# Innate Right in Public Right

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Innate right appears in the Introduction to Kant's *Doctrine of Right*. After introducing it, Kant distinguishes it from acquired rights, on the ground that there is only one innate right, whereas there are a plurality of acquired rights, and concludes from this that it can be "thrown" into the prolegomena, rather than treated as an aspect of private right. Innate right reappears several times in Private Right, but it is not conspicuous, and is even less so in Kant's discussion of Public Right. This raises an obvious question: what, if anything, is the status of innate right within public right?

The paper is organized as follows: after briefly introducing one innate right and the authorizations already in it, which are not members of a division of it, I locate innate right within both the ambitions and the architectonic of the *Doctrine of Right* as a whole. In terms of ambitions, I claim that innate right structures in the question to which the doctrine of right provides an answer. In terms of architectonic, I will argue that Kant's remark that he has "thrown" any right into the prolegomena should be taken at face value. Kant writes that that unlike acquired rights, which admit of divisions, there is only one innate right. Like the other parts of the prolegomena, in particular the definition of right and its analytic connection to the concept of coercion, the characterization and specification of the one innate right explains the conditions on which the possibility of a doctrine of right depends. I then turn to the places where innate right appears explicitly in the introduction of new concepts in Private Right, proceeding in a manner that Kant would characterize as "analytic" from claims about the distinctiveness of acquired rights to that from which they are distinguished, using Kant's argument to show that your innate right of humanity is your right to your own person, understood, as legal systems have since antiquity, in terms of your body and your reputation. Each of these, in turn, reflects the Kantian conception of human beings as exercising their power of choice; rightful restrictions on choice form a system, as does the entitlement to choose that is not so restricted.

I then turn to the role of innate right in public right. Here the question concerns the relation between the form of private right and the form of public right. Kant notes that the transition from a state of nature, understood as a pure system of private right to a condition of public right "contains no further or other duties of human beings among themselves and can be conceived in the former state; a matter of private right is the same in both." The distinctiveness of public right is to be found in "the rightful form of their association (constitution), in view of which of these laws must necessarily be conceived as public." (6: 306)

Yet the form of public law appears to have a different structure, and a different normative principle. Rather than asking directly whether a particular law is in conformity with the innate right of humanity, or even with private rights in general, Kant's test for the acceptability of public law is whether the people, that is, a multitude of human beings united under law, could have given this law to itself. I will argue that that question is fundamentally focused on the rightful basis of lawmaking power, and so on the innate right of humanity. I argue that relating innate right to lawmaking power explains Kant's objections to despotism, and his commitment to freedom of expression and formal equality of opportunity.