

***THE GRAMMAR OF HUMAN  
RIGHTS:  
A Wittgensteinian Analysis.***

A thesis for the degree PhD.

Robin J. Holt, Department of Government, London School of Economics and Political Science, University of London.

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On how the grammar of confession embodies the way in which we as language users can be said to be autonomous and why this can suggest reasons for the application of Wittgensteinian views on language to human rights thinking.

## ***Part One***

### ***Chapter One - The Philosophy of Ludwig Wittgenstein: Naming the Self. pp. 18-34***

The work goes on to look more explicitly at Wittgenstein's views on ethics and language as developed in the *Tractatus* and how they evolved in his post-1929 work in order to bring into question ideas of a Cartesian "private self" and Kantian noumenal subjective will to which, it is argued, much traditional human rights theorising is attached.

### ***Chapter Two - The Nature of Rules and Their Surroundings. pp. 35-55***

Takes the debate onto the nature of a linguistic self by examining in detail the *Philosophical Investigations*, coupled with work by C. Castoriadis and M. Foucault. In ascertaining what Wittgenstein meant by the context of linguistic rule following it shows how people as language users are not built up of component mental and bodily parts one of which renders all others meaningful, but are able to live cognitive and conative lives through their manifestation in language games which can be both certain and fluid.

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**Chapter Five - The Dignity of Ordinary Language. pp. 101-124**

Taking on board Richard Rorty's and other post-modern or pragmatic rebuttals of universal moral concepts like human rights this chapter attempts to provide a still meaningful view of rights' practices by looking at how it is the way we use language creates symbiotic rather than purely cultural and environmental ties. It contrasts Rorty's ironist with Wittgenstein's ordinary language user.

**Chapter Six - Articulating Human Rights. pp. 125-144**

Here the thesis takes its final plunge into the ethical debate by examining the supposed is/ought movements based on ethical duties consequent upon the use of human rights. The natural facts of language are described as is the traditional grammatical movement from empirical description to normative and then moral prescription. This tendency to prescriptions as a linear outcome of diachronic factual reasoning is challenged as an example of how language "takes us in". The chapter concludes with a reassessment of the question of human identity, saying that imagination, creative endeavour, loyalty to forms of life and a recognition of what Lyotard calls the "tyranny of silence" are far more important in the issuing of human rights than are displays of rationality.

# *The Works of Wittgenstein.*

References made to Wittgenstein's work in this thesis have been abbreviated as follows:

- NB - *Notebooks 1914-1916*, Edited by G.H.von Wright and G.E.M. Anscombe, Translated by G.E.M Anscombe, Harper Row (1961) 1969.
- T - *Tractatus Logico-Philosophicus*, Translated by D.F.Pears and B.F. McGuiness, Routledge, (1921)1989.
- C&V - *Culture and Value*, Edited by G.H. von Wright, Translated by P. Winch, Basil Blackwell, (1977) 1989
- Z - *Zettel*, Edited by G.E.M. Anscombe and G.H. von Wright, Translated by G.E.M. Anscombe, Basil Blackwell, 1967
- WL - *Wittgenstein's Lectures, Cambridge 1932 - 1935*, from the notes of Alice Ambrose and Margaret Macdonald, Edited by Alice Ambrose, Rowman and Littlefield, 1979.
- PR - *Philosophical Remarks*, Edited by Rush Rhees, Translated by Raymond Hargreaves and Roger White, Basil Blackwell (1964) 1990.
- BB - *The Blue and Brown Books*, Harper Row, (1958) 1964.
- PG - *Philosophical Grammar*, Edited by Rush Rhees, Basil Blackwell, 1969.
- RFM - *Remarks on the Foundations of Mathematics*, Edited by G.H. von Wright, R. Rhees and G.E.M. Anscombe, Translated by G.E.M. Anscombe, Basil Blackwell, (1956) 1967.
- PI - *Philosophical Investigations*, Translated by G.E.M. Anscombe, Basil Blackwell, (1953) 1963.
- RC - *Remarks on Colour*, Edited by G.E.M. Anscombe, Translated by Linda L. McAlister and M. Schättle, Basil Blackwell (1977) 1990.

