

**Next**

**Yquem  
Zberg**

**Generation**

**Wittgenstein  
and the Law:  
On Language,  
Mind and Law**

**Nr. 17**



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## **Next Generation**

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# Wittgenstein and the Law: On Language, Mind and Law

Yquem Zberg\*

*Wittgenstein and the Law: On Language, Mind and Law explores the relationship between language, mind, and law through the philosophy of Ludwig Wittgenstein.*

*The book starts with a brief sketch of the history of philosophy of language to reconstruct a linguist paradigm. It then traces the emergence of the modern philosophy of language and its culmination in the Linguistic Turn.*

*Against this background, the book analyses both the early and late philosophy of Wittgenstein. It examines the shift from the logical analysis of ideal language in the Tractatus Logico-Philosophicus to the grammatical investigation of ordinary language in the Philosophical Investigations. It further tries to illuminate how Wittgenstein's reflections on language, mind, and meaning connect to ethics and law.*

*Finally, the book examines the critical potential of Wittgenstein's thought for legal philosophy: His methodological contribution, the possibility of moral objectivity, and the prospect of normative universality. Bridging philosophy of language and legal theory, the book invites the reader to reconsider how legal meaning, understanding, and normativity are constituted in and through language.*

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## List of Abbreviations

Aufl.	Auflage
Bd.	Band
cf.	confer/conferatur (compare)

cit.	cited
cp.	Compare
Dr.	Doctor
e.g.	exempli gratia (for example)
ed.	editor/editors/edited by/edition
erg.	ergänzt
etc.	et cetera
f./ff.	folio (and following)
FS	Frühjahrssemester
Hrsg.	Herausgeber
HS	Herbstsemester
i.e.	id est
MA	Massachusetts
Mass.	Massachusetts
p.	page
rev.	revised
St.	Saint
St. I p.	Stephanus I pagination
transl.	translated
Vol.	Volume

# 1 Introduction: Language and Law

<sup>1</sup> Now the whole earth had one language and the same words.

<sup>2</sup> And as they migrated from the east, they came upon a plain in the land of Shinar and settled there.

<sup>3</sup> And they said to one another, "Come, let us make bricks, and burn them thoroughly." And they had brick for stone, and bitumen for mortar.

<sup>4</sup> Then they said, "Come, let us build ourselves a city, and a tower with its top in the heavens, and let us make a name for ourselves; otherwise we shall be scattered abroad upon the face of the whole earth."

<sup>5</sup> The LORD came down to see the city and the tower, which mortals had built.

<sup>6</sup> And the LORD said, "Look, they are one people, and they have all one language; and this is only the beginning of what they will do; nothing that they propose to do will now be impossible for them.

<sup>7</sup> Come, let us go down, and confuse their language there, so that they will not understand one another's speech."

<sup>8</sup> So the LORD scattered them abroad from there over the face of all the earth, and they left off building the city.

<sup>9</sup> Therefore it was called Babel, because there the LORD confused<sup>1</sup> the language of all the earth; and from there the LORD scattered them abroad over the face of all the earth.

GENESIS 11:1-9<sup>2</sup>

Philosophical deliberation on questions about language is as old as any other philosophical deliberation in the history of ideas. The following questions have sparked human reflection since its recorded beginnings: What is the origin of language? How did language develop and evolve? How does language relate to the world? How does language relate to thoughts and ideas? How is meaning constituted in language? In recent times, the interest in language has been rekindled and philosophy of language and linguistics have experienced a revival.

Language and law share an intimate connection. Language serves as a medium through which law is communicated and understood and, in this respect, forms a constitutive element of law by law being linguistically structured as norms are expressed through normative propositions.

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<sup>1</sup> Cp. Hebrew *balal*, meaning *to confuse*.

<sup>2</sup> COOGAN, p. 25 f.

Furthermore, language and law share many common features. Like language, law unites humans in a specific community – in a linguistic community or in a legal community respectively. Language and law are inherently connected to and concerned with human behaviour. Language and law are expressions of human thought. Finally, language and law are rule-based systems and are normatively structured.

In consideration of this intimate connection and these common features of language and law, it is worthwhile to examine the relation between language and law. This book shall follow this broad aim.

Following this broad aim several initial and fundamental questions on the relation between language and law arise. How does language relate to the world? How does language relate to thought and ideas? And how is meaning constituted in language? Through reflecting upon these general questions on the relation of language to the world and ideas, questions regarding the relation of language to the law can be approached: How does language relate to the law? How does language relate to normative and legal thought? And how is normative and legal meaning constituted in language? These initial and fundamental questions shall be the guiding rail underlying this book.

To illuminate and illustrate the importance of examining the relation between language and law, an example can be put forward. The very simple linguistic expression of “I do” can have significantly different normative and legal meanings depending on the circumstances it is uttered in. If it is uttered in response to the question “Do you take this woman/man to be your wife/husband?” posed by a marriage registrar in front of two witnesses the expression of “I do” can have the normative and legal meaning or implication of constituting a legal marriage. However, if it is uttered in response to the question “Do you like The Beatles?” posed by a friend in a pub the expression of “I do” does not have any significant normative and legal meaning or implication at all. This example illustrates two points. Firstly, it illuminates the importance of examining language in order to better and more adequately understand law. And secondly, it highlights that language is a highly context-sensitive matter – with the manifestations and consequences of this context-sensitivity being among the objects of examination in this book.

A further point to highlight the importance of examining the relation between language and law is the inherent indeterminacy of language which is fundamental for methodological questions in law as for example questions of interpretation. Language in general and legal language in particular are confronted with problems of generality/abstractness, vagueness, ambiguity and polysemy. Regarding the problem of generality/abstractness, Article 181 of the

Swiss Criminal Code penalising coercion may be viewed: “Any person who, by the use of force or the threat of serious detriment or other restriction of another’s freedom to act compels another to carry out an act, to fail to carry out an act or to tolerate an act, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty”. This formulation is very general/abstract: Strictly understood according to the general semantic meaning of this provision without further interpretation, even the act of A sitting on a chair which another person B wanted to sit on could qualify as a coercion because by restriction of B’s freedom to act (her freedom to sit on the given chair) A compels B to fail to carry out an act (her sitting on the given chair) and to tolerate an act (A’s sitting on the given chair). Regarding the problem of vagueness, the Article 9 of the Swiss Federal Constitution may be viewed: “Every person has the right to be treated by state authorities in good faith and in a non-arbitrary manner”. This formulation is very vague: What exactly is meant and to be understood by treatment “in good faith” and by “non-arbitrary” treatment? What qualifies as treatment “in bad faith” or as “arbitrary” treatment? Regarding the problem of (semantic or syntactic) ambiguity and polysemy, the following fictional provision can be viewed: “It is prohibited to keep bats in one’s flat”. “Bat” can have two different meanings in this context denoting either a flying mammal or an instrument used for hitting a ball. These problems demonstrate the importance of examining the question of how in language meaning is constituted.

Language has always been a topic in philosophical discussions but has been revived as a major topic of philosophical interest since the so-called “Linguistic Turn” of the early 20<sup>th</sup> century. This Linguistic Turn describes an attitude in philosophy of holding that most problems of philosophy may be solved through an analysis of our language and that these philosophical problems arise in the first place through misunderstandings grounded in a lack of knowledge with regard to our use of language.<sup>3</sup> A major methodological consequence of the Linguistic Turn was then to analyse philosophical problems in terms of problems of use of language which led to the philosophical project of a thorough analysis of our use of language. The Linguistic Turn thus describes a turn in philosophy towards examining our use of language.

In this book, the general question of the relationship of language to the world and to the mind as well as the more specific question of the relationship of language to ethics and law shall be considered. These questions shall be approached by a close examination of the core ideas of Ludwig Wittgenstein, the

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<sup>3</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §109: “Philosophy is a battle against the bewitchment of our intelligence by means of language.”

main exponent of the Linguistic Turn. Wittgenstein's ideas, examining the relationship between language, world, mind and meaning, shall then be related to the spheres of ethics and law.

In this pursuit, firstly a brief sketch of the history of philosophy of language shall be presented identifying a linguist paradigm. Secondly, the highly influential ideas of Wilhelm von Humboldt in the philosophy of language shall be described situating his controversially discussed ideas between linguistic relativism and linguistic universalism. Thirdly, the Linguistic Turn shall briefly be touched upon. Fourthly, the break in Wittgenstein's ideas into an early and late philosophy shall briefly be introduced. Fifthly, Wittgenstein's early work, the *Tractatus Logico-Philosophicus*, shall be analysed and related to the spheres of ethics and law. Sixthly, Wittgenstein's turn from his early to his late philosophy shall be described. Seventhly, Wittgenstein's late work, the *Philosophical Investigations*, shall be analysed and related to the spheres of ethics and law. Eighthly, the critical potential of Wittgenstein's ideas shall be examined. And finally, a few conclusions shall be drawn.

## 2 A Brief Sketch of the History of Philosophy of Language: The Linguist Paradigm

Looking at ideas on language, one can observe a general linguist paradigm which is embodied in the philosophy of language throughout the history of ideas. In the following, this linguist paradigm shall be distilled and spelled out by looking at different authors in the philosophy of language throughout the history of ideas.

In Plato's dialogue *Cratylus* the discussion between Socrates and Hermogenes revolves around the questions of whether names for objects are natural or conventional in their origin and whether truth-value applies to the attribution of names to objects.<sup>4</sup> These questions constitute the roots of the millennia-old controversy between naturalists and conventionalists or later between objectivists and subjectivists. While naturalists on the one hand hold that the attribution of names to objects is grounded in the nature of the object and in the corresponding idea of the object and that truth-value applies to the attribution of names to objects and hence there is a "correct" or ideal name, conventionalists on the other hand hold that the attribution of names to objects is purely a matter of convention and that truth-value cannot apply to the attribution of names to objects and hence there can be no "correct" or ideal name. Plato, in accordance with his theory of ideas and his essentialism, can be viewed as a naturalist as he believed that the name of objects had to correspond to the idea and essence of the objects.<sup>5</sup>

Aristotle advanced the study of grammar by continuing and systematically refining the Platonic division between nouns, verbs and other categories of words. In his *De Interpretatione* Aristotle writes: "Words spoken are symbols or signs of affections or impressions of the soul; written words are the signs of words spoken. As writing, so also is speech not the same for all races of men. But the mental affections themselves, of which these words are primarily signs, are the same for the whole of mankind, as are also the objects of which those affections are representations or likenesses, images, copies. [...] As at times there are thoughts in our minds unaccompanied by truth or by falsity, while there are others at times that have necessarily one or the other, so also it is in our speech, for combination and division are essential before you can have truth and falsity. A noun or a verb by itself much resembles a concept or thought which is neither combined nor disjoined. Such is 'man,' for example,

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<sup>4</sup> PLATO, *Cratylus*, St. I p. 383 ff. (p. 6 ff.).

<sup>5</sup> Cf. PLATO, *Cratylus*, St. I p. 383 ff. (p. 6 ff.).

or 'white,' if pronounced without any addition. As yet it is not true nor false. And a proof of this lies in the fact that 'tragelaphos [= goat-stag, a legendary creature imagined to be half-goat, half-stag]; while it means something, has no truth nor falsity in it, unless in addition you predicate being or not-being of it, whether generally (that is to say, without definite time-connotation) or in a particular tense."<sup>6</sup> And further he writes: "A noun is a sound having meaning established by convention alone [...]"<sup>7</sup> Aristotle, in contrast to Plato, can be viewed as a conventionalist as he believed that the attribution of names to objects is purely a matter of convention. However, it is noteworthy that while according to Aristotle names of objects are purely conventional and therefore there are different names in different languages for the same object, the mental affections which are expressed through these different names are the same for all humankind.

A further important dispute profoundly shaped the course of the philosophy of language throughout the history of ideas: The dispute between rationalists (personified by René Descartes) and empiricists (personified by John Locke, George Berkeley and David Hume). The main point separating these two positions was the question on the origin of knowledge. While empiricists claimed that all knowledge is grounded in perception and experience as its ultimate origin, rationalists on the other hand claimed that knowledge could have its origin in pure reflection independent from perception and experience. A further point of disagreement between these two positions was the question of whether human beings possess innate ideas which are independent from perception and experience, with rationalists answering this question in the affirmative while empiricists denied this point.

This dispute extended to the philosophy of language. On the one hand, the rationalist tradition and the Cartesian philosophical concepts applied to language gave rise to an effort to find common innate cognitive elements in language and to establish "philosophical grammars" or "*grammaires raisonnées*". The so-called Port Royal Grammar of Antoine Arnauld and Claude Lancelot is a prominent example of such an effort and tried to reveal the fundamental grammatical unity underlying different grammars of different languages. The Port Royal Grammarians held the view that language expresses thought consisting of conceiving, judging and reasoning with reason being innate. Thus, fundamental elements of language are already innate.<sup>8</sup> The Port Royal Gram-

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<sup>6</sup> ARISTOTLE, *De Interpretatione*, I., 16a5–21.

<sup>7</sup> ARISTOTLE, *De Interpretatione*, II., 16a22–23.

<sup>8</sup> ARNAULD/LANCELOT, p. 65 ff.; cf. CHOMSKY, *Cartesian Linguistics*, p. 78 ff.

marrians saw this innate general grammar as an underlying universalistic root of all different languages.<sup>9</sup>

On the other hand, the empiricist tradition had a more limiting view of language: Locke for example held the view that language primarily serves as a means of simplification and communication of ideas.<sup>10</sup> He did not treat the question of whether certain fundamental elements of language are innate.

A student of Locke, Étienne Bonnot de Condillac, goes on to contradict his former teacher: According to Condillac language is not merely a tool of simplification and communication of thought but is a necessary precondition for thought and thus in turn structures thought.<sup>11</sup>

Johann Gottfried Herder took up this perspective and held the view that language and thought are inseparably intertwined and that all languages developed from one common underlying source.<sup>12</sup> Herder is said to have had a significant impact on Wilhem von Humboldt's ideas on language which will be examined in the following chapter.<sup>13</sup>

In the philosophy of language, one may observe an underlying guiding principle throughout the history of ideas. This underlying guiding principle may be framed as the linguist paradigm and may be described as follows: Language is not just a medium to express and communicate thought, but more importantly language is an indicator of and offers a possibility of insight into the structure of human thought because language is structured through human thought and vice versa human thought is linguistically structured through language (human thought is a constitutive element of language and language is a constitutive element of human thought). Thus, language is far more than a mere useful tool of communication: It is a “window into the human mind” as in a possibility of insight into human thinking.

The roots of the linguist paradigm can already be observed in Plato's *Cratylus* where the names of objects had to correspond to the idea and essence of the objects and hence by this correspondence-relation the language through the names of objects allows insights into human thinking which according to Plato is structured by and constituted in a realm of abstract essentialist ideas.

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<sup>9</sup> ARNAULD/LANCELOT, p. 65 ff.; cf. CHOMSKY, Cartesian Linguistics, p. 78 ff.

<sup>10</sup> LOCKE, III, v, 7 ff. / III, vi, 32.

<sup>11</sup> CONDILLAC, Essai Sur L'Origine Des Connoissances Humaines, Première Partie, p. xxii f. / 65 ff. / 79 ff. / 135 ff. / 173 ff.; CONDILLAC, Essai Sur L'Origine Des Connoissances Humaines, Seconde Partie, p. 1 ff. / 118 ff. / 152 ff. / 224 ff. / 234 ff.

<sup>12</sup> HERDER, p. 65 ff.

<sup>13</sup> SAPIR, Herder's “Ursprung der Sprache”, p. 109 ff.

The linguist paradigm can also be observed in the ideas of the Port Royal Grammarians in them seeking uniting elements in the grammars of different languages in order to reveal an innate general grammar and hence observing and examining language as a possibility of insight into innate structures of human thinking.

Roots and traces of the linguist paradigm can also be observed in Aristotle, the empiricist tradition or more explicitly in Condillac and Herder.

The linguist paradigm grew more and more pronounced and explicit throughout the history of ideas until it finally reached the height of its expression in Humboldt: He viewed language not merely as a tool of expression and communication of thought but rather as a “formative organ of thought” and thus as a constitutive element of thought structuring it in turn.<sup>14</sup>

In the following chapter, Humboldt’s ideas on language shall be examined.

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<sup>14</sup> HUMBOLDT, p.151: “Die Sprache ist das bildende Organ des Gedanken.”

### 3 Wilhelm von Humboldt: Between Linguistic Relativism and Universalism

Wilhelm von Humboldt can be said to have recapitulated the history of ideas of the philosophy of language in a diverse and precise manner and to have paved the way for modern philosophy of language and for the emergence of the new scientific discipline of modern linguistics. In his work on language, Humboldt has effectively traced out and anticipated the fundamental elements of much of the discourse on language in the following two centuries up until this day.

Humboldt followed a very broad range of intellectual interests and worked on areas like political theory, anthropology, aesthetics, education and many more. A main area of his interest was philosophy of language and linguistics. Humboldt's work on philosophy of language and linguistics remained relatively unexplored until quite recently when philosophers of language and especially linguists started to seriously engage with the substance of Humboldt's work on language.

