority of a juridical law, § 74
Legislator, legislator, § 63
Legis promulgatio, promulgation of a law, § 66
Legis publicatio, publication of a law, § 66
Legis transgressio late, transgression of a law in the broad sense, § 34
legis transgressio stricte, transgression of a law in the strict sense, § 35

legis transgressio culpabilis et inculpabilis, culpable and inculpable transgression of a law, § 35
legis transgressio culposa et dolosa, blameworthy and malicious transgression of a law, § 36
legis transgressio excusabilis et inexcusabilis, excusable and inexcusable transgression of a law, § 35
Legis violatio late, violation of a law in the broad sense, § 34
legis violatio stricte, violation of a law in the strict sense, § 35
Legis vis obligandi et imputandi, a law's force to obligate and to impute, § 42
Legum collisio, collision of laws, § 25
Lex, law, § 13
lex aiens, stating law, § 19
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Libertas mentis, liberty of the mind, § 6
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Index of Subjects, English-Latin

This is a slightly shortened version of Achenwall's original Latin index together with the English translation. Thus, this index doubles as a glossary.

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This is the first English translation of the *Prolegomena iuris naturalis* by Gottfried Achenwall (1719–1772). In this book, Achenwall presents the philosophical foundation for his comprehensive theory of natural law. The book is of interest not only because it provides the basis for a careful, systematic, and well-respected eighteenth-century theory of natural law in the Leibniz-Wolffian tradition, but also because it sheds important light on the work of Immanuel Kant. Achenwall's work influenced Kant's legal and political philosophy as well as his ethics, and it is indispensable for understanding Kant's *Feyerabend Lectures on Natural Law* and his *Metaphysics of Morals*. The present volume complements the translation of Achenwall's handbook, *Natural Law*.

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