# ***Introduction.***

## **WHY WITTGENSTEIN?**

But because people in the West are not threatened by concentration camps and are free to say and write what they want, the more the fight for human rights gains in popularity the more it loses any concrete content, becoming a kind of universal stance of everyone towards everything, a kind of energy that turns all human desires into rights. The world has become man's right and everything in it has become a right: the desire for love a right to love, the desire for rest the right to rest, the desire for friendship the right to friendship, the desire to exceed the speed limit the right to exceed the speed limit, the desire for happiness the right to happiness, the desire to publish a book the right to publish a book, the desire to shout in the street in the middle of the night the right to shout in the street.

*Milan Kundera "Immortality", Faber and Faber, 1991, p. 153.*

### **1. THE TRADE IN HUMAN RIGHTS.**

Human rights are gaining currency. As the frontiers of cultures and natural conditions which once were alien, inhospitable, inexplicable, difficult and mysterious are increasingly contained and purged of their otherness it is becoming apparent that the practice of universally applicable and ethically primary rules governing human relations is at least a feasible goal, if not as yet actually in place. Despite the presence of recalcitrant minority groups, pockets of people fundamentally opposed to the ebb and flow of global ideas rooted as they see it in the Western bias towards *homo economicus*, the large majority of us are embroiled in activities we can all identify. These are not only biological in nature, but cultural, political and economic. Our common goals such as freedom or the elimination of poverty are increasingly couched in overtly materialistic terms, as are our individual aspirations and fears. White goods have replaced the White Goddess as that which symbolises health and contentment in the human condition.

Trade activity is now near universal in its purposes and techniques, its mechanisms connect all human beings. Thus it provides a repository of universal knowledge embodied by practices which carry meaning, albeit specialized, for everyone, and this enables us to envisage a world community to whom specific concepts like human rights become important. Trade has quantified the world, our environment has come to be something "out there" to be rationally assessed in terms of scarcity and distributed accordingly. It has cast humans in the economic mould of homogenous rational choosers

with the potential to reasonably discuss and agree to guides for the good life, understood in largely economic terms,<sup>1</sup> independently of any local immersion in cultural practices or environmental relationships.

Human rights have nearly always assumed this economic garb. From Locke onwards<sup>2</sup> property configurations have formed a primary object of attention for justice in the West, as have the owners of such title, usually autonomous individuals directing their property in ways they see as best for the realisation of their life plans. The most recent variation on this theme comes from modern contractarian theorists who envisage various processes of bargaining between hypothetical autonomous agents leading to an isolation of those essential features of justice that ensure everyone is treated fairly in terms of their being able to form and control their own life plans. In this regard human rights are considered to be the genesis of any system of justice for it is from these basic principles that good living flows. The generic traits of these rights most usually include the following: universality, they act in the interests of everyone at all times; primacy, they "trump" all other decisional considerations; fundamental ethical status, they are deserving of unqualified respect because of the equal "worth" of the human soul or identity and its interests and life plans; manifest, they exist independently of whether they are put into effect in any one context; individualist; they take the interests of the individual person above consequential considerations; and species specificity, they apply to all and only humans as "a common standard of achievement for all peoples and all nations."<sup>3</sup> This common standard is not elliptical or ephemeral in its nature, but overt. Human rights, it seems, enable us not only to focus our needs, but to *measure their presence and relative success* when set against the vagaries of living in what is becoming an overtly technical, material and formally familiar world. Human rights are easier to visualize when highlighted in tables of quantified performance ratings - how they have done in comparison with the development of a new hydro-electric project, road scheme, redistribution network, trade deal or international agreement. In this way the right to life becomes the extent to which good health care, basic subsistence and laws of redress are provided (how much is spent on them) and not with peoples' feelings of identity. The right to be free from torture equates with the number of unjustified and unexplained arrests coupled with the testaments of survivors, and not with more endemic systems of general though unarticulated fear. The right to well being equates with the right to a job and holidays with pay rather than the preservation of the integrity of indigenous lifestyles and individual choice. The rights to free association, speech and equal participation rest on the open provision of equal opportunities into established social systems such as the right to vote, rather than the creation, preservation and recognition of other systems which may lack the technical trappings of democracy but which nevertheless still envisage effective participation as the keystone to human well-being. We have a tendency to see rights in terms of lists which give fixed meaning to the idea of injustice, meanings which are universal to the extent that they are used by people in universal, generalized conditions - the dominant one of which is undoubtedly trade in goods and information.