Humboldt, like many of the educated and scholarly intellectuals of the 18<sup>th</sup> and 19<sup>th</sup> centuries, travelled a lot throughout Europe.<sup>15</sup> He entertained close connections and friendships with many leading cultural and intellectual figures of his time including but not limited to Goethe, Schiller, Fichte, de Tracy, Sieyès, and Madame de Staël.<sup>16</sup> During his years in Paris and his travels to Spain he grew fascinated with the examination of foreign languages as for example the Basque language in Spain.<sup>17</sup> This new fascination with language could be seen as a "biographical linguistic turn" in Humboldt's intellectual interests as many of his further works focused and centred on philosophy of language and linguistics.

Humboldt's understanding and theory of language is highly complex, strongly multifaceted and hard to classify. To speak of one monolithic "Humboldtian philosophy of language" or "Humboldtian linguistics" is misguided because Humboldt's conception of language consists of many different and on the first view seemingly opposite and incompatible elements which are hard to reduce to one general view.

These seemingly opposite and incompatible elements of Humboldt's conception of language can broadly be categorised into relativistic elements on the one hand and universalistic elements on the other hand.

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<sup>15</sup> Cf. HAYM, p. 173 ff.

<sup>16</sup> Cf. HAYM, p. 146 ff.

<sup>17</sup> Cf. HAYM, p. 173 ff. / 429 ff.

According to Humboldt, language spells out the perception of the world in terms of our ideas and vice versa relates our ideas to the perception of the world and hence language has a mediating role between the world and ideas.<sup>18</sup> According to him, language never purely objectively represents the world but always represents subjective perceptions of the world and thus the reality described through language can never be purely objective but is always a subjectively-constructive representation.<sup>19</sup> In this respect Humboldt aligns with the critical-transcendental project of Immanuel Kant who holds that the world *per se* is not humanly accessible and only the representation of the world within the frame of our shared human cognitive faculties is humanly accessible.<sup>20</sup>

Concerning the relativistic elements of Humboldt's conception of language, he holds that because language does not objectively represent the world but represents a subjective perception of the world, language expresses a specific worldview.<sup>21</sup> This specific worldview is not only expressed through language but is also inversely shaped by language.<sup>22</sup> Language does not only act as a medium to express ideas but it also shapes the formation of ideas.<sup>23</sup> This relationship of language expressing a specific worldview on the one hand and of language shaping a specific worldview on the other hand occurs on different levels: Humboldt sometimes grounds the specific worldview in a specific nation united as a language community and sometimes he goes further and grounds the specific worldview in the individuality of a respective speaker.<sup>24</sup> These elements of language expressing and shaping specific worldviews clearly exhibit relativistic features with specific worldviews being either relative to a nation or, even stronger, relative to each individual.

In contrast, concerning the universalistic elements of Humboldt's conception of language, he holds that while different languages express and shape different specific worldviews the human faculty of communicating through language is universal and thus the language faculty unites human beings.<sup>25</sup>

These relativistic and universalistic elements shaped modern scientific discourse about language and were taken up eclectically by linguists in the following two centuries to support their own theories and claims. The Sapir-Whorf hypothesis strongly drew from and reflects the relativistic elements of

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<sup>18</sup> HUMBOLDT, p. 119 ff. / 151 ff. / 179 ff.

<sup>19</sup> HUMBOLDT, p. 119.

<sup>20</sup> Cf. KANT, *Kritik der reinen Vernunft*, p. 9 f. / 12 f. / 517.

<sup>21</sup> HUMBOLDT, p. 179: "[...] eigenthümliche Weltansicht."

<sup>22</sup> HUMBOLDT, p. 179 f.

<sup>23</sup> HUMBOLDT, p. 119 ff. / 151 ff. / 179 ff.

<sup>24</sup> HUMBOLDT, p. 179 ff.

<sup>25</sup> HUMBOLDT, p. 124 / 174 ff.

Humboldt's conception of language, holding that different languages determine different ways of thinking and therefore different languages are relative to different worldviews and vice versa.<sup>26</sup> The idea of universal grammar by Chomsky strongly drew from and reflects the universalistic elements of Humboldt's conception of language, holding that language is grounded in an innate universal language faculty with concepts which are universally accessible and different languages are mere different expressions of this innate universal language faculty.<sup>27</sup>

Furthermore, one can not only speak of a "biographical linguistic turn" in Humboldt's life and his areas of interest but also of a "substantive linguistic turn" brought about by his ideas on language. This "substantive linguistic turn" has two dimensions. Firstly, this turn is marked by a shift away from an objective understanding of the meaning of words directly representing objects towards a subjective understanding of the meaning of words representing a subjective worldview within the common framework of shared human faculties of knowledge.<sup>28</sup> Words and their meanings do not represent objective "things out there in the world" but represent our subjective perception of "things out there in the world" within the bounds of human cognition – the meaning of the word "tree" is not "that tree there", but "that tree there as perceived by us".<sup>29</sup> Secondly, this turn is marked by a shift of focus in the examination of language away from focusing on the semantic and syntactic structure of different languages towards focusing on language in general as a human practice.<sup>30</sup>

Humboldt paved the way for a comprehensive linguistic and philosophical discourse on language and traced out the directions of this discourse over the past two centuries. Although philosophical deliberation on language and the idea of universal grammar stagnated and fell into an almost century-long slumber after Humboldt due to being overshadowed by efforts in empirical linguistic fieldwork,<sup>31</sup> they have been revived in the so-called "Linguistic Turn".

In the following chapter, the Linguistic Turn shall briefly be touched upon.

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<sup>26</sup> Cf. SAPIR, *The Status of Linguistics as a Science*, p. 207 ff.; cf. WHORF, p. 207 ff. / 214.

<sup>27</sup> Cf. CHOMSKY, *Aspects of the Theory of Syntax*; cf. CHOMSKY, *New Horizons in the Study of Language and Mind*; cf. CHOMSKY, *Language and Thought*.

<sup>28</sup> Cf. HUMBOLDT, p. 119 / 151 f. / 174 ff. / 179.

<sup>29</sup> Cf. KANT, *Kritik der reinen Vernunft*, p. 9 f. / 12 f.

<sup>30</sup> Cf. HUMBOLDT, p. 128 / 142 f. / 146 f.

<sup>31</sup> Cf. SCHLEGEL; RASK; BOPP; GRIMM. These works triggered a flood of following linguistic compendia and had a profound impact on modern linguistic discourse, stalling fundamental philosophical discourse in favour of empirical linguistic fieldwork.

## 4 Linguistic Turn

The term “Linguistic Turn” describes a fundamental revolutionary shift in perspective regarding the nature of philosophy and its methods. The term “Linguistic Turn” was first used by Gustav Bergmann and was later popularised by Richard Rorty using it as the title for a comprehensive essay collection edited by him.<sup>32</sup>

This shift in perspective can best be described through the words of Ludwig Wittgenstein on the nature of philosophy: “Philosophy is a battle against the bewitchment of our intelligence by means of language.”<sup>33</sup> According to Wittgenstein, philosophical problems arise in the first place as a result of conceptual confusion brought about by unclear or obscuring use of language. The task of philosophy then has to be to analyse the use of language in order to untangle conceptual confusion and thereby to solve philosophical problems. Thus, according to Wittgenstein philosophy is the activity of analysis and critique of the use of language with the aim of conceptual clarification of thought by resolving misunderstandings.<sup>34</sup> This philosophical aim of conceptual disentanglement was described by Wittgenstein as follows: “What is your aim in philosophy? – To shew the fly the way out of the fly-bottle.”<sup>35</sup>

The main fundamental shift in perspective regarding the nature of philosophy herein lies in the reconceptualisation of philosophical problems as problems of use of language. This reframing of philosophical problems requires philosophy to turn towards an analysis of language as its main method of enquiry, marking philosophy’s turn towards language and hence the “Linguistic Turn”.

In the following chapters, the ideas of the main exponent of the Linguistic Turn, Ludwig Wittgenstein, shall be examined.

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<sup>32</sup> BERGMANN, p. 601 ff.; RORTY, *The Linguistic Turn*; RORTY, Wittgenstein, Heidegger, and the reification of language.

<sup>33</sup> WITTGENSTEIN, *Philosophical Investigations*, §109.

<sup>34</sup> Cf. WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.0031: “All philosophy is ‘Critique of language’ [...]” / 4.112: “The object of philosophy is the logical clarification of thoughts. Philosophy is not a theory but an activity. A philosophical work consists essentially of elucidations. The result of philosophy is not a number of ‘philosophical propositions’, but to make propositions clear. Philosophy should make clear and delimit sharply the thoughts which otherwise are, as it were, opaque and blurred.”

<sup>35</sup> WITTGENSTEIN, *Philosophical Investigations*, §309.

## 5 Early and Late Wittgenstein

When examining the ideas of Wittgenstein, one can speak of two distinct stages of thought and a break or at least a significant shift in ideas between the earlier work of Wittgenstein and the later work of Wittgenstein. Wittgenstein himself criticised the ideas of his earlier philosophy in the *Tractatus Logico-Philosophicus* in his later philosophy in the *Philosophical Investigations*.<sup>36</sup>

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<sup>36</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, Preface.

## 6 Early Wittgenstein: Tractatus Logico-Philosophicus

The first and only book published during Wittgenstein's lifetime, the *Tractatus Logico-Philosophicus*, was first published in German in 1921 as *Logisch-Philosophische Abhandlung* and was translated to English in 1922 by Charles Kay Ogden with assistance from Frank Plumpton Ramsey and George Edward Moore, who is said to have suggested the Latin title.<sup>37</sup>

### 6.1 Influences

Some influences on Wittgenstein's *Tractatus* can be traced back to his engineering education before his philosophical journey and they are rooted in the ideas of natural scientists like Heinrich Hertz and Ludwig Boltzmann whose ideas Wittgenstein studied.<sup>38</sup> Hertz sought to answer the Kantian question of how an *a priori* science of nature could be possible and he tried to answer this questions by means of philosophical analysis of the logical structure of scientific enquiry and reasoning. To describe reality, we form symbolic pictures of external objects and the symbolic pictorial representations must be logically isomorphic to the described reality.<sup>39</sup> Boltzmann continued this project of analysis of the logical structure of scientific enquiry and reasoning and extended this idea of pictorial representation to further areas of physics.<sup>40</sup> This idea of pictorial representation can be said to constitute a root of and to have given rise to Wittgenstein's picture theory which shall be discussed later. Furthermore, Wittgenstein was intrigued by Hertz's methodology of dissolving conceptual confusion through logical analysis and of exposing philosophical pseudo-problems through analysis and critique, by removing existing contradictions and elucidating vexing misunderstandings.<sup>41</sup> This methodology can be said to constitute the root of and to have given rise to Wittgenstein's methodology of solving philosophical problems through (logical) analysis and critique of the use of language.<sup>42</sup>

Wittgenstein's *Tractatus* was further significantly influenced by the philosophers Gottlob Frege and Bertrand Russell. Frege and Russell famously em-

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<sup>37</sup> AYER, p. 5.

<sup>38</sup> HACKER, *Insight and Illusion*, p. 2 ff.

<sup>39</sup> HERTZ, p. 1 f.

<sup>40</sup> BOLTZMANN, p. 264 ff.

<sup>41</sup> Cf. HERTZ, p. 7 f.

<sup>42</sup> Cf. WITTGENSTEIN, *Tractatus Logico-Philosophicus*, Preface / 4.0031; cf. WITTGENSTEIN, *Philosophical Investigations*, §109.

barked upon the project of reducing arithmetic to logic or expressing the foundations of arithmetic in terms of logic and in doing so they devised elaborate artificial languages of symbolic logic and highly refined systems of philosophical logic.<sup>43</sup> According to Frege, thought is enslaved by the tyranny of words and ordinary language is muddled with confusion which can only be overcome in an ideal language.<sup>44</sup> According to Russell, “every philosophical problem, when it is subjected to the necessary analysis and purification, is found either to be not really philosophical at all, or else to be, in the sense in which we are using the word, logical.”<sup>45</sup> These views strongly influenced Wittgenstein’s conception of philosophy.<sup>46</sup> In the *Tractatus*, Wittgenstein engages with and follows in the footsteps of Gottlob Frege and Bertrand Russell and continues their project of finding an “ideal language” consisting in the fundamental underlying logical form or system structuring and delimiting propositions, language, human thinking and ultimately the world as well as the project of logical atomism.<sup>47</sup>

## 6.2 Structure and Topic

Wittgenstein’s *Tractatus* is structured in relatively short, numbered paragraphs and is constructed around seven fundamental propositions. These seven fundamental propositions are further elaborated in sub-paragraphs (numbered e.g. 1.1, 1.2, etc.) and these sub-paragraphs are themselves further elaborated in sub-sub-paragraphs (numbered e.g. 1.11, 1.12, etc.) and so on. The position of the paragraph in the hierarchy of numeration shall indicate the logical importance of and the emphasis laid upon this paragraph.

The broad topic examined in Wittgenstein’s *Tractatus* is the relationship between thought, language and the world. Wittgenstein searches for the limits of thought by looking at what might reasonably be expressed in propositions and through this approach he searches for the limits of our representation of the world and therefore the limits of the world as perceived by us.<sup>48</sup> In this

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<sup>43</sup> FREGE, *Begriffsschrift*; FREGE, *Die Grundlagen der Arithmetik*; WHITEHEAD/RUSSELL, *Principia Mathematica*, Vol. 1–3.

<sup>44</sup> FREGE, *Begriffsschrift*, Vorwort VI f.

<sup>45</sup> RUSSELL, p. 33.

<sup>46</sup> Cf. WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.0031 / 4.003 / 4.112; cf. WITTGENSTEIN, *Philosophical Investigations*, §109.

<sup>47</sup> Cf. PROOPS, p. 214 ff.; cf. CHEUNG, p. 127 ff.

<sup>48</sup> Cf. WITTGENSTEIN, *Tractatus Logico-Philosophicus*, Preface / 5.6: “*The limits of my language mean the limits of my world. [emphasis in original]*” / 5.61: “Logic fills the world: the limits of the world are also its limits. We cannot therefore say in logic: This and this there is in the world, that there is not. For that would apparently presuppose that we exclude certain possibilities, and this cannot be the case since otherwise logic must get outside the limits

regard, his approach of searching for the underlying human preconditions of perceiving and representing the world and of looking for the logical system structuring experience and thought and of therefore illustrating logic as the boundaries and limits of human perception and representation of the world resembles the Kantian critical transcendental approach of searching for the *a priori* preconditions for the possibility of experience and by therefore illustrating the limits of human perception and experience.<sup>49</sup> As for Kant, Wittgenstein's goal is not to expand the sphere of knowledge, but by means of critique and analysis to delimit the sphere of knowledge and in his terms to delimit what can meaningfully be stated.<sup>50</sup>

Wittgenstein in his *Tractatus* through logical analysis of language seeks to uncover the underlying logical form or system structuring and delimiting thought, language and the world. In this pursuit, Wittgenstein is also concerned with the metaphysical or transcendental implications of logic as he believes that logic constitutes the boundary and limit of human thought, language and the world and is therefore the only and ultimate possible metaphysical insight accessible to humans.<sup>51</sup>

### 6.3 Picture Theory

An important aspect of Wittgenstein's *Tractatus* is his picture theory of representation – linking together world, thought and language by them being connected in pictorial relations through shared logical form. The world as the totality of facts (a fact being the existence of atomic facts – marking this position as a form of ontological logical atomism – which are combinations of objects) is represented by a logical picture of facts in thought.<sup>52</sup> A picture is constituted by elements which represent objects in reality.<sup>53</sup> The arrangement of the elements in the picture has to correspond to the arrangement of objects in reality in order for a picture to depict reality,<sup>54</sup> or more abstractly, the logical structure of the pic-

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of the world: that is, if it could consider these limits from the other side also. What we cannot think, that we cannot think: we cannot therefore say what we cannot think. [emphasis in original].

<sup>49</sup> KANT, *Kritik der reinen Vernunft*, p. 9 f. / 12 f. / 517; Cf. further HACKER, *Wittgenstein: Comparisons and Context*, p. 30 ff.

<sup>50</sup> KANT, *Kritik der reinen Vernunft*, p. 517; WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 7; Cf. further HACKER, *Wittgenstein: Comparisons and Context*, p. 30 ff.

<sup>51</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, Introduction by Bertrand Russell, p. 15 f.; WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 5.6 – 5.61 / 5.632 – 5.633 / 6.13.

<sup>52</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 1 / 2 / 3.

<sup>53</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 2.13 – 2.14.

<sup>54</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 2.15.

ture has to be isomorphic to the logical structure of the depicted reality. The picture depicts the reality through shared logical form of representation – the logical form of representation of the picture and the depicted reality are identical.<sup>55</sup> One can figuratively-metaphorically think of two congruent triangles.