Twenty four hour global media, trans national corporations, international treaties, conventions and agreements on trade and resource containment, science, wars and even sport are transforming what was once a medley of rich and often conflicting cultures into a single, thematic interchange of practices whereby common understanding becomes the communication of pragmatic intent given the confines of the effective means to trade and the exchange of information. Globalization links us all and in this respect the impact of our actions comes to have global implications.<sup>4</sup> If this thematic element is emphasized as *the* common denominator to modern human activity then human rights are necessary because they not only provide sanction for choice, individual responsibility and voluntary obligation, but do so on terms understood economically, as things which can be quantified, compared and traded by everyone capable of seeing themselves, or an aspect of themselves, as some form of detached soul, *cogito* or core with interests requiring protection from the vagaries of living under often oppressive but fragile institutional umbrellas. We can see ourselves as having a relationship to everyone else through our common and almost instant access to markets. In this homogenous, accessible and impersonal guise the world becomes increasingly uninterested in distinction. As a result people use human rights to enable them to develop a sense of originality in purpose and identity, a way of desisting from the ebb and flow of a commodified world. The path, though, is a private one. Human rights list formal requirements that enable us to be free from discrimination and oppression whilst following our *personal* life plans, provided that in doing so we avoid the public instituting of those plans to an extent that interferes with the equal rights of others to still effectively engage life on their own terms.

Paradoxically this urge to assert individuality makes the philosophical claim to sameness rooted in the Kantian desire to see distinction as ethically irrelevant; being ethical is an attribute all rational beings necessarily possess to the same degree. Irrespective of the unfairness of one's context we can all detach ourselves at a fundamental level and say here is where I have control, here is where I meet points of access to the world. The traditional justification of human rights has it that irrespective of the nature of actions themselves there is an essential, non-reducible core to the agent which is worthy of respect from all other agents; an inviolable, condensed core of ultimate moral concern. Love thy neighbour as thou would thyself because in essence we are of the same stuff. It is to this rational and inalienable centre that human rights are commonly attached. By preserving this sameness we can resist institutional conformity. Because we are equal no one can impose their view of how we should be upon us. As the economic influence of market<sup>5</sup> interplay spreads even further the idea of individual sanctuary will become increasingly important, providing as it should the breathing bubble with which we can dive from the social surface and explore for a while the refreshing depths of our personal narratives.

This is not a position of crude equality based on exact resemblance, but an acknowledgement that to the extent that people are ends in themselves, they have unique life plans, then there exist no rational grounds for treating them differently. No one self can be treated as prior to another *in this respect*<sup>6</sup> and as rational selves we are all capable of acknowledging each other as more than mere

objects of perception. We are plan makers; rational creatures following unique patterns of social involvement. This reciprocity is the driving force for the principles of equal consideration of interest and non-interference,<sup>7</sup> principles which ought to be enshrined in institutional powers enabling people to protect and promote their capacities for the selection and pursuit of their personal life plans. Human rights form this link between a theory of the individual as autonomous plan maker and the social arrangements for the effective recognition of such autonomy, by giving us as they do duties to abide by principles of equality, respect and non-interference. To claim human rights is to seek protection for what is essential to our selves.<sup>8</sup> When incorporated into domestic law they provide an armoury against social incursion and a kingdom within which the autonomous self may develop, an armoury provided by the very society from which they seek to protect their bearers.<sup>9</sup>

Human rights, as aspects of prevailing economic conditions, have adopted the language of economics; we buy and sell what we see as good and bad by establishing contracts with ground rules and in doing so empower ourselves; we realize our interests and identity in ways akin to the ways in which we use commodities, corporate signs and money. Worth is what we decide it is, embodied by the free interchange of information and goods in bargaining lead structures. Human rights act as defenders of the space that enables these decisions to be taken and articulated. As inviolable claims to personal space they allow us to resist the cultural imposition of rules and practices which we feel deny the value inherent in our being able to stand back from our immediate surroundings and ask just what it is we want to *become*. Economics provides the logic of such reasoning, resting as it does on the assumption that questions of being and identity are inextricably linked with questions of doing, more specifically, the becoming of a subjective self in a quantifiable world using the language of rational and quantifiable choice sets which can be measured and compared through a reductionist analysis which treats all relations as transactions accountable in themselves;<sup>10</sup> it gives meaning to the question of what is and is not of value, viz, that which reasonable and rational choice expresses irrespective of the content of such choice. Value is an aspect of the ontological premise that we can possess the world as something which brings us marginal utility.

This is not to say human rights have an economic core, rather that the universality of trade and its language of economic quantification provides the dominant language of expression in which *everyone* can understand how it is they can be used. As rights they spring from a fear of enclosure. In delineating the private sphere they protect the core of our selves from the despotic tendencies of organized political and economic control, securing for the individual private enjoyment of independent endeavour. Present society has grown beyond the *polis* envisaged by the Greeks which encompassed the individual as active citizen. It is complex, bureaucratic, huge and impersonal and provides the ideal flux within which a universally valid moral core *in the individual* will gain credence. Faced with the prospects not only of institutional or cultural despotism, but alienation from personal fulfilment, the Twentieth Century self makes appeal to a body of surety, an insurance policy, taken out by the American Founding Fathers and French Revolutionaries and renewed by subsequent generations, against the oppressive weight of paper and machinery. The ideal becomes the creation of a de-

ontological space enabling the individual self to breathe the "oxygen" of their own knowledge, to create for themselves through the exercising of responsible or rational choice.<sup>11</sup> It is this liberal sense of choice that encapsulates the dominant paradigm of modern living, the ability to disassociate oneself from the common weal is one of the central characteristics of that common weal whereby nothing like tradition, harmony, emotion or otherworldliness should stand in the way of the effective development and the betterment of material conditions.

## **2. BARRIERS TO THE TRADE.**

The communitarian tradition thinks this liberal addiction to the inviolability of personal space is misguided. The liberal or contractarian conception of human rights as protecting and promoting the exercise of autonomy, defined variously as a combination of free choice, voluntary obligation and individual responsibility,<sup>12</sup> lies, it is supposed, naked, isolate and devoid of situation. By separating the self from actions liberal conceptions of human rights ignore the real constituents of identity: social relations followed as cultural practices, not universal ones. The communitarian critique of the ascendancy of human rights is rooted in a rival expression of the ontological situation of the self. People cannot be viewed, even hypothetically, as isolate choosers in an unbiased framework (economically) because selves are not unencumbered, mutually indifferent entities, and the communities in which they live are more than procedural collections of individual's rational choice sets. Policy does not attend to us individually but together, as common actors sustained by habits, traditions, rituals, families and friends. It is these normative and narrative frameworks that enable us to take a stand, to choose, in the first place. We are defined not by individual agency alone but citizenship, public motivation and a keen sense of time beyond the present. This is a resurrection of participation politics - no longer is the state to be populated by agencies, professionals, administrators and bureaucrats who ensure fair or just procedure in the dispensing of goods and services, but an *agora* within which people become involved in each others' narrative destiny as a matter of necessity. Human rights can marginalize such involvement because they are attached to the modern idea of respect owed to a self-directing will,<sup>13</sup> without recognising that the self cannot direct anything outside of traditions of pre-established social meanings. Human rights equalize by reducing everything to common social denominators rather than by acknowledging the inevitable absence of these common cultural undercurrents in divergent social traditions, and seeking to deal with the consequent plurality of ethical rules. Indeed, liberalism and its advocacy of human rights is itself one such tradition and its espousal of human rights is characteristic of its own narrative background. It cannot take these principles and seek to impose them on all others without transgressing its own precepts of non-interference.