Having connected world and thought, Wittgenstein goes on to connect thought and language. While a logical picture of the facts is a thought,<sup>56</sup> thought in turn is a significant (in the sense of “meaningful”) proposition.<sup>57</sup> A proposition (propositional sign) consists of elements (“simple signs”) of which the names (cannot be analysed further, “primitive sign”)<sup>58</sup> represent objects and the arrangement of names in the proposition corresponds to the arrangement of objects in reality.<sup>59</sup> Propositions are composed of and can be broken down into elementary propositions (consisting of names representing objects) which assert the existence of atomic facts (consisting of objects represented by names).<sup>60</sup> Finally, language and the world are also connected through shared logical form and pictorial relation: “The proposition is a picture of reality. The proposition is a model of the reality as we think it is.”<sup>61</sup>

## 6.4 Sense and Nonsense

An important distinction drawn by Wittgenstein is the distinction between sense and nonsense, describing the limits of what can meaningfully be said of the world and ultimately also the limits of the world.<sup>62</sup> A proposition has sense through names representing objects and therefore names having objects

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<sup>55</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 2.1 – 2.2.

<sup>56</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 3.

<sup>57</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.

<sup>58</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 3.26.

<sup>59</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 3.2 – 3.22.

<sup>60</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.21 / 5 / 2.0201.

<sup>61</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.01; cf. further WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.01f: “At the first glance the proposition – say as it stands printed on paper – does not seem to be a picture of the reality of which it treats. But nor does the musical score appear at first sight to be a picture of a musical piece; nor does our phonetic spelling (letters) seem to be a picture of our spoken language. And yet these symbolisms prove to be pictures – even in the ordinary sense of the word – of what they represent.” / 4.014: “The gramophone record, the musical thought, the score, the waves of sound, all stand to one another in that pictorial internal relation, which holds between language and the world. To all of them the logical structure is common. (Like the two youths, their two horses and their lilies in the story. They are all in a certain sense one.)”, alluding to the fairy tale “Die Goldkinder” of the brothers Grimm, cf. also ACKERMANN/ACKERMANN/HENDRICKS, p. 159 f.

<sup>62</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, Preface: “The book will, therefore, draw a limit to thinking, or rather – not to thinking, but to the expression of thoughts; [...] The limit can, therefore, only be drawn in language and what lies on the other side of the limit will be simply nonsense.”

as their meaning – only a proposition has sense and only in the context of a proposition can a name have meaning.<sup>63</sup> Hence, there are two conditions for a proposition to have sense: Firstly, the proposition has to be expressed within the boundaries of logical form and secondly, the proposition has to exhibit a pictorial relation to reality (through names representing objects). From these two conditions arises a further distinction: The distinction between senseless (*sinnlos*) and nonsense (*Unsinn/unsinnig*). An attempt and approach to interpret the distinction and use of the aforementioned terms could be the following: If the second condition is not met, Wittgenstein calls the proposition senseless (*sinnlos*); If the first condition is not met, Wittgenstein calls the proposition nonsense (*Unsinn/unsinnig*).<sup>64</sup> Since the second condition relies on the propositions' pictorial relation to reality, many propositions are for a failure of meeting this condition rendered senseless: One example according to Wittgenstein would be many propositions of philosophy (especially traditional metaphysics).<sup>65</sup> A further example could be logic itself:<sup>66</sup> Tautologies and contradictions themselves do not picture reality and are therefore quite literally sense-less (in the sense of “without sense”).<sup>67</sup> Wittgenstein admits that tautologies and contradictions are “without sense” but he still wants to maintain that they “are not senseless”.<sup>68</sup> On a closer look, to claim that logic itself is senseless would be more consistent with Wittgenstein's own view, because logic is not “something in the world” which can be pictured, but logic is the “limit of the world” which cannot be pictured and is thus senseless.<sup>69</sup> Wittgen-

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<sup>63</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 3.203 / 3.3.

<sup>64</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, Preface: “The limit can, therefore, only be drawn in language and what lies on the other side of the limit will be simply nonsense.”

<sup>65</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.003: “Most propositions and questions, that have been written about philosophical matters, are not false, but senseless. We cannot, therefore, answer questions of this kind at all, but only state their senselessness. Most questions and propositions of the philosophers result from the fact that we do not understand the logic of our language.”

<sup>66</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.0312: “The possibility of propositions is based upon the principle of the representation of objects by signs. My fundamental thought is that the ‘logical constants’ do not represent. That the *logic* of the facts cannot be represented. [emphasis in original]”

<sup>67</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.462: “Tautology and contradiction are not pictures of the reality. They present no possible state of affairs. For the one allows every possible state of affairs, the other none. [emphasis in original]”

<sup>68</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.461: “[...] Tautology and contradiction are without sense. [...]” / 4.4611: “Tautology and contradiction are, however, not senseless; they are part of the symbolism, in the same way that ‘0’ is part of the symbolism of Arithmetic.”

<sup>69</sup> And indeed, the German version is as follows. WITTGENSTEIN, *Logisch-Philosophische Abhandlung*, 4.461: “[...] Tautologie und Kontradiktion sind sinnlos. [...]” / 4.4611: “Tautologie und Kontradiktion sind aber nicht unsinnig; sie gehören zum Symbolismus, und zwar ähnlich wie die ‘0’ zum Symbolismus der Arithmetik.”

stein's claim of tautologies and contradictions not being senseless must rather be interpreted in line with the original German version as him emphasising that they are not nonsense (*Unsinn/unsinnig*) because they are not something beyond the boundaries of logic but instead are a part of the "fabric" of logic constituting the limits of the world and structuring the world.<sup>70</sup> As example for nonsensical (*unsinnig*) propositions, Wittgenstein mentions the following: Some philosophical propositions and questions "are of the same kind as the question whether the Good is more or less identical than the Beautiful."<sup>71</sup> Further examples are "Socrates is identical"<sup>72</sup> or "2 + 2 is at 3 o'clock equal to 4".<sup>73</sup>

Interesting and important in this respect is that the logical form itself designates the limits of language, thought and the world and structures them, but these limits themselves cannot be represented or pictured.<sup>74</sup> These limits of language, thought and the world cannot be said, they can only be shown<sup>75</sup> – which introduces a second important distinction: The distinction between saying and showing.

## 6.5 Saying and Showing

A second important distinction drawn by Wittgenstein is the distinction between sense and nonsense. According to Wittgenstein, what can be shown cannot be said.<sup>76</sup> This means in turn, that what cannot (meaningfully and sensefully) be said can only, yet still, be shown. With this distinction, Wittgenstein rescues the things which cannot be said (being not within the bounds of sense) from unavoidably being nonsense, because they can still be shown – unsayable things are only nonsense insofar as they are tried to be said instead of being shown. Examples for what can only be shown but cannot be said would be the sense of propositions,<sup>77</sup> or the logical form itself.<sup>78</sup>

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<sup>70</sup> Thus, the following English translation would be more accurate. 4.461: "[...] Tautology and contradiction are without sense [more accurate: senseless]. [...]" / 4.461: "Tautology and contradiction are, however, not senseless [more accurate: not nonsense]; [...]"

<sup>71</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.003.

<sup>72</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 5.473 / 5.4733.

<sup>73</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.1272.

<sup>74</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.12 – 4.121 / 5.6 – 5.61.

<sup>75</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.121.

<sup>76</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.1212.

<sup>77</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.022: "The proposition *shows* its sense. The proposition *shows* how things stand, *if* it is true. And it *says*, that they do so stand. [emphasis in original]"

<sup>78</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.121: "Propositions cannot represent the logical form: this mirrors itself in the propositions. That which mirrors itself in language, language cannot represent. That which expresses *itself* in language, *we* cannot express by

In the penultimate paragraph, Wittgenstein admits that all his logical-philosophical remarks in the *Tractatus* are actually senseless because the notion of the logical form structuring and delimiting language, thought and the world is not part of the world but is the limit of the world and therefore cannot be said but can only be shown – and Wittgenstein pursues exactly this goal, to show this limit, not to say it, with his remarks in the *Tractatus* being merely “a ladder” to climb up on to afterwards see the world rightly and throw away the ladder.<sup>79</sup>

Wittgenstein’s *Tractatus* finally culminates and ends in the notions already foreshadowed in the Preface: “Everything that can be thought at all can be thought clearly. Everything that can be said can be said clearly.”<sup>80</sup> and “Whereof one cannot speak, thereof one must be silent.”<sup>81</sup> These two notions alone according to Wittgenstein could sum up the whole meaning of the *Tractatus*.<sup>82</sup>

## 6.6 Metaphysical Solipsism and Pure Realism

A further topic treated in Wittgenstein’s *Tractatus* is the topic of solipsism. Solipsism in its most general and basic form describes the philosophical position of maintaining that only the existence of one’s own mind and thoughts is certain and that one’s own mind is the only epistemic access to the world and hence constitutes the world. Ontologically, solipsism is thus marked by an idealist stance, holding that only the mind and thoughts are certain to exist, as opposed to a materialist stance, holding that the world is certain to exist as well. Epistemologically, solipsism is marked by metaphysics of experience because solipsists (must) examine the epistemological metaphysical preconditions of the mind making experience of the world possible in the first place.<sup>83</sup>

Wittgenstein treats solipsism in the section 5.6 of his *Tractatus*. In paragraph 5.6 he arrives at the contention that “*the limits of my language* mean the limits

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language. The propositions *show* the logical form of reality. They exhibit it. [emphasis in original].”

<sup>79</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 6.54: “My propositions are elucidatory in this way: he who understands me finally recognizes them as senseless, when he has climbed out through them, on them, over them. (He must so to speak throw away the ladder, after he has climbed up on it.) He must surmount these propositions; then he sees the world rightly.”

<sup>80</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.116.

<sup>81</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 7.

<sup>82</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, Preface: “What can be said at all can be said clearly; and whereof one cannot speak thereof one must be silent.”

<sup>83</sup> Cf. HACKER, *Insight and Illusion*, p. 58.

of my world [emphasis in original]<sup>84</sup> which sums up Wittgenstein's project of searching for the limits of language to find the limits of the world (as examined above). Importantly however, by speaking of "my language" and of "my world" he introduces the notion of the self (or the "I") which he addresses in the course of treating solipsism.

According to Wittgenstein, there is no such thing as the "thinking, representing subject" for if I were to write a book entitled "the world as I found it" I would have to mention my body, the parts of the body and even which parts of the body obey my will, but of "the subject" there could be no mention.<sup>85</sup> This rejection of a thinking subject mirrors the Humean objection of non-experienceability of the self in opposition to the Cartesian conception of the self as a *res cogitans*.<sup>86</sup> Rather, according to Wittgenstein, "The subject does not belong to the world but it is a limit of the world"<sup>87</sup> and it is therefore a metaphysical subject.<sup>88</sup>

He elaborates on this contention firstly by means of an analogy and secondly by means of an implied argument. Firstly, he draws an analogy between the relation of the metaphysical subject to the world on the one hand and the relation of the eye to the field of sight on the other hand: The metaphysical subject relates to the world in the same manner as the eye relates to the field of sight; the eye is itself not part of the field of sight, but it is its source (and constitutes its limit), and from nothing within the field of sight could be inferred that it is seen by an eye.<sup>89</sup> Secondly, he mentions that no part of our experience is *a priori* and that everything we see and can describe at all could also be otherwise.<sup>90</sup> Yet, along the lines of the aforementioned analogy, this could be interpreted as an implication that while no part of our experience is *a priori*, the metaphysical self (which is not a part of experience or the world) must be *a priori* as it makes experience possible in the first place. While everything we see in the field of sight and can experience in the world could also be otherwise, it could not be otherwise that in seeing we must have something which makes seeing possible (the eye) or that in experiencing we must have something which makes experiencing possible (the metaphysical self).

These ideas of Wittgenstein strongly draw upon the ideas of Arthur Schopenhauer. According to Schopenhauer, the (transcendental) subject is a precon-

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<sup>84</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 5.6.

<sup>85</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 5.631.

<sup>86</sup> HUME, I, iv., 6., p. 253 ff.; HACKER, *Insight and Illusion*, p. 59.

<sup>87</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 5.632.

<sup>88</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 5.641.

<sup>89</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 5.633.

<sup>90</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 5.634.

dition of the existence of the world and as the source of the forms and categories of experience it is the precondition of all experience.<sup>91</sup> He writes: “It [the subject] is accordingly the supporter of the world, the universal condition of all that appears, of all objects, and it is always presupposed; [...]”<sup>92</sup> Additionally, Schopenhauer also uses the analogy of the eye: “[...] the eye sees everything except itself” and “[...] the ‘I’ is the dark point in consciousness, [...]”<sup>93</sup> Furthermore, Wittgenstein’s contention “I am my world. (The microcosm.)”<sup>94</sup> pictures Schopenhauer’s metaphysical view of the dual nature of the world as representation which is relative to the representing subject and the forms of representation on the one hand and as will which is the thing-in-itself left after the elimination of all representation on the other hand – and, most importantly, his view of everyone being of twofold nature, will and representing subject, and of everyone constituting his whole world (the microcosm) of which the inner being exhausts the inner being of the whole world per se (the macrocosm), identifying the individual twofold consciousness (the “I”) with the microcosm and the microcosm with the macrocosm.<sup>95</sup>

Wittgenstein asserts that “solipsism strictly carried out coincides with pure realism. The I in solipsism shrinks to an extensionless point and there remains the reality co-ordinated with it.”<sup>96</sup> This now readily fits into the general picture painted and into his preceding remarks on experience not being *a priori*: The *a priori* metaphysical subject constitutes the world and introduces logic as *a priori* pure form and limit of the world consisting in non-contingent truths saying nothing about the world (being senseless) but being certain while at the same time logic structures and limits experience as pure substance and content of the world consisting in contingent propositions saying something about the world but being uncertain as well as consisting in the projection of the form of logic onto possible facts. In this way, the “I” as metaphysical sub-

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<sup>91</sup> SCHOPENHAUER, *The World as Will and Representation*, Volume I, First Book, §2, p. 5 f.

<sup>92</sup> SCHOPENHAUER, *The World as Will and Representation*, Volume I, First Book, §2, p. 5 f.

<sup>93</sup> SCHOPENHAUER, *The World as Will and Representation*, Volume II, Chapter XXI, p. 491; Cf. further HACKER, *Insight and Illusion*, p. 64 ff.

<sup>94</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 5.63.

<sup>95</sup> SCHOPENHAUER, *The World as Will and Representation*, Volume I, Book 2, §29, p. 162: “Everyone finds himself to be this will, in which the inner nature of the world consists, and he also finds himself to be the knowing subject, whose representation is the whole world; and this world has an existence only in reference to the knowing subject’s consciousness as its necessary supporter. Thus everyone in this twofold regards is the whole world itself, the microcosm; he finds its two sides whole and complete within himself. And what he thus recognizes as his own inner being also exhausts the inner being of the whole world, of the macrocosm. Thus the whole world, like man himself, is through and through will and through and through representation, and beyond this there is nothing.”

<sup>96</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 5.64.

ject (which cannot be said, but shows itself) shrinks to an extensionless point (figuratively similar to a mathematical singularity or a black hole) which leaves the whole reality coordinated with, around and through it (figuratively similar to a mathematical function surrounding a singularity or everything around a black hole). Thus, solipsism coincides with pure realism. Everything the realist wishes to say can be said (e.g. “there is a tree” etc.) while everything the solipsist wishes to say cannot be said but only be shown (e.g. “I am the metaphysical subject”, “I am my world” and “the world is my world”).<sup>97</sup>

Finally, according to Wittgenstein “there is therefore really a sense in which in philosophy we can talk of a non-psychological I. The I occurs in philosophy through the fact that the ‘world is my world’. The philosophical I is not the man, not the human body or the human soul of which psychology treats, but the metaphysical subject, the limit – not a part of the world.”<sup>98</sup> But strictly speaking, one could not say anything sensible about this “I” occurring through the fact that “the world is my world” or about the metaphysical subject because it is the limit and not part of the world – thus, “what solipsism *means*, is quite correct, only it cannot be *said*, but it shows itself. [emphasis in original]”.<sup>99</sup>

Wittgenstein’s position in the *Tractatus* may thus be described as metaphysical solipsism (with solipsism denoting “the world is my world”; and with metaphysical denoting “I am a metaphysical subject and I am the limit of the world”) and pure realism (denoting “the world exists”).<sup>100</sup>

## 6.7 Consequences for Ethics and Law

Towards the end of the *Tractatus*, Wittgenstein considers the position of ethics within the picture painted by him.

According to Wittgenstein, everything *in* the world is as it is, happens as it happens and is accidental.<sup>101</sup> Value, however, is non-accidental and thus cannot lie *in* the world but must lie *outside* the world.<sup>102</sup> Hence, ethics is transcendental or metaphysical and cannot be *said* but only be *shown*.<sup>103</sup>

Wittgenstein does not speak of ethics with disregard, quite on the contrary, he writes in a letter to Ludwig von Ficker that the point (*Sinn*) of the *Tractatus* is

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<sup>97</sup> HACKER, *Insight and Illusion*, p. 81.