Human rights are not as starkly individualist as all this communitarian posturing may have us believe. The Universal Declaration, for example, states that people "are endowed with reason and conscience and should act towards one another in a spirit of brotherhood" (art. 1); that the family is "the natural and fundamental unit of society" (art. 16) and that "Everyone has duties to the community in which alone the free and full development of his personality is possible" (art. 29). The International Covenant on Civil and Political Rights establishes the right to self-determination of peoples (art. 1) and "the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language". The communitarian critique, however, does raise to the fore questions of just why and how it can be assumed that humans have worth. The reasoning behind much human rights theorising still ignores the evaluative content of describing individuality. By implication, however, this critique goes further, because as well as not recognising the ontological necessity of being embedded in established social narratives, it sees human rights as actually fragmenting identity, encouraging us to create an artificial amalgam of dispossessed individuals which we hold as an ideal, as opposed to enabling us to recognize a constellation of deliberative cultures within which people use qualitative different readings of the good life to inform their decisions and actions. Each culture has its own bedrock of certainty to which its practices make constant reference, human rights represent such a bedrock of certainty for the West, that around which we orientate our sense of the good. They do not, contrary to much liberal theory, form part of an impartial world of basic reasons for action.

### **3. THE POSSIBILITY OF DIALOGUE.**

Contrasted against universal human rights, then, is the need to recognize our cultural roots. To the extent human rights ignore this embeddedness they presuppose a world in which we are all ultimately the same, and this imposes a rational, egotistical abstraction upon the very real qualitative differences between us. To put it crudely, the debate seems predisposed to form two fairly rigid camps - either we are embedded selves and rights are cultural products with a specific narrative heritage and necessarily limited appeal, or we are noumenal selves and they are universal fixtures of ethical procedure for the effective arrangement of rational interchange. One camp sees freedom and originality of identity lying in the shedding of social garb, the other has it lying in the very cloaking of that garb. You either have to take from or add to in order to best develop a coherent and rewarding identity of the self.

It is when set against the intractable poles of this debate that I believe Wittgenstein, especially his later work, offers not a way forward in the sense of providing the correct thesis, but a clarification of just what the attempt to define concepts like human rights, identity and the self involves. He shows how as language users we are embedded in grammar, the criteria by which we

come to understanding, knowledge, wisdom, and a sense of place, that is both bewitching and enabling. That we talk of ourselves as separate souls means we think that we must indeed be of such separate stuff, but this need not be the case. Identity for Wittgenstein does not stem from the isolation of parts, but from the context of grammatical expression which themselves have no invariant or solid limits, but fluid or probable ones. The use of grammar, the ways in which we engage with each other, involves encounters with these fluid boundaries, we rub up against and struggle with the limits of meaning. The conceptual error comes in attempting to go beyond these boundaries in order to propose alternatives which are of greater truth, that present the individual with even greater closure of meaning, of trying to tell the individual where to go, how to move, what to believe.<sup>14</sup> There is always something about which we are silent, the sense of a potential "other" amongst an ultimately impenetrable reality. It is the whole process of driving piles into the swamp to find bedrock that is flawed if it is assumed that this equates with progress towards what is essentially good or aversion from what is essentially bad, the movement from one given to another of greater perspicuity. By looking at language the whole idea of predictable givens itself comes into question because grammar as Wittgenstein saw it is never fixed but open, diverse and organic, it evolves in conjunction with the exercise of autonomy and the context of its expression. The ambience of calm coming from Wittgenstein's work lies not in its espousal of certain, ideological truths, but in its conscious rejection of certainties and concentration upon not what is rational or objective but what it is to be an ordinary language user.

This organic conception of meaning is well illustrated by his personal attitude to confession. In 1937 he made a series of confessions to close friends concerning past "crimes" he had committed and which, weighed with guilt, he felt as a burden upon his soul<sup>15</sup> - It was a characteristic act for someone so concerned with his place in the world. The urge behind these confessions was not a desire for sympathy from his friends but an expression of hope in his ability to modify and direct life in a way befitting of an individual for whom choice always involved responsibility and for whom the realisation of life-plans was a constant effort. There is a sense of struggling evolution in the process of confession as practised by Wittgenstein, a sense of overcoming what the self is in order that it may grow. Foucault saw the process of confession, which he links to the Christian practice of penance, as a technique enabling people to actively seek change in their lives.<sup>16</sup> It is a technique of self-realisation practised in the social world of institutional power circulation. Thus, for Foucault, confession involves the reaching of shifting equilibria between individual techniques of self-expression and institutional techniques of control and domination. The identity of people is an amalgam of the continued interplay between these related social forces. The role of confession is as an expression of an individual's power to decide for themselves, of how they are able to confess and learn from this act in the face of institutional control. For Wittgenstein the process of confession was less easily identified. There was nothing penitent about making confessions, penance would be for him something approaching religious hypocrisy<sup>17</sup> because it implies the attempt to replace one type of dogma, theory or ideology with another, a constant interplay of paradigmatic ideas, determinate

conceptions of the good life. Confession should enable the individual to shed theories and dogma, or more accurately, to enable us to see them as such, rather than as things equating to or diverging from truth. Penance is the replacing of old garb with the new, we are penitent in the face of a received dogma which we have contravened and must make recompense for. It sets up a prescribed ideal towards which we must work, something we must become. Confession for Wittgenstein was not an attempt to re-gain lost equilibria or attain prescribed goals by filling out an ideal but to learn from mistakes, to live a life which was of value *in action*; it was an attempt to face oneself naked, warts and all. If this process amounts to a code of living it is one which calls for the constant recognition of the way language can tempt us into labelling and so generalising things. Confession allows us to embrace our fallibility, to acknowledge that our identity is far from a stable, invariant self as the way we often talk about it might have us believe, an act which shows the power of refusal. Wittgenstein shows us that language does much more than put things in boxes whose circulation is subsequently controlled with varying degrees of success by institutional power structures. Ordinary language functions in many different guises with many different purposes. We have a tendency to ignore this complexity, to explain everything according to generalized principles or paradigm. Wittgenstein was engaged in an almost permanent battle with what he saw as the bewitchment of language and its tendency to compartmentalize things, himself included, as representative of this or that position, as being inside this or that specific box, as being this or that type of person.

It is an apparent paradox that it is only by resisting such labels or names that one can get, through Wittgenstein, to a clear view of things, of how it is with the world.<sup>18</sup> His was an urge to get us to realize the differences between things, to see that belonging to groups and classes, including universal or species ones, often obscured rather than enhanced our relations with the world. The potential of confession is a way of resistance to the bewitching effects of seeing such “immutable” as unassailable moral principles, absolute truths and theories of everything. To lower ones’ gaze in the face of abjection does not help us to recognize these differences. It is necessary to face the problems from a perspective and to use the linguistic tools on offer to dig oneself out.<sup>19</sup>

Language is a result of rules, traditions and techniques learnt over time. It may seem strange, then, that Wittgenstein’s efforts at clarifying the way in which we go about following grammatical rules can possibly provide sympathetic grounds for the justification of generalized moral concepts attached to universal subjects. Though nothing appears more certain in principle than human rights, their practical enforcement is woefully weak and their content often non-existent. Human rights can and often do function not as remedies but as “veils of ornamental deceit” which cover the fact that there are many different ways of solving problems, many of which lie in the hands of indigenous peoples as opposed to the lofty tenets of international declarations. The genealogy, to use the concept in Nietzsche’s sense, of rights is characterized by flux and confusion yet the metaphysical grand narrative remains solid enough, enshrined as it is in conventions and codes the world over. The selective use of rights belies their supposed ethical importance. Why this is so is because their claim to certainty, to fixity, presupposes an absence of choice:

Concepts with fixed limits would demand a uniformity of behaviour. But where I am certain someone else is uncertain. And that is a fact of nature.<sup>20</sup>

To see concepts like human rights as invariant is to assume the intellectual authority found in worlds like Skinner's "Walden Two" where behaviour is uniform because it conforms to the best way of doing things. What this attitude fails to account for is the often positive but many times defensive urge to slam the door on one world and attempt to open those to others (paradoxically the very thing which initiates the creation of Walden Two in the first place). Certainty is not a good in itself, for uniformity in behaviour leaves us like automata conforming with the significations made by intellectual authorities - impotent in the face of a changing world. Human rights are better seen, it will be suggested, as attempts not to go back and re-establish old certainties nor to create new ones but as opening up avenues of exploration to people, a nexus of claims and duties within which we can seek the differences between things from perspectives we help choose rather than from patterns of behaviour which are imposed upon us. They promote the possibility of evolution through confession:

A confession has to be part of your new life.<sup>21</sup>

Confession need not involve the overt, ritualistic and almost masochistic laying bare of the soul to others which Wittgenstein felt necessary to purge his being of the vanity which he felt so often clouded his judgement.<sup>22</sup> Confession can take more subtle, nascent but no less passionate forms where we attend to our efforts to bring about that which we think is good in the face of temporary or more permanent disappointment. It is the practice of trying to do what is right by ourselves in the context of adversity, which, above all else, involves communication with others and our surroundings without presuming privileged positions. The identity of people becomes some sort of dialogue taking place at the points of confusion in our relations with others, relations which are governed above all by language. It is in language that our expectations and their fulfilment potentially meet, in language that we create ourselves and are created by our relations with others. It is through the self-referential, or ability to examine oneself, and recursive, the ability to indefinitely build and distrust linguistic meanings without necessary repetition, aspects of language that we as humans are able to envisage and criticize ourselves and our activities and accumulate, historicize and categorize the outcomes. In calling language ordinary Wittgenstein encourages us not to look beyond what we are and either institutionalize it in the form of abstract principles or use alternative *a priori* standards to lead those astray back into the fold of the righteous. It also emphasizes how language is much more than mere speech, involving as it does our involvement with the social weal as a whole. Language is about feeling, emotion, intuition, argument, speech, tradition, practice, technique, rhetoric, enlightenment, fear, hope and countless other feelings we encounter in the environment of ordinary life.

Ordinary language brings to mind Nietzsche's exhortation that improvements to our lives will never be brought about by the tinkering of social engineers when what is required is for people to take control of their being and becoming in the here and now and not for some abstract tomorrow or romanticized past. It is through this rejection of schematic spectacles, the reluctance to line things up in neat little rows like the medicinal bottles on the shelves of an apothecary,<sup>23</sup> that human rights can come to actively promote choice and confession rather than seek to impose upon reluctant heads the rigid rules of an individualist, economically dominated ideology.

Though at times this rejection of principles and theories on the ethics of the human condition can lead to a solipsistic attitude to the conditions of living<sup>24</sup> it encourages us to dispense with the illusion of calm that theoretical constructions try and offer us. Ordinary language is couched not in terms of salvation but in those of uncertainty. By looking at human rights in terms of ordinary language I hope to show that they can be used as that which allows us to react to and try, make best sense of and cope with the events of our lives, as opposed to letting us predict and plan determinate conceptions of the good life.

The purpose of this thesis is to answer why this should be so. To explain why language is liberating *because of its limits*, and how this fundamentally alters the nature of human rights from a concept rooted in the attempt at shampooing the moral universe with transcendental argument, to one which is the acknowledgement of how language empowers people engaged in the creative and expressive grammatical relations of everyday life. Ethics is encountered in the hues of dialogue, not a rigid set of principles. Traditionally rights are presented as a panoply of claims to which one makes appeal when aggrieved in some fundamental way. They act as a legal, contractual remedy to the tensions of social living - a device used to resist duties placed on oneself and to require others to perform theirs. The object of attention in such machinery is the isolate person, protected from Pareto maximal social engineering. They are used to keep bureaucracies, professionals, executives and agencies at arms length, as tools to separate out our experiences into public and private. For Twentieth Century living they come as defensive appendages, desirable additions to a culture which act like some culinary sauce poured over the body of the meal to enhance or disguise its flavour<sup>25</sup> and so are at risk of becoming "hurrah" words, mere names which can be spoken by people not just to enhance their reputation but to disguise the sour flavour of often harsh lives.<sup>26</sup> Wittgenstein's view of grammar undermines such attempts to reduce society to component ingredients. In living, unlike in cooking, we follow rules of which we are an integral part. If we fail to follow grammatical rules we do not behave badly as such (whereas if we fail to follow a recipe we *do* cook badly) rather we do not behave in a way understandable to the practitioners of the rules at all. This is because rules, or more specifically how Wittgenstein saw them, "do not attempt to guide the totality of movements by prescription"<sup>27</sup>, but act as signposts indicating directions we may follow as aspects of our identity. In making human rights an isolate component of social living, rather than an aspect of a holistic, organic, evolving context, it is still possible for people to avow a belief in human rights yet not follow such a belief through to action via appeals to current exigencies. Rather than live with the