<sup>98</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 5.641.

<sup>99</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 5.62.

<sup>100</sup> Cf. HACKER, *Insight and Illusion*, p. 81.

<sup>101</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 6.41.

<sup>102</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 6.41.

<sup>103</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 6.42 / 6.421.

an ethical one and that the *Tractatus* consists of two parts, firstly all that he has written and secondly all that he has not written, whereof the second part (which includes ethics) is the important one.<sup>104</sup>

Towards the end of the *Tractatus* and rendering the aforementioned ethical point of the *Tractatus* more comprehensible and plausible, Wittgenstein introduces the notion of the mystical: “Not *how* the world is, is the mystical, but *that* it is. [emphasis in original]”.<sup>105</sup> Further, he writes: “We feel that even if *all possible* scientific questions be answered, the problems of life have still not been touched at all. Of course there is then no question left, and just this is the answer. [emphasis in original]”.<sup>106</sup> In these remarks, Wittgenstein recognises and emphasises the importance of the transcendental or metaphysical sphere of ethics, aesthetics and values as the real or hard problems of human life which cannot be solved or even be touched by a natural-scientific perspective and thus stand above the latter. Furthermore, in the second sentence he stresses again that ethical truths cannot be said but only be shown. Finally, he writes: “There is indeed the inexpressible. This *shows* itself; it is the mystical. [emphasis in original]”.<sup>107</sup> Wittgenstein emphasises that the sphere of ethics does exist (just not in the world, but outside the world, as the inexpressible) and that there are inexpressible or ineffable ethical truths which cannot be said but which show themselves. He identifies the inexpressible and hence also ethics with the mystical.

In these remarks together with Wittgenstein’s “Lecture on Ethics” another notion is introduced: The notion of wonder and miracle. In his “Lecture on Ethics”, Wittgenstein distinguishes between a trivial or relative sense of terms like “good” and “valuable” on the one hand and an ethical or absolute sense of these terms on the other hand.<sup>108</sup> The trivial or relative sense of “good” is used for example in the expressions “a good chair”, meaning a chair which serves well the purpose of someone sitting on it, or in “a good pianist”, meaning a pianist who can play pieces of a certain degree of difficulty with a certain degree of dexterity.<sup>109</sup> Thus, the trivial or relative sense of “good” simply means meeting a certain predetermined standard.<sup>110</sup> To illustrate the difference between the trivial or relative sense and the ethical or absolute sense, Wittgenstein employs an example which goes as follows. If A heard B playing the piano

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<sup>104</sup> WITTGENSTEIN, *Prototractatus*, p. 16; cf. CAHILL, p. 96; cf. DIAMOND, p. 152.

<sup>105</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 6.44.

<sup>106</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 6.52.

<sup>107</sup> WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 6.522.

<sup>108</sup> WITTGENSTEIN, *A Lecture on Ethics*, p. 5.

<sup>109</sup> WITTGENSTEIN, *A Lecture on Ethics*, p. 5.

<sup>110</sup> WITTGENSTEIN, *A Lecture on Ethics*, p. 5.

and were to say to B “You play the piano pretty badly” and B were to respond “I know I’m playing the piano pretty badly but I don’t want to play any better”, all A could say would be “Ah, then that’s all right”. If, however, B had told a terrible lie and A were to say to B “You behave very badly” and B were to respond “I know I’m behaving very badly but I don’t want to behave any better”, then certainly A could not say “Ah, then that’s all right” but she would rather say “Well, but you *ought* to want to behave better.”<sup>111</sup> The first example (playing the piano) illustrates a relative judgment of value whereas the second example (lying) illustrates an absolute judgment of value.<sup>112</sup> The difference between these two judgments is that every relative judgment of value can be expressed in factual propositions whereas absolute judgments of value cannot be expressed in factual propositions, no factual proposition could ever imply or express an absolute judgment of value.<sup>113</sup> Wittgenstein further employs the thought experiment of an omniscient person who knows everything about the world and writes everything he knows down in a big book, then this book would contain the whole description of the world (all propositions that can be said, including relative judgements of value), but that book would contain nothing which could be called ethical judgment or absolute judgment of value (for these propositions cannot be said).<sup>114</sup>

But Wittgenstein does not stop here and continues to acknowledge that there is an impulse and a temptation of trying to use expressions like “absolute good” or “absolute value”: “No state of affairs has, in itself, what I would like to call the coercive power of an absolute judge. Then what have all of us who, like myself, are still tempted to use such expressions as ‘absolute good,’ ‘absolute value,’ etc., what have we in mind and what do we try to express?”<sup>115</sup> Wittgenstein is thus searching for the experience of absolute or ethical value which gives rise to an urge, impulse or temptation of trying to express this experience as “absolute good” or “absolute value”.<sup>116</sup> According to him, the experience of absolute or ethical value lies in wondering at the existence of the world which may give rise to the attempt to express it in such phrases as “I wonder at the existence of the world” or “how extraordinary that the world should exist”.<sup>117</sup> These attempts to verbally express this experience is nonsense.<sup>118</sup> However, the experience itself of wondering at the existence of the world seems to

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<sup>111</sup> WITTGENSTEIN, A Lecture on Ethics, p. 5.

<sup>112</sup> WITTGENSTEIN, A Lecture on Ethics, p. 5.

<sup>113</sup> WITTGENSTEIN, A Lecture on Ethics, p. 5 f.

<sup>114</sup> WITTGENSTEIN, A Lecture on Ethics, p. 6.

<sup>115</sup> WITTGENSTEIN, A Lecture on Ethics, p. 7.

<sup>116</sup> WITTGENSTEIN, A Lecture on Ethics, p. 7 f.

<sup>117</sup> WITTGENSTEIN, A Lecture on Ethics, p. 8.

<sup>118</sup> WITTGENSTEIN, A Lecture on Ethics, p. 8 f.

have an intrinsic, absolute value.<sup>119</sup> Therein lies a tension: The experience itself surely seems to be a fact, it is describable in language and happened then and there, but no fact can contain, imply or express absolute value. Wittgenstein calls this “the paradox that an experience, a fact, should seem to have supernatural value.” He tries to resolve this paradox by alluding to the notion of a miracle.<sup>120</sup>

Wittgenstein gives an example for a miracle: “Take the case that one of you suddenly grew a lion’s head and began to roar.”<sup>121</sup> If we were to scientifically examine and describe this miracle, imagine us dissecting the lion head, we would not be able to explain or capture the miracle and all that is miraculous would have disappeared.<sup>122</sup> The scientific way of looking at a fact is simply not the way to look at it as a miracle and hence these are two qualitatively and categorically distinct perspectives.<sup>123</sup> Wittgenstein describes the experience of ethical value as wondering at the existence of the world, and wondering at the existence of the world is the experience of seeing the world as a miracle.<sup>124</sup> The longing to express this experience of wonder and miracle acts as an impulse to run up against and transcend the boundaries of meaningful language and hence the boundaries of our world.<sup>125</sup> There is a tendency in the human mind to try to express the experience of wonder and miracle but that is not possible because this experience of wonder and miracle as transcending the world cannot be expressed in senseful propositions – and indeed this experience is not *meant* to be expressed in senseful propositions, as this would ruin or undermine the experience of wonder and miracle.<sup>126</sup> “You will say: Well, if certain experiences constantly tempt us to attribute a quality to them which we call absolute or ethical value and importance, this simply shows that by these words we *don’t* mean nonsense, that after all what we mean by saying that an experience has absolute value is *just a fact like other facts* and that all it comes to is that we have not yet succeeded in finding the correct logical analysis of what we mean by our ethical and religious expressions. Now when this is urged against me I at once see clearly, as it were in a flash of light, not only that no description that I can think of would do to describe what I mean by absolute value, but that I would reject every significant description that anybody could possibly suggest, *ab initio*, on the ground of its significance. That is to say: I see now

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<sup>119</sup> WITTGENSTEIN, A Lecture on Ethics, p. 10.

<sup>120</sup> WITTGENSTEIN, A Lecture on Ethics, p. 10.

<sup>121</sup> WITTGENSTEIN, A Lecture on Ethics, p. 10.

<sup>122</sup> WITTGENSTEIN, A Lecture on Ethics, p. 10.

<sup>123</sup> WITTGENSTEIN, A Lecture on Ethics, p. 11.

<sup>124</sup> WITTGENSTEIN, A Lecture on Ethics, p. 11.

<sup>125</sup> WITTGENSTEIN, A Lecture on Ethics, p. 11 f.

<sup>126</sup> WITTGENSTEIN, A Lecture on Ethics, p. 11 f.

that these nonsensical expressions were not nonsensical because I had not yet found the correct expressions, but that their nonsensicality was their very essence. For all I wanted to do with them was just to *go beyond* the world and that is to say beyond significant language. [emphasis in original].<sup>127</sup> Here, the transcendental, metaphysical, wonderful, miraculous and unsayable sphere of ethics stands in direct opposition to the physical, disenchanted, pragmatic and sayable sphere of empirical reality – they are mutually exclusive. This experience of wonder and miracle as an impulse to run up against and transcend the boundaries of meaningful language and therefore to run up against and transcend the empirical reality cannot be expressed in meaningful propositions and every attempt to express it through language can only be senseless. But this is not something bad, as this experience is not *meant* to be said, but it is meant to be shown or to show itself – one must not fear senseless attempts of expressing wonder and miracle, as they may show what they mean to show.<sup>128</sup> Furthermore, one might add that in this experience of wonder or miracle an essence of the human being might show itself and one might get a glimpse at the essential wonder and miracle of human life.

The contention that ethics is a topic whereof one cannot speak and which is thus banished into the realm of topics whereof one has to be silent has to be understood in conjunction with the view of ethics as mystical topic embodied in the inexplicable and unsayable wonder and miracle of human life expressing ineffable truths which cannot be said but only be shown.

One might ask: What then is left for the sphere of ethical reflection? What does an ethicist do? According to Wittgenstein, ethical reflection cannot consist in reasoned arguments expressed through language (because they are all senseless), but ethical reflection must consist in a (internal) reflection of the ineffable moral truths and moral preconditions shaping the way human beings construct the moral world and act within the world which cannot be said but only be shown. Thus, these ineffable moral truths may still be shown through trying to put them into words in ethical propositions which are senseless, but which hint at or show the underlying moral truths.

If we take law to consist of and to be built upon certain fundamental legal truths which are grounded in moral reasons (in the natural law tradition), and not merely to consist in the positive law enacted by society (in the positive law tradition), then, according to Wittgenstein, law or at least certain fundamental legal truths would also not be part of the world but lie outside of the world as

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<sup>127</sup> WITTGENSTEIN, *A Lecture on Ethics*, p. 11.

<sup>128</sup> Cf. CAHILL, p. 111.

something transcendental or metaphysical which cannot be said but only be shown.

At this point it is important to emphasise again that Wittgenstein does not disregard, look down on or ridicule ethics and law, quite on the contrary, he holds it in high regard and has a deep respect for it.<sup>129</sup>

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<sup>129</sup> Cf. WITTGENSTEIN, *Prototractatus*, p. 16: “You see, I am quite sure that you won’t get all that much out of reading it. Because you won’t understand it; its subject-matter will seem quite alien to you. But it isn’t really alien to you, because the book’s point [*der Sinn des Buches*] is an ethical one. I once meant to include in the preface a sentence which is not in fact there now but which I will write out for you here, because it will perhaps be a key to the work for you. What I meant to write, then, was this: My work consists of two parts: the one presented here plus all that I have not written. And it is precisely this second part that is the important one. My book draws limits to the sphere of the ethical from the inside as it were, and I am convinced that this is the ONLY rigorous way of drawing those limits. In short, I believe that where many others today are just gassing, I have managed in my book to put everything firmly into place by being silent about it. [emphasis in original]”; cf. WITTGENSTEIN, *A Lecture on Ethics*, p. 12: “But it [ethics] is a document of a tendency in the human mind which I personally cannot help respecting deeply and I would not for my life ridicule it.”

## 7 Turn from Early to Late Philosophy

Departing from Wittgenstein's view of philosophy as an effort to untangle conceptual misunderstandings through systematic analysis and critique of the use of language and thereby solving philosophical problems, Wittgenstein in his earlier philosophy followed in the footsteps of Frege and Russell and turned towards a logical analysis of the use of language in his *Tractatus Logico-Philosophicus*. The main aim of this logical analysis of the use of language was to find the fundamental underlying logical form structuring our language and to devise an ideal language.

In his later philosophy, Wittgenstein acknowledged serious shortcomings of a mere logical analysis of the use of language failing to adequately capture the full complexity of the use of language.<sup>130</sup> Instead, Wittgenstein turned to a grammatical examination and description of ordinary use of language. The object of study thus shifted from the attempt of devising an ideal language to acknowledging and examining ordinary language.

The break, turn or shift in Wittgenstein's ideas from his earlier to his later philosophy can be characterised along the following lines. Wittgenstein moved from the logic of ideal language to the grammar of ordinary language and thus marked a shift from ideal language philosophy towards ordinary language philosophy. Wittgenstein abandoned his "picture theory" of language and adopted a "use theory" of language, marking language not as a mere means to picture the world but as a complex activity constituted in and by its use. Wittgenstein moved from portraying human language as a static, uniform, monolithic logical system picturing the world to highlighting human language as a complex human practice and thus moved from striving for logical purity and sparsity of language to acknowledging and appreciating the grammatical richness and diversity of language.

In this regard, Wittgenstein compares our language to an old city: "Our language can be seen as an ancient city: a maze of little streets and squares, of old and new houses, and of houses with additions from various periods; and this surrounded by a multitude of new boroughs with straight regular streets and uniform houses."<sup>131</sup> Logically formalised ideal language can be compared to uniform suburbs and only makes up a small part of the whole city of language which is far richer and encompasses ordinary language which can be compared for example to the old-town part of a city.

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<sup>130</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, Preface; cf. already WITTGENSTEIN, *Tractatus Logico-Philosophicus*, 4.002.

<sup>131</sup> WITTGENSTEIN, *Philosophical Investigations*, §18.

## 8 Late Wittgenstein: Philosophical Investigations

Wittgenstein's work in the *Philosophical Investigations* was published posthumously in 1953 edited by G. E. M. Anscombe and Rush Rhees and translated to English by G. E. M. Anscombe. Wittgenstein, in his attempt to write and publish his second book, acknowledged that he would not succeed in producing a coherent and self-contained systematic philosophical treatise, but instead contented himself with conveying his thoughts and ideas as philosophical remarks in short paragraphs jumping from one topic to another in a natural and unbroken manner.<sup>132</sup> In contrast to his *Tractatus*, his writing style shifted from systematic philosophical writing to investigatory aphoristic writing including many examples and comparisons. Wittgenstein himself calls his philosophical remarks in the *Philosophical Investigations* “a number of sketches of landscapes” of ideas collected in an “album”.<sup>133</sup> Wittgenstein also explicitly contrasts his ideas in the *Philosophical Investigations* with his earlier ideas in the *Tractatus*.<sup>134</sup> In the *Philosophical Investigations*, he wanted to correct some of the mistakes made in the *Tractatus* by conveying a more complete and complex picture of language, thought and the world in abandoning his simplistic, reductionist, formalistic and logical picture theory of language and proposing a new way of looking at language, thought and the world.

### 8.1 Meaning as Use

Wittgenstein begins his *Philosophical Investigations* by presenting the Augustinian picture of the essence of human language portrayed by Augustine of Hippo in his *Confessions*.<sup>135</sup> This Augustinian picture can be described along the following lines. Individual words of a language name certain objects and sentences are combinations of such names. Every word has a correlating meaning and the meaning of a word is the object named by a word.<sup>136</sup>

This picture for a long time has been the guiding framework of thinking about language. In particular, the conceptions of language put forward by Frege and Russell follow the lines of the Augustinian picture of language.<sup>137</sup> Moreover, the conception of language put forward by Wittgenstein in his *Tractatus* in pro-

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<sup>132</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, Preface.

<sup>133</sup> WITTGENSTEIN, *Philosophical Investigations*, Preface.

<sup>134</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, Preface.

<sup>135</sup> WITTGENSTEIN, *Philosophical Investigations*, §1; AUGUSTINUS, I. 8.

<sup>136</sup> WITTGENSTEIN, *Philosophical Investigations*, §1.

<sup>137</sup> Cf. BAKER/HACKER, *Wittgenstein: Understanding and Meaning*, p. 19 ff.

moting the picture theory of language follows the Augustinian picture of language as well.<sup>138</sup>

The problem with the Augustinian picture of human language is that it is highly oversimplified and strongly underinclusive: Human language is much more complex than the Augustinian picture.<sup>139</sup> There are many different kinds of words, which the Augustinian picture of language fails to acknowledge.<sup>140</sup> While words can name certain objects, they are not limited to that function.<sup>141</sup> Words can serve many different functions and can be compared to tools in a toolbox: “Think of the tools in a tool-box: there is a hammer, pliers, a saw, a screw-driver, a rule, a glue-pot, glue, nails and screws. – The functions of words are as diverse as the functions of these objects. (And in both cases there are similarities.) Of course, what confuses us is the uniform appearance of words when we hear them spoken or meet them in script and print. For their *application* is not presented to us so clearly. Especially not, when we are doing philosophy! [emphasis in original]”<sup>142</sup> The Augustinian picture of language can thus be said to paint an incomplete and lacking picture of the human language which might be described as primitive language.<sup>143</sup> Language has far more purposes than portrayed by the Augustinian picture, including for example reporting or speculating about an event, forming and testing a hypothesis, making up a story and reading it, making up a joke and telling it, play-acting, singing catches, guessing riddles, or asking, thanking, cursing, greeting, and praying, which adherents to the Augustinian picture (including the early Wittgenstein in his *Tractatus*) fail to capture.<sup>144</sup> The Augustinian picture is strongly limited because it neglects the role of human action in constituting the meaning of words.

The question then is: What shall replace the Augustinian picture of language? What shall be the meaning of a word if it is not the object named by the word?

Wittgenstein claims the meaning of a word to be its use in language: “For a *large* class of cases – though not for all – in which we employ the word ‘meaning’ it can be defined thus: the meaning of a word is its use in the language. [emphasis in original]”<sup>145</sup> Thus, Wittgenstein turns away from a picture theory of meaning towards a use theory of meaning.

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<sup>138</sup> Cf. BAKER/HACKER, Wittgenstein: Understanding and Meaning, p. 26 ff.

<sup>139</sup> Cf. WITTGENSTEIN, Philosophical Investigations, §3.

<sup>140</sup> WITTGENSTEIN, Philosophical Investigations, §1 / 17.

<sup>141</sup> WITTGENSTEIN, Philosophical Investigations, §3 / 11 / 17.

<sup>142</sup> WITTGENSTEIN, Philosophical Investigations, §11.

<sup>143</sup> WITTGENSTEIN, Philosophical Investigations, §2.

<sup>144</sup> WITTGENSTEIN, Philosophical Investigations, §23.

<sup>145</sup> WITTGENSTEIN, Philosophical Investigations, §43.

However, the claim of the meaning of a word being constituted in its use opens up a series of subsequent questions and corollary problems. Which use of a word shall constitute its meaning? Shall every use of a word constitute its meaning? Are there correct and wrong uses of a word? Are the wrong uses of a word not constituting its meaning? What are the connections between comparable uses of the same word or what are the differences between different uses of the same word?

These questions and problems lead Wittgenstein to treat the topics examined in the following chapters: Language games, family resemblance, rules and rule following, form of life, private language, and the mind.

## 8.2 Language Games

Wittgenstein introduces the concept of a language game as a method to examine and illuminate different aspects and possible uses of language. Wittgenstein never explicitly defines the concept of language games. The concept of a language game and the inherent comparison and analogy between a language and a game should emphasise the activity-related, intersubjective, diverse, un-fixed, open and playful character of language and thus marks his turn away from viewing language as a rigid monolithic logical system to viewing it as a human practice. Language is compared to the game of chess multiple times throughout the *Philosophical Investigations*.<sup>146</sup>

Wittgenstein uses the term “language game” to denote different things, with the following serving as examples. Firstly, he uses it to denote a learning practice of a child learning a language.<sup>147</sup> Secondly, he uses it to denote a primitive language (either as a fragment of our actual language practice or as a complete but lesser language compared to our actual language practice).<sup>148</sup> Thirdly, he uses it to denote the whole of language consisting in a practice including linguistic as well as non-linguistic elements, i.e. consisting in language and the surrounding actions with which it is interwoven.<sup>149</sup>

Language games can be fictional (invented) or non-fictional (our actual linguistic practices).<sup>150</sup> They serve as objects of comparison to throw light on our ordinary use of language by means of similarities and dissimilarities and thus

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<sup>146</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §17 / 31 / 33 / 47 / 49 / 66 / 108 / 136 / 149 / 197 / 200 / 316 / 563.

<sup>147</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §5 / 7.

<sup>148</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §2 / 6 / 7.

<sup>149</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §7.

<sup>150</sup> For fictional language games, cf. e.g. WITTGENSTEIN, *Philosophical Investigations*, §2 / 8. For non-fictional language games, cf. e.g. WITTGENSTEIN, *Philosophical Investigations*, §23 / 71.

“disperse the fog” surrounding the phenomena of language by providing clear and simple examples of language use.<sup>151</sup>

Language games are used by Wittgenstein in two distinct forms and can be said to serve two opposite methodological purposes: In their use by Wittgenstein, language games either serve a positive supporting purpose (by illuminating certain aspects of our use of language by highlighting a fragment of our language in a language game as an object of comparison) or a negative contesting purpose (by clarifying defects of certain philosophical misconceptions). For example, his first-mentioned primitive language game of the builder and the assistant using only four words to communicate is used to clarify the shortcomings of the Augustinian picture of language and thus serves a negative contesting purpose.<sup>152</sup> On the other hand, his listing of possible language games is used to illuminate the diversity of the phenomena of language and thus serves a positive supporting purpose.<sup>153</sup>

The analogy between a language and a game sheds light on certain characteristics of language games which are not explicitly mentioned by Wittgenstein but are implied and can be deduced.<sup>154</sup> Games, like languages, are human creations unfolding in social interactions between human beings. They are both rule-governed with the rules of a game being constitutive (not merely strategic) of a game just like the rules of grammar are constitutive of a language in that their constitutive rules determine which moves in a game or which uses of words are correct or make sense. The rules of a game just like the rules of a language are autonomous in that they have no foundations and cannot be justified by reference to reality and hence are not answerable to reality. Unlike the rules of a strict monolithic logical system, the rules of a game just like the rules of a language are not “closed” but are “open” in that they do not claim to be the only possible and exhaustive set of rules and in that other rules are thinkable. The ability to play a game just like the ability to speak a language lies in the mastery of a technique with its acquisition being based on training consisting of being taught and learning. Playing a game just like speaking a language is a human activity with the existence of shared games and shared languages presupposing shared and common human abilities. A game is defined “internally” by the rules of the game and not “externally” by external purposes; although one may play for pleasure, honour or money, this external purpose does not define a game – similarly a language is defined “internally” by its rules

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<sup>151</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §130 / 5.

<sup>152</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §2-3.

<sup>153</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §23.

<sup>154</sup> Cf. BAKER/HACKER, *Wittgenstein: Understanding and Meaning*, p. 45 ff.; cf. GLOCK, p. 193 ff.

and not “externally” by external purposes; although language may be used for communication, this external purpose does not define a language.

Language as an expansive and diverse multiplicity of possible language games is a family-resemblance concept which cannot be clearly defined by highlighting one common essence or a set of characteristic features as necessary and sufficient conditions for everything that we call “language” but can only be described by identifying shared overlapping similarities.<sup>155</sup>

### 8.3 Family Resemblance

The idea of family resemblance is introduced by Wittgenstein as resistance against essentialism and against the “craving for generality” (which also dominated the earlier work of Wittgenstein in his *Tractatus*) of searching for one common general essence shared by different particular instances of the application of a term or concept and which explains why these particular instances may be subsumed under the same general term or concept.<sup>156</sup> Essentialism has a long history going back to at least Socrates, Plato and Aristotle and extending over scholastic thought to Port-Royal logicians as well as over Descartes, Spinoza and Leibniz to the beginnings of Analytic Philosophy in Frege and Russell.<sup>157</sup> Through the idea of family resemblance, Wittgenstein protests against the thought that there must be a common essence uniting different uses of the same term or concept and that this common essence may be fixed by an analytic definition (real definition, as opposed to a nominal definition consisting either in a stipulation or a factual description of common language use and speech habits) as essentialist explanation based on necessary and sufficient conditions for certain terms or concepts.

Wittgenstein introduces his idea of family resemblance in §65 of his *Philosophical Investigations*. While in the *Tractatus* Wittgenstein tried to elucidate the concept of language by searching for its essence in its logical form, in the *Philosophical Investigations* Wittgenstein tries to elucidate the concept of language by alluding to language games as examples of language and objects of comparison. One might object to this approach, as a fictional interlocutor does in §65, that Wittgenstein never provides the essence of a language game and what is common to all these activities called language game and therefore also fails to provide the essence of language and hence to elucidate the con-

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<sup>155</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §65–67.

<sup>156</sup> Cf. WITTGENSTEIN, *The Blue and Brown Books*, p. 17 ff.; cf. WITTGENSTEIN, *Philosophical Investigations*, §65–67.

<sup>157</sup> Cf. BAKER/HACKER, *Wittgenstein: Understanding and Meaning*, p. 201 ff.

cept of language.<sup>158</sup> Wittgenstein bites the bullet and admits that he never provided the essence of a language game, but he rejects the underlying demand to provide an essence in the first place and he insists that this is not necessary, because there is not one essential thing common to all phenomena we call language, but these phenomena are related to one another in many different ways, and it is because of these relationships that we call them all “language”.<sup>159</sup> To illustrate this point he continues his analogy between a language and a game and considers the practices we call “games”, as for example board-games, card-games, ball-games, Olympic games and so on.<sup>160</sup> If we are asked if there is something common to them all we shall not answer “there *must* be something common, or they would not be called ‘games’”, but we shall *look and see* whether there is anything common to all, and we will see that there is not *one* thing common to all, but there are *several* similarities, likenesses and relationships.<sup>161</sup> The maxim here is: “Don’t think, but look!” – and the result of looking at the practices we call “games” is that we see a complicated network of overlapping and criss-crossing similarities, with similarities appearing and disappearing in the comparison of games from board-games, card-games or ball-games to children’s games, role-playing games or games like ring-a-ring-o-roses.<sup>162</sup> Wittgenstein calls these overlapping and criss-crossing similarities “family resemblances” because the various resemblances between family members like e.g. build, features, eye colours, gait etc. overlap and criss-cross in the same way.<sup>163</sup> Furthermore, it is not possible to point out one single feature as the common essence which constitutes the resemblance between family members. Wittgenstein compares family resemblances to a thread: “And the strength of the thread does not reside in the fact that some one fibre runs through its whole length, but in the overlapping of many fibres.”<sup>164</sup>

Just like a thread does not depend on and is not held together by one single fibre running through its whole length but by the overlapping, criss-crossing, intertwining and interweaving of many fibres, different uses of the same word, term or concept are not “held together” or connected through one single common essence or a set of characteristic features, but through overlapping and criss-crossing similarities as family resemblances. Different uses of the same word, term or concept are united through several overlapping similarities and not one common essence and thus the unity in words, terms or concepts and

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<sup>158</sup> WITTGENSTEIN, *Philosophical Investigations*, §65.

<sup>159</sup> WITTGENSTEIN, *Philosophical Investigations*, §65.

<sup>160</sup> WITTGENSTEIN, *Philosophical Investigations*, §66.

<sup>161</sup> WITTGENSTEIN, *Philosophical Investigations*, §66.

<sup>162</sup> WITTGENSTEIN, *Philosophical Investigations*, §66.

<sup>163</sup> WITTGENSTEIN, *Philosophical Investigations*, §67.

<sup>164</sup> WITTGENSTEIN, *Philosophical Investigations*, §67.

the words, terms or concepts themselves are constituted by family resemblances and not by essentialist analytic definitions based on necessary and sufficient conditions.

This resistance against essentialism and its accompanying cravings for abstract generality, strict boundaries and exactness expressed itself in Wittgenstein abandoning the focus on essentialist analytic definitions with clear-cut, abstract, general, and exact boundaries entailed in formal logic (dominant in the *Tractatus*) in favour of a focus on family resemblances without clear-cut exact boundaries but with overlapping, criss-crossing, intertwined and interwoven similarities exhibited in concrete and individual relationships between different uses of a certain word entailed in material practice (dominant in the *Philosophical Investigations*).<sup>165</sup>

The idea of family resemblance offers a new mode of how concepts may be constituted. Concepts that are constituted by family resemblances may be called family-resemblance concepts. However, not all concepts are family-resemblance concepts. Certain branches, subsets or fragments of a family-resemblance concept may be united by a common essence or characteristic defining features as necessary and sufficient conditions; however, these do not exhaust or constitute the concept as a whole. Family-resemblance concepts have no clear-cut boundaries, are “open” and may expand or evolve. Examples of family-resemblance concepts are the concepts of a game, number or language.<sup>166</sup>

## 8.4 Rules and Rule Following

If the meaning of words is constituted by their use, the following questions still remain: Which use of a word shall constitute its meaning? Shall every use of a word constitute its meaning? Are there correct and wrong uses of a word? What makes them correct or wrong? What connects particular uses of the same word?

Wittgenstein addresses these questions by appealing to rules and rule-following. He tries to illustrate how rules guide our behaviour as well as our use of words and how thus rules determine the meaning of words.

The starting point of his investigations into the topic of rules is the insight that language is a rule-based and rule-guided practice. The rules guiding language

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<sup>165</sup> For the discussion of boundaries and exactness, cf. WITTGENSTEIN, *Philosophical Investigations*, §68-69.

<sup>166</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §65 / 66 / 67; cf. GLOCK, p. 123 f.

can be conceived of differently. Whereas in the *Tractatus* Wittgenstein found linguistic rules to lie in logical syntax hidden beneath the surface structure of ordinary natural language, in the *Philosophical Investigations* he finds linguistic rules to lie in philosophical grammar guiding the use of words and therefore determining their meaning.<sup>167</sup>

The topic of rules pervades almost all of the considerations of Wittgenstein's *Philosophical Investigations*. Wittgenstein first introduces the topic of rules in the context of language games and the comparison of language to a game, listing possible forms, types or functions of rules in a game.<sup>168</sup> Wittgenstein also treats rules in the context of family-resemblance concepts, observing that not all concepts have clear exact boundaries (although such boundaries may always be drawn for special purposes as stipulations) and family-resemblance concepts like that of a game or number are not limited in every direction and not clearly circumscribed by rules into every last detail or "any last corner", just like there are no rules in tennis on how high or how hard to throw the ball in the air before performing a serve, and yet the game is still playable.<sup>169</sup> Wittgenstein further arrives at discussing the rules guiding the use of words, concluding that there is no fixed set of rules clearly and exactly defining the use of a certain word but that the use of a certain word is not everywhere bounded and clearly and exactly circumscribed by rules, that it is guided by an open multiplicity of rules and that it is even thinkable that we make up or change the rules as we go along.<sup>170</sup> These considerations, which can be viewed as preliminary remarks prior to a more in-depth examination of rules and rule-following, lead Wittgenstein to compare rules to a sign-post ("Wegweiser"): It points into one direction without clearly and exactly circumscribing a certain path specifying every single detail, without removing every last possible doubt about the path and without exactly defining or predetermining the outcome of following the sign-post.<sup>171</sup>

Wittgenstein proceeds to a more in-depth examination of rules and rule-following in §185-242 of his *Philosophical Investigations*. The main question he addresses in this section is how rules can guide our behaviour at all. He starts his examination of the normativity of rules by a puzzle: We have taught a student to follow the rule "+ n" by writing down the series of numbers "0, n, 2n, 3n, etc." and he has practised writing down these series of numbers up to 1000 –

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<sup>167</sup> Cf. BAKER/HACKER, Wittgenstein: Rules, Grammar and Necessity, p. 41 ff.; cf. WITTGENSTEIN, *Philosophical Investigations*, §89-90 / 100 / 107-108 / 115-116.

<sup>168</sup> WITTGENSTEIN, *Philosophical Investigations*, §54.

<sup>169</sup> WITTGENSTEIN, *Philosophical Investigations*, §68.

<sup>170</sup> WITTGENSTEIN, *Philosophical Investigations*, §82-84.

<sup>171</sup> WITTGENSTEIN, *Philosophical Investigations*, §85.

we then ask the student to continue the series of numbers following the rule “+ 2” beyond 1000 and he writes down “1000, 1004, 1008, 1012”.<sup>172</sup> The puzzle or question, which Wittgenstein tries to illustrate with this example, is: What are the grounds or reasons for us saying that the student has misunderstood the rule? How are rules connected to them being followed? And how can rules guide our behaviour at all?

To approach these questions, we first have to understand what is meant by rules. Wittgenstein unsurprisingly does not provide an analytic definition of a rule because he considers “rule” to be a family-resemblance concept. Nonetheless, rules can be said to exhibit certain characteristics which are however not explicitly mentioned by Wittgenstein but are implied and can be deduced.<sup>173</sup> Firstly, rules are inherently normative in that they tell us what ought to be, encompassing deontic/prescriptive as well as evaluative elements. Secondly, rules are standards of correctness in that they determine e.g. the correct use of a word or the correct way to play a game and prescribe it. Thirdly, they are standards of evaluation in that they provide a standard for evaluating certain behaviour. Fourthly, rules are general and abstract in that they are applicable to an unlimited multiplicity of addressees as well as to an unlimited multiplicity of cases. Fifthly, there is a difference between following a rule and merely acting in accordance with a rule in that following a rule presupposes the rule to be part of an agent’s reasons for doing something and thus the rule at least has to be known to the agent. Sixthly, there is a difference between a rule and its expression in a rule-formulation in that one rule may be expressed by multiple rule-formulations, e.g. in different languages. Seventhly, a rule implies a regularity in behaviour in that the use of the word “rule” and the use of the word “same” are interwoven and hence “following a rule” and “doing the same” are interwoven too.

Rules can further be said to play different roles (or serve different functions) in a rule-based practice or activity.<sup>174</sup> Firstly, rules may play an instructional role in that we typically teach a rule-based practice by citing rules. Secondly, rules may play a definitional role in that they define certain actions (e.g. castling in chess). Thirdly, rules may play an explanatory role in that an agent may explain his actions by referring to a rule. Fourthly, rules may play a predictive role in that they allow for predictions based on their implied regularities in behaviour. Fifthly, rules may play a justificatory role in that a rule may be cited in justi-

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<sup>172</sup> WITTGENSTEIN, *Philosophical Investigations*, §185.

<sup>173</sup> Cf. GLOCK, p. 324; cf. BAKER/HACKER, *Wittgenstein: Rules, Grammar and Necessity*, p. 46 ff.; cf. WAISMANN, p. 82 / 137 ff.

<sup>174</sup> Cf. BAKER/HACKER, *Wittgenstein: Rules, Grammar and Necessity*, p. 49 ff.; cf. WITTGENSTEIN, *Philosophical Investigations*, §53 f.

fying or criticising an action. Sixthly, rules may play a prescriptive role in that they prescribe e.g. the correct use of a word or the correct way to play a game. Seventhly, rules may play an evaluative role in that they constitute standards of evaluation against which actions can be evaluated.

Rules are expressed by rule-formulations and rule-formulations may take different linguistic forms and may consist in different sentence-types. With obvious examples of rules being the rules of a game, legal rules or rules of etiquette, we usually think of rules being expressed by “must or must not”, “ought or ought not”, “shall or shall not”, or “do or do not” as in e.g. “in football, you must not touch the ball with your hands unless you are the goalkeeper or you are performing a throw-in”, “you must drive on the right”, or “you shall not eat with your fingers”, however rules may also be expressed by a wide range of further types of sentences, as in e.g. “the queen may move to any square along the file, the rank or a diagonal on which it stands”, “a bigamous marriage is invalid”, or “whoever reaches the goal first is the winner”.<sup>175</sup> Rules may thus be expressed by a wide range of different sentence-types including deontic sentences, evaluative sentences, imperative sentences, and declarative sentences.

The questions still remain: What are rules? How should we conceive of rules? What do rules consist in and how are they constituted? Where did the student writing down “1000, 1004, 1008, 1012” go wrong? Wittgenstein considers and rejects several possible answers to these questions.<sup>176</sup> Firstly, Wittgenstein rejects mentalism (i.e. the position holding that rules are mental states) because on the one hand a mental state could not in advance extend to or include an infinite number of cases like a rule would and on the other hand mentalism still leaves the question open of how mental states are applied as rules, how they are projected onto reality or how they are translated into action and thus how mental states could generally be able to guide our behaviour.<sup>177</sup> Secondly, Wittgenstein rejects mechanism (i.e. the position holding that rules are mechanisms which determine behaviour or actions with absolute certainty and without leaving room for deviation) because on the one hand rules unlike mechanisms do not causally determine behaviour but they are reasons for actions and normatively guide behaviour and actions and on the other hand the relationship of a mechanism and its causal consequences is purely external and based on contingent facts whereas the relationship between rules and rule-following is entirely and categorically different.<sup>178</sup> Thirdly, Wittgenstein rejects Platonism (i.e. the position holding that rules are abstract, objective and

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<sup>175</sup> Cf. BAKER/HACKER, Wittgenstein: Rules, Grammar and Necessity, p. 46.

<sup>176</sup> Cf. GLOCK, p. 325 ff.

<sup>177</sup> Cf. WITTGENSTEIN, Philosophical Investigations, §186-188 / 190.

<sup>178</sup> Cf. WITTGENSTEIN, Philosophical Investigations, §191-197.

absolute entities) because it would merely replace a puzzle by a mystery, it would leave open the question of how we can grasp abstract entities and it cannot answer the question of how abstract entities can guide behaviour.<sup>179</sup> Fourthly, Wittgenstein rejects symbolism or nominalism (i.e. the position holding that a rule is identical to its expression in a rule-formulation) because one rule may be expressed by multiple different rule-formulations and the meaning of rule-formulations in turn depends on how they are used which is why rule-formulations themselves cannot guide their own use.<sup>180</sup> Fifthly, Wittgenstein rejects interpretationism or hermeneutics (i.e. the position of holding that a rule is identical to its interpretation) because identifying a rule with its interpretation could only calm us down for a short time before being asked for the interpretation lying behind this interpretation and hence would lead to an infinite regress of interpretations or of rule-formulations (or of rules on how to apply rules)<sup>181</sup> – an interpretation of a rule is a mere substitution of a rule-formulation by another rule-formulation.<sup>182</sup>

With Wittgenstein rejecting all of these possible answers to the question of what rules are and how they can guide our behaviour one could be tempted to conclude that Wittgenstein adopts a rule-scepticism holding that rules don't really exist or cannot guide our behaviour. However, Wittgenstein quite explicitly rejects rule-scepticism by holding that there is a further way of conceiving of rules and rule-following.<sup>183</sup> He considers two possible solutions to the sceptical challenge of rule-scepticism, whereof he rejects the first and adopts the second as his own proper proposition. The first solution would be to appeal to the linguistic community and could thus be named community-view: A rule is just what the linguistic community agrees to be a rule and following a rule is just what the linguistic community accepts as following a rule.<sup>184</sup> Wittgenstein rejects this possible solution because (the possibility of) linguistic communal agreement is a precondition for rules to be expressed in rule-formulations but it does not constitute rules themselves.<sup>185</sup>

In considering a second possible solution to the sceptical challenge of rule-scepticism, Wittgenstein proposes (in typical implicit Wittgensteinian man-

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<sup>179</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §191-197.

<sup>180</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §189-190.

<sup>181</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §84-85.

<sup>182</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §84-87 / 198 / 201.

<sup>183</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §201.

<sup>184</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §241-242.

<sup>185</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §241: "So you are saying that human agreement decides what is true and what is false?" – It is what human beings *say* that is true and false; and they agree in the *language* they use. That is not agreement in opinions but in form of life. [emphasis in original]."

ner) his own answer to the questions of what rules are and how they can guide our behaviour through rule-following.<sup>186</sup> According to Wittgenstein, rules and rule-following are a normative practice grounded in the ability of directing our behaviour in reference and according to certain standards and norms.<sup>187</sup> Rules and rule-following are constituted by the normative practice of describing an action as “following” or “going against” a rule.<sup>188</sup> Rules and rule-following are connected through an internal relation and there is no “gap” between a rule and its application.<sup>189</sup> To know or understand a rule is to know or understand its application.<sup>190</sup> And therefore, because there is an internal relation between a rule and its being followed and not an external relation, the question of how a rule can guide our behaviour is misguided: The rule (internally) determines and includes its application and its being followed.<sup>191</sup> There is no external causal connection between a rule and following a rule but an internal logical (or grammatical “*de dicto*”) connection,<sup>192</sup> in that the rule provides a standard for describing an action as “following” or “going against” it.<sup>193</sup> Between a rule and rule-following there is no “gap”, but a category difference.<sup>194</sup> Rule and rule-following can be said to coincide and to represent two sides of the same coin. We might imagine rules as “rails invisibly laid to infinity”:<sup>195</sup> “The rule, once stamped with a particular meaning, traces the lines along which it is to be followed through the whole of space.”<sup>196</sup> “When I obey a rule, I do not choose. I obey the rule *blindly*. [emphasis in original]”:<sup>197</sup> “The rule guides us and we follow the rule blindly, however without our responsibility being removed.”<sup>198</sup> “‘The line intimates to me which way I am to go’ is only a paraphrase of: it is my *last* arbiter for the way I am to go. [emphasis in original]”:<sup>199</sup> Such that if one asks “[h]ow am I able to obey a rule?” as a question about the justification of my following the rule in *that* particular way and after I have ex-

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<sup>186</sup> Cf. GLOCK, p. 326 ff.

<sup>187</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §201-202.

<sup>188</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §201-202.

<sup>189</sup> Cf. WITTGENSTEIN, *Wittgenstein’s Lectures*, Cambridge 1932-1935, p. 90; cf. GLOCK, p. 327.

<sup>190</sup> Cf. WITTGENSTEIN, *Remarks on the Foundations of Mathematics*, p. 331 f.

<sup>191</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §191 / 195 / 197-198 / 201 / 219; This aspect has some similarities with Kant’s idea of the Moral Law being a Fact of Reason as originally lawgiving: “*sic volo, sic jubeo*” (however only in a formal sense, excluding Kant’s material implications), cf. KANT, *Kritik der praktischen Vernunft*, p. 31.

<sup>192</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §220.

<sup>193</sup> Cf. GLOCK, p. 328.

<sup>194</sup> Cf. GLOCK, p. 328.

<sup>195</sup> WITTGENSTEIN, *Philosophical Investigations*, §218.

<sup>196</sup> WITTGENSTEIN, *Philosophical Investigations*, §219.

<sup>197</sup> WITTGENSTEIN, *Philosophical Investigations*, §219.

<sup>198</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §222.

<sup>199</sup> WITTGENSTEIN, *Philosophical Investigations*, §230.

hausted all justifications of referring to and in reference to the rule, “I have reached bedrock, and my spade is turned. Then I am inclined to say: ‘This is simply what I do.’”<sup>200</sup> And I might further be inclined to say “[b]ut surely you can see ....?”, which is “just the characteristic expression of someone who is under the compulsion of a rule.”<sup>201</sup> Being guided by a rule might even feel like being guided by a spell, feeling astonishment to the point that we might thank a Deity for it, which only goes to show the diverse physiognomy of what we call “obeying a rule.”<sup>202</sup>

There are different opposing “camps” of interpretation regarding Wittgenstein’s notion of rules and rule-following. The one camp claims that Wittgenstein adopts a rule-scepticism.<sup>203</sup> The other camp rejects that claim holding that it is based on a trivial reading of Wittgenstein.<sup>204</sup> Following our examination of Wittgenstein’s understanding of rules and rule-following, the view of the second camp is more convincing, for Wittgenstein quite explicitly rejects rule-scepticism.<sup>205</sup>

## 8.5 Private Language, Beetle and Mind

After the passage of the *Philosophical Investigations* discussing rules and rule-following, Wittgenstein in §243-315, what has become known as the private language argument (although the term “argument” might be misleading because Wittgenstein never explicitly puts forward a closed coherent argument but conducts several investigations, which is why “private language investigation” might be more fitting)<sup>206</sup>, turns to the question of whether a private language is possible (in the sense of imaginable) and he more broadly discusses the relationship between the mind, behaviour and language.

To understand this question, we first have to understand Wittgenstein’s idea of a private language. Wittgenstein introduces the idea of a private language as follows: “But could we also imagine a language in which a person could write down or give vocal expression to his inner experiences – his feelings, moods, and the rest – for his private use? – Well, can’t we do so in our ordinary language? – But that is not what I mean. The individual words of this language are to refer to what can only be known to the person speaking; to his immediate

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<sup>200</sup> WITTGENSTEIN, *Philosophical Investigations*, §217.

<sup>201</sup> WITTGENSTEIN, *Philosophical Investigations*, §231.

<sup>202</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §234-235.

<sup>203</sup> Cf. FOGELIN, p. 155 ff.; cf. KRIPKE.

<sup>204</sup> BAKER/HACKER, *Scepticism, Rules and Language*; MCGINN.

<sup>205</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §84-85 / 198 / 201.

<sup>206</sup> Cf. PFISTERER, p. 335; cf. HACKER, *Wittgenstein: Meaning and Mind*, p. 1.

private sensations. So another person cannot understand the language.”<sup>207</sup> On the first sight, it is quite easy to imagine a language which a person would invent for his private use to express his inner experiences (he could tell himself for example that he shall only use “p” for his sensation of pain or “a” for his feeling of anger). But that, according to Wittgenstein, would still belong to ordinary public language. What Wittgenstein means by private language is a language with words referring to what can only be known to the person speaking, i.e. to his immediate private sensations, such that another person cannot understand the language. This language is private in the sense that it can per definition not be understood by anyone except the speaker himself and it cannot be shared with others – it is by principle unintelligible. The question is: Is such a private language possible? Could we imagine such a private language?

One might first object that the idea of a private language is an utterly absurd thought-experiment completely detached from any realistic conception of language and the investigation into its possibility or imaginability couldn't be of any use to illuminate the actual nature of language. However, this is not the case. Regarding the use of language to describe mental phenomena, the common mainstream view of modern philosophy, from rationalists like Descartes over British empiricists like Locke, Berkeley and Hume all the way to contemporary representationalists preceded by Frege and Russell, seems to presuppose and follow the idea of a private language: According to this view, in describing mental phenomena through language we give names to internal sensations as private objects unknown to others and hence it follows that, because these internal sensations are unknown to others, others cannot understand or know the meaning of the names of these private objects.<sup>208</sup> This view combines the Augustinian picture of language as words naming certain objects with a Cartesian theory of mind distinguishing between an internal and an external world.<sup>209</sup> This view presupposes the idea of a private language. Wittgenstein with his investigation into the possibility or imaginability of a private language wants to question and contest this view by disputing the possibility or imaginability of a private language (in the form of a *reductio ad absurdum*)<sup>210</sup>.

Wittgenstein's idea of a private language can be said to be a qualified, thick and rich concept to be distinguished from several trivial, thin and impoverished concepts of a private language. A few examples shall illustrate what a private language is not. A private language is not a mere invented language as for example a child inventing a new word e.g. “mimi” for “cat”, for this can easily be

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<sup>207</sup> WITTGENSTEIN, *Philosophical Investigations*, §243.

<sup>208</sup> Cf. GLOCK, p. 310.

<sup>209</sup> Cf. GLOCK, p. 310.

<sup>210</sup> Cf. PFISTERER, p. 335; cf. MALCOLM, p. 530 ff.

understood and translated by others. It is not a language spoken only to one's own self in soliloquy as the one portrayed in §243, for it would still be possible to observe this language and to understand and translate it. It is not a language factually spoken by only one person like for example the language of a solitary person stranded on an empty island as e.g. Robinson Crusoe<sup>211</sup> or the language of a feral child abandoned in the wilderness of a jungle without contact to any civilisation as e.g. Mowgli, for we could still observe their language and understand and translate it after having studied it for long enough. It is not a language which is not understood and not shared as a matter of fact, but one that is unintelligible and unshareable by principle.<sup>212</sup>

Wittgenstein starts his investigation into the possibility of a private language by asking in what sense my sensations are private: "Well, only I can know whether I am really in pain; another person can only surmise it."<sup>213</sup> According to Wittgenstein, this is in one way false and in another way nonsense. It is false, at least if we use the word "know" as it is normally used, because other people very often know when I am in pain, for example when they find me screaming in pain. One might object, however, that they don't know it with the same certainty with which I know it myself. This objection provides the reason for which the above utterance is nonsense. It is nonsense because it can't be said of me that I *know* I am in pain but only that I *am* in pain, because it makes no sense to say about myself that I doubt whether I am in pain, for knowledge presupposes the possibility of doubt and error.<sup>214</sup> Wittgenstein compares the proposition "sensations are private" to the proposition "one plays patience by oneself":<sup>215</sup> Sensations are private not in the specific sense of an empirical fact in having privileged access to one's own sensations, but they are private in the sense of privacy being included in the grammatical conceptualisation and linguistic constitution per our rules for the use of the term "sensation" – just like per our rules for the use of the term "sensation" one cannot doubt oneself having them, patience per our rules for playing the games cannot be played by more than one player.<sup>216</sup> The proposition "sensations are private" is a grammatical proposition describing or fixing our rules for the use of the term "sensation" and not an empirical proposition of which the truth could be determined in some way or another.<sup>217</sup> Through its form, the proposition "sensations are private" pretends to be an empirical proposition, while it is actu-

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<sup>211</sup> Cf. WITTGENSTEIN, Bergen Nachlass Edition, Manuscript Ms-124, p. 221[4] f.

<sup>212</sup> Cf. GLOCK, p. 309.

<sup>213</sup> WITTGENSTEIN, Philosophical Investigations, §246.

<sup>214</sup> Cf. WITTGENSTEIN, Philosophical Investigations, §246.

<sup>215</sup> WITTGENSTEIN, Philosophical Investigations, §248.

<sup>216</sup> Cf. PFISTERER, p. 338.

<sup>217</sup> Cf. WITTGENSTEIN, Philosophical Investigations, §251; cf. PFISTERER, p. 338.

ally a grammatical proposition.<sup>218</sup> Someone might object: “Another person can’t have my pains.”<sup>219</sup> That is a question about a possible criterion of identity. Just like it is possible to speak of physical objects as “exactly the same” as for example in “this chair is not the one you saw here yesterday, but is exactly the same as it”, it is possible (it makes sense) to say that my pain is the same as his and hence it is possible for us both to have the same pain.<sup>220</sup> As an objection to this, someone might strike himself on the chest and say: “But surely another person can’t have THIS pain! [emphasis in original].”<sup>221</sup> The problem here is that by striking one’s chest and emphatically stressing the word “this” one does not define a criterion of identity.<sup>222</sup> Wittgenstein now considers the question of *how* a private language could refer to my private sensations. It cannot (like ordinary public language would) refer to my natural expressions of sensations because then others could understand it as well.<sup>223</sup> For a language to be a private language we would have to hypothetically “think away” natural expressions of sensations and thus a private language would refer to my private sensations simply by associating names with sensations.<sup>224</sup> But what does it mean “to give a name to my sensation”?<sup>225</sup>

At this point, Wittgenstein introduces a thought experiment as arguably the core of the private language argument to illustrate how a private language could (or could not) name sensations. He invites us to imagine a sensation diary: “I want to keep a diary about the recurrence of a certain sensation. To this end I associate it with the sign ‘E’ and write this sign in a calendar for every day on which I have the sensation.”<sup>226</sup> First of all, a definition of the sign cannot be *formulated* (*qua* requirements of a private language).<sup>227</sup> But still, I could give myself a kind of ostensive definition by writing down the sign “E” and at the same time concentrating my attention on the sensation and therefore kind of internally point to it.<sup>228</sup> Through this ceremony the connection between the sign and the sensation and hence the meaning of the sign shall be impressed on myself.<sup>229</sup> For the connection between the sign and the sensation “to be impressed on myself” can only mean that in the future I would remem-

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218 WITTGENSTEIN, *Philosophical Investigations*, §251.

219 WITTGENSTEIN, *Philosophical Investigations*, §253.

220 Cf. WITTGENSTEIN, *Philosophical Investigations*, §253.

221 WITTGENSTEIN, *Philosophical Investigations*, §253.

222 Cf. WITTGENSTEIN, *Philosophical Investigations*, §253.

223 Cf. WITTGENSTEIN, *Philosophical Investigations*, §256.

224 Cf. WITTGENSTEIN, *Philosophical Investigations*, §256-257.

225 Cf. WITTGENSTEIN, *Philosophical Investigations*, §257.

226 WITTGENSTEIN, *Philosophical Investigations*, §258.

227 Cf. WITTGENSTEIN, *Philosophical Investigations*, §258.

228 Cf. WITTGENSTEIN, *Philosophical Investigations*, §258.

229 Cf. WITTGENSTEIN, *Philosophical Investigations*, §258.

ber the connection *correctly* – but the problem here is that the ceremony of concentrating my attention on a sensation when writing “E” does not provide or define a criterion of correctness (nor does it provide or define a criterion of identity).<sup>230</sup> “One would like to say: whatever is going to seem right to me is right. And that only means that here we can’t talk about ‘right’.”<sup>231</sup> This language would be private in the sense we described: It refers to what can only be known to the writer of the diary, cannot be understood by or shared with anyone else and we “thought away” natural expressions of sensations which could make this language intelligible. According to Wittgenstein, such a language is not possible. But why exactly is a private language like the example of a sensation diary not possible?

This section has been widely discussed and yet its interpretation still remains subject of debate. Many answers to the above-mentioned question have been proposed. In the following, two misconceptions regarding the thought experiment of a sensation diary and regarding possible answers to the question of why such a sensation diary should be impossible shall be considered.<sup>232</sup> Firstly, the argument does not depend on the reliability of memory. One could be tempted to claim that a sensation diary as a private language is impossible because in future cases I can’t be sure if I really have *this* sensation and if I remember the original sensation *correctly* due to a lack of reliability and fallibility of my memory. As an argument against the possibility of a private language this answer is not convincing because the unreliability and fallibility of memory pertains to every use of language and hence this argument or answer would likewise be directed against the possibility of an ordinary public language as well.<sup>233</sup> The question is not *if* I can remember the connection between a sign and a sensation *correctly*, but *what* it would mean for me to remember the connection between a sign and a sensation *correctly* or *how* I am to remember the connection between a sign and a sensation *correctly*, or in other words: What the standard of correctness is. Secondly, one could understand Wittgenstein’s claim that “I have no criterion of correctness” for the use of the sign “E” in the specific sense that I have no test for checking if I *really* have the correct sensation corresponding to the sign “E” or if it just *seems* to me as if I have the correct sensation corresponding to the sign “E”. This understanding would result in an implausible verificationism which would likewise be directed against the possibility of an ordinary public language as well, since there are no “tests”

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<sup>230</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §258.

<sup>231</sup> WITTGENSTEIN, *Philosophical Investigations*, §258.

<sup>232</sup> Cf. PFISTERER, p. 338 ff.

<sup>233</sup> Cf. PFISTERER, p. 339; cf. KENNY, p. 151 ff.

for checking whether the use of a word is *really* correct or just *seemingly* so.<sup>234</sup> Wittgenstein's claim is stronger: I don't even have a standard of correctness and hence can't even know what the correct sensation corresponding to the sign "E" is. The question is not *how* to distinguish between correct and incorrect uses of a word (the means and methods of distinction) with the corresponding problem of the lack of a test, but *what* the standard for the correct use of a word is in the first place with the corresponding problem of the absence of a standard of correctness. One could object that as a standard of correctness one could imagine a table acting like a dictionary that exists only in our imagination and that this could provide at least a subjective (private) justification of the use of a word for a sensation.<sup>235</sup> But, because "justification consists in appealing to something independent", I cannot justify the use of a word for my (private) sensation by looking it up in a table or dictionary in my own (private) imagination – that form of self-reference would be as ridiculous as "if someone were to buy several copies of the morning paper to assure himself that what it said was true."<sup>236</sup>

The important points and the main line of argument of this section are the following. Sensations are no objects and an object-theoretical conceptualisation of sensations is mistaken. I cannot point to a private sensation and name it like I can point to a chair and name it, and even if I could, a great deal of preparation in (public) language has to be presupposed for the mere act of pointing and naming to make sense.<sup>237</sup> If we "think away" all that has to be prepared in language, a private ostensive definition does not provide a standard of correctness in that it does not define a criterion of comparison allowing us to state that *this* sensation is similar or equal to the original name-giving sensation "E" and hence to state that calling *this* sensation "E" is correct.<sup>238</sup> And because there is no standard of correctness, we cannot speak of a proper rule-governed language. Hence, a private language is not possible. Whenever we try to insist that a private language or a sensation diary in the mentioned sense must somehow be possible or imaginable and even if we try to imagine it ourselves, we at some point catch ourselves smuggling elements of ordinary public language into the picture.<sup>239</sup>

Following these core remarks on private language, Wittgenstein continues his investigations into private language by leading up to the well-known pas-

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<sup>234</sup> Cf. PFISTERER, p. 340; cf. STROUD, p. 71 ff.

<sup>235</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §261.

<sup>236</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §261.

<sup>237</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §257.

<sup>238</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §258.

<sup>239</sup> Cf. WITTGENSTEIN, *Philosophical Investigations*, §261; cf. PFISTERER, p. 341; cf. CAVELL, p. 344.

sage of the *Philosophical Investigations* about the beetle in the box, considering and discussing the alleged and (pre-)supposed privacy of our language of sensations. In §272-280, Wittgenstein discusses colour sensations whereas in §281-292 he returns to and discusses the sensation of pain. Regarding private experiences in general and colour sensations in particular, Wittgenstein writes: “The essential thing about private experience is really not that each person possesses his own exemplar, but that nobody knows whether other people also have *this* or something else. The assumption would thus be possible – though unverifiable – that one section of mankind had one sensation of red and another section another. [emphasis in original]”.<sup>240</sup> While it is imaginable that I have a different sensation of red than everyone else, this doesn’t make a difference as long as I say of red objects that they are red and not blue, for my use of the word “red” does not depend on my sensation of red.<sup>241</sup> “Look at the blue of the sky and say to yourself ‘How blue the sky is!’ – When you do it spontaneously – without philosophical intentions – the idea never crosses your mind that this impression of colour belongs only to you. And you have no hesitation in exclaiming that to someone else. And if you point at anything as you say the words you point at the sky. I am saying: you have not the feeling of pointing-into-yourself, which often accompanies ‘naming the sensation’ when one is thinking about ‘private language’. [emphasis in original]”.<sup>242</sup> Regarding the sensation of pain, Wittgenstein writes: “What gives us so *much as the idea* that living beings, things, can feel? Is it that my education has led me to it by drawing my attention to feelings in myself, and now I transfer the idea to objects outside myself? [emphasis in original]”.<sup>243</sup> Wittgenstein discusses the relation between pain sensation and pain behaviour as well as the question of how we can attribute pain to others or how we can recognise and say that others are in pain. To achieve this, we do not first identify (“point to”) our own sensation of pain and then generalise it and transfer it to others, but we observe pain behaviour that usually indicates that someone is in pain.

In §293, Wittgenstein finally introduces his thought experiment of the beetle in a box to bring together his preceding considerations on the alleged and (pre-)supposed privacy of our language of sensations. He writes: “If I say myself that it is only from my own case that I know what the word ‘pain’ means – must I not say the same of other people too? And how can I generalize the *one* case so irresponsibly? Now someone tells me that *he* knows what pain is only from his own case! -- Suppose everyone had a box with something in it: we

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<sup>240</sup> WITTGENSTEIN, *Philosophical Investigations*, §272.

<sup>241</sup> Cf. PFISTERER, p. 342.

<sup>242</sup> WITTGENSTEIN, *Philosophical Investigations*, §275.

<sup>243</sup> WITTGENSTEIN, *Philosophical Investigations*, §283.

call it a 'beetle'. No one can look into anyone else's box, and everyone says he knows what a beetle is only by looking at *his* beeeebeetle. – Here it would be quite possible for everyone to have something different in his box. One might even imagine such a thing constantly changing. – But suppose the word 'beetle' had a use in these people's language? – If so it would not be used as the name of a thing. The thing in the box has no place in the language-game at all; not even as a *something*: for the box might even be empty. – No, one can 'divide through' [kürzen] by the thing in the box; it cancels out, whatever it is. [emphasis in original].<sup>244</sup> If we would assume the meaning of "pain" to be the name of the private sensation (private object) "my pain", then we could never know what other people mean by "pain". This problem also concerns the presupposed generalisation from my pain to the pain of others which is supposed to lie at the foundation of the public use of the word "pain", because there would be persistent uncertainty as to the similarity and comparability of my pain and the pain of others. Wittgenstein introduces the thought experiment of the beetle in a box to illustrate how we talk about sensations like pain (and he hence compares the beetle to pain): Everyone has a box of which the content is responsible for what we call "beetle", however, everyone only sees the content of his own box and can't see what's inside the boxes of others and everyone says he knows what a beetle is only by looking at *his* beetle. Here it's not only possible that everyone has something different in his box, but also that the content of the box continuously changes, or even that there is nothing in the box at all. Important, however, is that people would still be able to communicate and talk about what's inside their box and hence the beetle – they could describe it, explain it or compare it to other things. If the content of the box is irrelevant to the use of the word "beetle" and to the ability to communicate and talk about the content of the box and hence the beetle, then it also seems to be the case that the private sensation of "my pain" (the content of the box) is irrelevant to the use of the word "pain" ("beetle") and to the ability to communicate and talk about the sensation of pain. This again speaks against the object-theoretical conceptualisation of sensations: "That is to say: if we construe the grammar of the expression of sensation on the model of 'object and name' the object drops out of consideration as irrelevant."<sup>245</sup> Private sensations conceptualised as private objects just simply fall out of the equation as semantically irrelevant.

This opens up Wittgenstein's position to the critique of him adopting a strict external behaviourism while disregarding, denying and negating internal mental phenomena. However, this is not exactly the case, with Wittgenstein re-

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<sup>244</sup> WITTGENSTEIN, *Philosophical Investigations*, §293.

<sup>245</sup> WITTGENSTEIN, *Philosophical Investigations*, §293.

jecting this critique. Wittgenstein does not disregard, deny or negate the existence or reality of sensations or other mental phenomena: “But you will surely admit that there is a difference between pain-behaviour accompanied by pain and pain-behaviour without any pain? – Admit it? What greater difference could there be? – And yet you again and again reach the conclusion that the sensation itself is a *nothing*. – Not at all. It is not a *something*, but not a *nothing* either! The conclusion was only that a nothing would serve just as well as a something about which nothing could be said. We have only rejected the grammar which tries to force itself on us here. [emphasis in original]”<sup>246</sup> Wittgenstein thus merely fights against the object-theoretical conceptualisation of mental phenomena, without holding that this conceptualisation should be replaced by and without advocating for a behaviourist conceptualisation. This critical position aligns with Wittgenstein’s view of the aim of philosophy as a critical project: “What is your aim in philosophy? – To shew the fly the way out of the fly-bottle.”<sup>247</sup>

With these considerations and remarks, Wittgenstein completed his turn away from a focus on an internal solipsistic mind (in the *Tractatus*) to a focus more on external public practice (in the *Philosophical Investigations*). Wittgenstein turned away from a strict Cartesian Dualism and from the Augustinian picture of language, breaking up the opposition between a subjective internal mind which is certain but inaccessible to others and an objective external world which is uncertain but accessible to others and holding that internal mental phenomena are no things to be pointed at and we shouldn’t treat them like we treat external objects. Wittgenstein radically turned those pictures upside down in claiming that human behaviour and use of language as common and shared human faculties and preconditions provide an accessible ground for understanding mental phenomena unfolding in linguistic practice. It could thus be said that Wittgenstein in some sense performed a Copernican revolution by turning the picture around.

However, as already indicated, this turn does not imply a disregard or contempt for internal mental phenomena; we just shouldn’t conceptualise them object-theoretically, shouldn’t talk about them like we talk about external objects and shouldn’t conceive of them as private.

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<sup>246</sup> WITTGENSTEIN, *Philosophical Investigations*, §304.

<sup>247</sup> WITTGENSTEIN, *Philosophical Investigations*, §309.

## 8.6 Consequences for Ethics and Law

The remarks in Wittgenstein's *Philosophical Investigations* do not have an explicit connection to ethics and law and the possible relationship between these remarks and ethics and law is far from obvious. In the following, we shall try to make some connections and illuminate possible relationships between Wittgenstein's remarks and ethics and law.

Whereas in the chapter on the consequences for ethics and law of the *Tractatus* we focused more on ethics, in this chapter on the consequences for ethics and law of the *Philosophical Investigations* we shall focus more on law.

First of all, as already mentioned in the introduction, law is obviously deeply intertwined and intimately connected with language. Language is not only a medium serving the function of communicating legal content, but it is also a constitutive element of law. In this respect, it is worthwhile and possibly illuminating and fruitful to try to connect Wittgenstein's considerations about language to law.

Wittgenstein's remarks on linguistic meaning being constituted by the use of language reminds us of the fact that law unfolds its meaning in human practice. Legal norms are enacted in the human practice of legislative acts and they are implemented through the human practice of the application of law. Law is furthermore an intellectual practice and achievement closely intertwined with the history of human ideas. Law is in addition a form of cultural practice and expression deeply interwoven with other forms of cultural practice and expression such as language, arts or religion. Law is moreover a social, intersubjective phenomenon unfolding itself in human practice concerning the relationship between human beings. And finally, law is a normative phenomenon with the claim of guiding human practice.

Wittgenstein's remarks on language games highlight the fact that law is a rule-based normative practice and normative order. Like language games, law unfolds in social interactions between human beings. Like language games, law is rule-governed with legal norms being constitutive rules of legal systems – just like in a language game the constitutive rules determine which linguistic moves are correct, in law the constitutive rules determine which actions are legal or illegal. Like with language games, the rules of law are not “closed” but “open” in that they do not claim to be the only possible and exhaustive set of rules in constituting a legal system and in that other rules are thinkable – for example that we should drive on the left and not on the right. This however does not exclude the possibility of claiming that certain core rules have to be present for us to speak of law – just like for language games certain core rules

have to be present for us to speak of language. Like language games, law is defined and constituted “internally” by the rules of law and not “externally” by external purposes – while law might be (ab-)used instrumentally as an instrument for external purposes such as e.g. preserving certain power structures, this does not define and constitute law. Like language games, law is a shared intersubjective human practice presupposing shared and common human faculties – just like language games presuppose a shared human language faculty, law presupposes a shared human practical faculty of orienting and guiding their actions according to moral and legal norms.

Wittgenstein’s remarks on family resemblance might be helpful in understanding legal concepts. Some legal concepts might be said to be family-resemblance concepts. The “treatment in good faith” and “non-arbitrary treatment” of Article 9 of the Swiss Federal Constitution may serve as examples of legal concepts being family resemblance concepts. They often do not have one common essence or a set of essential characteristic features which could be fixed in an analytical definition by identifying necessary and sufficient conditions. They often do not have clear-cut exact boundaries and are not “closed” concepts but are “open”, “evolving” and “living” concepts. They are constituted by a network of overlapping, criss-crossing, intertwined and interwoven similarities as family resemblances. These aspects of legal concepts as family-resemblance concepts become evident in the practice and methodology of legal adjudication. The legal methodology of the legal syllogism and subsumption of individual and concrete facts of a case under general and abstract legal norms could be said to be a lived practice of family resemblances: When judges try to subsume a certain case under a legal norm or concept they have to interpret the legal norm or concept, try to identify the range or extension of this legal norm or concept by identifying cases which fall under them and then compare the case at hand with these cases by identifying *overlapping similarities*.<sup>248</sup> Also the famous German principle of legal methodology, the “*Hin- und Herwandern des Blickes zwischen Obersatz und Lebenssachverhalt*”,<sup>249</sup> the “gaze wandering back and forth between the legal norm and the facts of a case”, could be said to be a lived practice of family resemblances because the legal norm and the facts of the case in a constant reciprocal relationship are compared identifying *overlapping similarities*. Thus, Wittgenstein’s idea of family resemblances and family-resemblance concepts can indeed be illuminating and helpful in understanding legal concepts, legal norms and the application of law.

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<sup>248</sup> Cf. ENGISCH, p. 13 ff.

<sup>249</sup> ENGISCH, p. 13 ff.

Wittgenstein's remarks on rules and rule-following might have the potential to illuminate the normative force and compulsive power of law. Legal norms share many of the characteristics of rules: They are normative, encompassing deontic/prescriptive as well as evaluative elements; they are standards of correctness in regard to legal actions (e.g. drawing up a will); they are standards of evaluation (e.g. the legal norm that settlements, buildings and installations should integrate well into the landscape, as a planning principle of spatial planning); they are general and abstract; they imply a regularity in behaviour (e.g. clearly observable in legal norms on traffic rules). Legal norms furthermore share many of the roles or functions of rules: They may play an instructional role (e.g. if we teach someone what a contract is, we usually cite the legal norms specifying what a contract is); they may play a definitional role (e.g. the legal norm defining the Company Limited by Shares [*Aktiengesellschaft*]); they may play an explanatory role (e.g. someone may explain his action of writing down by hand his wishes on how his money should be distributed after his death and signing the document with signature and date by referring to and citing the legal norms related to drawing up a will); they may play a predictive role (e.g. I predict people to drive on the right because there is a legal norm prescribing it); they may play a justificatory role (e.g. I may justify my driving on the right in reference to and by citing the legal norm prescribing it and this legal norm gives me a reason to do so). According to Wittgenstein, rules and rule-following are a normative practice grounded in the human ability of directing our behaviour in reference to and according to certain standards and norms, they are constituted in the normative practice of describing something as "following" or "going against" a rule, and they are connected through an internal relation. This can be transferred to legal norms: Legal norms are a normative practice grounded in the human ability of directing our behaviour in reference to and according to certain standards and norms, they are constituted in the normative practice of describing something as "following" or "going against" legal norms (or as being "legal" or "illegal"), and they are connected through an internal relation. The internal relation between a legal norm and its being followed illuminates that the legal norm provides the standard for its being followed and that after exhausting all possible justifications the legal norm is the point where "I have reached bedrock, and my spade is turned"<sup>250</sup> and thus the legal norm is "my last arbiter for the way I am to go"<sup>251</sup>. This illuminates the autonomous, internal normative force and compulsive power of law.

Wittgenstein's remarks on private language remind us of the fact that the content of law is publicly (and perhaps universally) understandable and shareable.

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<sup>250</sup> WITTGENSTEIN, *Philosophical Investigations*, §217.

<sup>251</sup> WITTGENSTEIN, *Philosophical Investigations*, §230.

The fact that legal language is not a private language is quite obvious: It has to be understood by everyone within the legal system. Even where one could be tempted to assume that legal language is a private language like in the case of legal norms relying on subjective mental phenomena as for example intention in criminal law or intent to be bound by a contract in private law, it is quite obvious that we do not regard these subjective mental phenomena as private in the sense that they are not understandable by others, but quite on the contrary and in complete agreement with Wittgenstein's remarks we are perfectly able to understand subjective mental phenomena based on our observation of the behaviour of human beings in combination with our linguistic practice of describing mental phenomena. The law perfectly illustrates how we can and indeed do talk about mental phenomena, exemplifying the beetle in the box thought experiment in practice: Even if we assumed mental phenomena to be private (against which there are strong reasons) and not understandable by others ("I couldn't possibly know if he had the *intention* of killing her, because I can't see *his beetle* inside *his box*"), we could still very well talk about them, as we do in everyday legal practice as e.g. in criminal law (we ask the accused what he was thinking of while committing the crime, just like we ask others what they see inside their box). The law depends on and presupposes that we can meaningfully talk about mental phenomena. Legal concepts, norms and language are by nature public. Through everyday legal practice, the apparent privacy of subjective mental phenomena and its corresponding language is effectively unveiled as a mere philosophically induced illusion or phantasy of object-theoretical representationalists or Cartesian Augustinians.

As a general insight from Wittgenstein's *Philosophical Investigations*, it can be highlighted that linguistic uncertainties, indeterminacies and ambiguities are not a harmful pathology but an inherent feature of language and hence are not a harmful pathology of law either. Linguistic uncertainties, indeterminacies and ambiguities do not imply uncertainty, indeterminacy and ambiguity in the underlying ideas expressed through language.

## 9 Critical Potential of Wittgenstein

Wittgenstein's ideas could have the critical potential of informing, spelling out and justifying some fundamental legal considerations and moral foundations in legal philosophy. In the following, the critical potential of Wittgenstein shall be examined.

### 9.1 Methodology of Legal Philosophy

Wittgenstein's earlier and later philosophy could be seen as paradigmatic examples of two distinct possible methodologies of approaching legal philosophy.

On the one hand, Wittgenstein's earlier philosophy highlights the importance of understanding the shared and common human preconditions of perceiving the world and hence the human perspective. Wittgenstein in his *Tractatus* mainly focused on the human faculty of reason and logical thinking. Another main object of interest as a central element of the human perspective on the world would be the human faculty of practical normative reason and moral cognition, towards which (although not examining it in any depth) Wittgenstein himself pays due respect and which he holds in high regard.<sup>252</sup> These human preconditions of perceiving the world and hence the human perspective are fundamental to how human beings understand the world and thus also constitute our lived human realities. To understand this human perspective is essential to legal philosophy trying to understand law as a human phenomenon brought about from the standpoint of our shared and common human perspective.

On the other hand, Wittgenstein's later philosophy highlights the importance of examining shared and common normative practices. Wittgenstein in his *Philosophical Investigations* mainly focused on language as a normative practice. However, other main objects of interest as obvious normative practices would be the normative practices of moral and legal reasoning. These normative practices are fundamental to the "architecture" of our moral and legal systems. To understand these normative practices is essential to legal philosophy trying to understand the underlying shared and common normative foundations of moral and legal systems.

Wittgenstein thus seems to provide two distinct methodologies of approaching legal philosophy: On the one hand an "internal", critically transcendental

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<sup>252</sup> Cf. WITTGENSTEIN, A Lecture on Ethics, p. 3 ff.

and mentalistic methodology focusing on the shared and common human preconditions of perceiving the world and hence the human perspective, on the other hand an “external”, pragmatic and behaviouristic methodology focusing on the shared and common normative practices underlying moral and legal systems.

## 9.2 Possibility of Moral Objectivity

Especially in Wittgenstein’s earlier philosophy with his project of finding the logical structure of our representation of the world, a faint gleam of the possibility of moral objectivity seems to shimmer through.

Wittgenstein’s earlier philosophy is an examination into the human faculties and human mind as the preconditions for our representation of the world. In addition to searching for the logical preconditions and structure of our representation of the empirical world, we could also search for the moral preconditions and structure of our representation of the normative world and hence expand the examination to examining the human moral faculty and the normative dimension of the human mind.

In this search and examination, we could move into the direction of trying to discover and unveil a universal moral grammar.<sup>253</sup>

It could be said that we employ a perspective of searching for or examining the glasses through which we as human beings see the world.<sup>254</sup> We examine what we lay into the world through our shared and common human perspective.<sup>255</sup>

This approach could at least provide a solid foundation for establishing and justifying the possibility of moral objectivity.

## 9.3 Possibility of Normative Universality

Especially in Wittgenstein’s later philosophy with his shift of focus towards normative practice as constituting linguistic meaning, a faint gleam of the possibility of normative universality seems to shimmer through.

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<sup>253</sup> Cf. MIKHAIL, *Universal moral grammar: theory, evidence and the future*, p. 143 ff.; cf. MIKHAIL, *Elements of Moral Cognition*, p. 307 ff.; cf. MIKHAIL, *Moral Grammar and Human Rights*, p. 160 ff.; cf. MAHLMANN, p. 327 ff.

<sup>254</sup> Cf. KLEIST, p. 205: “Wenn alle Menschen statt der Augen grüne Gläser hätten, so würden sie urtheilen müssen, die Gegenstände, welche sie dadurch erblicken, sind grün – und nie würden sie entscheiden können, ob ihr Auge ihnen die Dinge zeigt, wie sie sind, oder ob es nicht etwas zu ihnen hinzuthut, was nicht ihnen, sondern dem Auge gehört.”

<sup>255</sup> Cf. KANT, *Kritik der reinen Vernunft*, p. 9 f. / 12 f.

Wittgenstein's later philosophy turns away from the logical project of his earlier philosophy and examines human linguistic practice as main object of interest. One big insight from this examination is that language is a rule-based normative practice. The parallel to ethics and law as rule-based normative practices is conspicuous.

While there are many different languages in the world, with his argument against private language Wittgenstein argues that language is inherently public and allows human beings to communicate almost anywhere with almost anyone about almost anything (of course with differing degrees of initial troubles, struggles and successes). Language unfolds in and is expressed by human behaviour and certain human behaviours are simply universally shared and globally understandable – we understand that another person is in pain regardless of where we are in the world or what language someone speaks, and we can communicate pain quite effortlessly. Through this, Wittgenstein highlights the universality and publicity of the human language faculty: There are certain linguistic practices that are simply shared by and common to all languages. This lays a strong foundation for claiming that the same holds true for the rule-based normative practices of ethics and law: There are certain normative practices that are simply shared by and common to all ethical and legal systems.

This would again move us into the direction of trying to discover and unveil a universal moral grammar.<sup>256</sup>

Certain core values and fundamental moral norms as well as their expressions in normative practice are simply universally shared. Candidates for such core values and fundamental moral norms as universally shared normative practices could be altruism, empathy, solidarity, care, justice, autonomy, liberty, and dignity.

This approach could at least provide a solid foundation for establishing and justifying the possibility of normative universality.

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<sup>256</sup> Cf. MIKHAIL, *Universal moral grammar: theory, evidence and the future*, p. 143 ff.; cf. MIKHAIL, *Elements of Moral Cognition*, p. 307 ff.; cf. MIKHAIL, *Moral Grammar and Human Rights*, p. 160 ff.; cf. MAHLMANN, p. 327 ff.

## 10 Conclusions

This book has tried to approach the general question of the relationship of language to the world and to the mind as well as the more specific question of the relationship of language to ethics and law. The core ideas of Ludwig Wittgenstein have served as its methodological and substantive centre, and they were related to the spheres of ethics and law.

Firstly, in a brief sketch of the history of philosophy of language a linguist paradigm has been identified holding that language is not just a medium to express and communicate thought but more importantly it is an indicator of and offers a possibility of insight into the structure of human thought because language is structured through human thought and vice versa, thus offering a “window into the human mind”. Secondly, in an examination of Wilhelm von Humboldt’s influential ideas the tension between linguistic relativism holding that language as a subjective representation of the world is relative to a specific worldview and linguistic universalism holding that the human language faculty is universal has been illustrated. Thirdly, the Linguistic Turn has briefly been described identifying a reconceptualisation of philosophical problems as problems of use of language and hence marking philosophy’s turn towards language. Fourthly, the break in Wittgenstein’s ideas into an early and late philosophy has briefly been introduced. Fifthly, Wittgenstein’s early work, the *Tractatus Logico-Philosophicus*, has been analysed and related to the spheres of ethics and law identifying the main consequence that ethics is something of which one cannot speak but which can only be shown and hence the transcendental, mystical, wonderful and miraculous character of ethics and law is highlighted. Sixthly, in a description of Wittgenstein’s turn from his early to his late philosophy the main development has been identified as a turn from the logical analysis of ideal language to the grammatical examination of ordinary language marking a shift from ideal language philosophy towards ordinary language philosophy, replacing his “picture theory” by a “use theory” of language and moving from portraying human language as a static, uniform, monolithic logical system picturing the world to highlighting human language as a complex human practice. Seventhly, Wittgenstein’s late work, the *Philosophical Investigations*, has been analysed and related to the spheres of ethics and law identifying the main consequence that linguistic uncertainties, indeterminacies and ambiguities are not a harmful pathology but an inherent feature of language and hence are not a harmful pathology of law either. Eighthly, the critical potential of Wittgenstein’s ideas has been examined holding that they could at least provide a solid foundation for establishing and justifying the possibility of moral objectivity and normative universality.

This book shall be concluded by the following excerpts of Lewis Carroll's "Through the Looking-Glass, and What Alice Found There".

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“What sort of insects do you rejoice in, where you come from?” the Gnat inquired.

“I don't *rejoice* in insects at all,” Alice explained, “because I'm rather afraid of them—at least the large kinds. But I can tell you the names of some of them.”

“Of course they answer to their names?” the Gnat remarked carelessly.

“I never knew them to do it.”

“What's the use of their having names,” the Gnat said, “if they won't answer to them?”

“No use to *them*,” said Alice; “but it's useful to the people who name them, I suppose. If not, why do things have names at all?”

“I can't say,” the Gnat replied. “Further on, in the wood down there, they've got no names—however, go on with your list of insects: you're wasting time.”

[emphasis in original]

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“Don't stand there chattering to yourself like that,” Humpty Dumpty said, looking at her for the first time, “but tell me your name and your business.”

“My *name* is Alice, but—”

“It's a stupid enough name!” Humpty Dumpty interrupted impatiently. “What does it mean?”

“Must a name mean something?” Alice asked doubtfully.

“Of course it must,” Humpty Dumpty said with a short laugh: “*my* name means the shape I am—and a good handsome shape it is, too. With a name like yours, you might be any shape, almost.”

[emphasis in original]

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257 CARROLL, Chapter III.

258 CARROLL, Chapter VI.

“

“You are sad,” the Knight said in an anxious tone: “let me sing you a song to comfort you.”

“Is it very long?” Alice asked, for she had heard a good deal of poetry that day.

“It’s long,” said the Knight, “but very, *very* beautiful. Everybody that hears me sing it—either it brings the *tears* into their eyes, or else—”

“Or else what?” said Alice, for the Knight had made a sudden pause.

“Or else it doesn’t, you know. The name of the song is called ‘*Haddocks’ Eyes*.”

“Oh, that’s the name of the song, is it?” Alice said, trying to feel interested.

“No, you don’t understand,” the Knight said, looking a little vexed. “That’s what the name is *called*. The name really is ‘*The Aged Aged Man*.’”

“Then I ought to have said ‘That’s what the *song* is called?’” Alice corrected herself.

“No, you oughtn’t: that’s quite another thing! The song is called ‘*Ways and Means*’: but that’s only what it’s *called*, you know!”

“Well, what is the song, then?” said Alice, who was by this time completely bewildered.

“I was coming to that,” the Knight said. “The song really is ‘*A-sitting On A Gate*’: and the tune’s my own invention.”

[emphasis in original]

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## Next Generation

**Wittgenstein and the Law: On Language, Mind and Law** explores the relationship between language, mind, and law through the philosophy of Ludwig Wittgenstein.

The book starts with a brief sketch of the history of philosophy of language to reconstruct a linguist paradigm. It then traces the emergence of the modern philosophy of language and its culmination in the Linguistic Turn.

Against this background, the book analyses both the early and late philosophy of Wittgenstein. It examines the shift from the logical analysis of ideal language in the *Tractatus Logico-Philosophicus* to the grammatical investigation of ordinary language in the *Philosophical Investigations*. It further tries to illuminate how Wittgenstein's reflections on language, mind, and meaning connect to ethics and law.

Finally, the book examines the critical potential of Wittgenstein's thought for legal philosophy: His methodological contribution, the possibility of moral objectivity, and the prospect of normative universality. Bridging philosophy of language and legal theory, the book invites the reader to reconsider how legal meaning, understanding, and normativity are constituted in and through language.

Yquem Zberg