contradictions of a world in which people do kill each other and yet are potentially able to see each other as partners in dialogue, social reductionism of the sort which reduces good living to the following of a recipe allows us to avoid the responsibilities of linguistic agents by letting us point to the absence of an ingredient or its requisite amount. The grammar of human rights tries to remove the ideological disguise to this piece of nonsense, to set straight the point of human rights ascription as that which enables us to engage in meaningful language use. Language cannot be isolated as speech, belief or communication alone, it is that indeterminate process<sup>28</sup> within which how we think and what we are meet.

Although this emphasis upon dialogue and the individuals' linguistic control over definitions and activities implies a heavy bias within Wittgensteinian interpretation towards communitarianism what is crucial is to regard the ensuing plurality of linguistic narratives not as a constellation of almost mutually exclusive local practices, but as the construction and dismantling of identity through linguistic activities. Rules, signs and concepts of grammar which we follow as language users need not be the hegemonic and oppressive "signifiers" vaunted by post-modernist institutional analysis,<sup>29</sup> either on a universal level as is experienced by those having to conform to commodity production despite local practices of doing otherwise, or on a cultural level as is experienced by those subject to internalized grammatical discrimination like genital mutilation. Wittgenstein's discussion of rule following, of language games and of grammar reveals a deep sensibility towards the intuitive, vitalising and creative role of individual decisions to the creation of identity. Instead of owing filial loyalty to existing practices he shows that the already existing, what is in being, is dependent upon what is becoming. People appropriate and create signs for themselves and human rights can come to have meaning as those conceptual schemes enabling us to challenge legally entrenched or orthodox significations as much as they can be used in their support. The point is that the circulation of images and words is not controlled by the state or its vested interests alone, but by political participants constantly engaged in creating and renewing their understanding of each other. There remains, then, a place for human rights, despite their legalistic, detached and often abstract overtones, because they provide us with spaces for development other than those offered by the established affections and disaffections of existing cultural practices. Whilst not reliant upon explicit social narrative they are still intimately connected to practices of kinship by allowing as they do the potential for the flourishing of more personal bonds. They can give us the confidence to get on with our lives and the opportunity, through critical reflection, to experiment with new beginnings, new language games.

So "Why Wittgenstein?" is best answered by his humbling effect upon those who would wish to civilize us in one specific way, be it extraction from or immersion in the social pool. He teaches us to recognize the differences between things, in being constantly open to change and aware of the possibility of error, the need for learning, knowing, inventing, circulating and confession<sup>30</sup> as we push against the boundaries of language.<sup>31</sup> This creates a far less cock-sure system of human rights whose main aim or use is to blend in with existing social practices which are in constant evolution rather than authoritarily declare that such rights represent the final chapter in human considerations

for each other.<sup>32</sup> Wittgenstein, in taking us away from the idea of universal principles altogether, encourages us to constantly recognize and affirm the potential for going beyond the confines of our immediate language games. Human rights can no longer avoid the politics of difference.

The danger in postulating an abstract and arbitrary equality, a given signification, is that it ignores very real differences in condition, marking them down as morally irrelevant (birth, colour etc.) or uncontrollable (market interplay), and so once people have been granted formal inclusion to the human rights club (by virtue of their species membership) then little is left to be done regarding their condition. It was the hostility of Wittgenstein to the stiffness, artificiality and self-satisfaction into which people fall<sup>33</sup> which I find supports what may seem a rather heretical synthesis of his work with ethical considerations on the clarity of human rights. By not recognising differences rights can often fail to be active enough because very often what lies at the root of injustice are those very differences which current human rights theorising seems to think irrelevant.<sup>34</sup> What it is hoped that this thesis will explain is how Wittgensteinian philosophy challenges much of the ethnocentric and anthropocentric aspects of universal concepts such as human rights whilst still explaining how it is they can be meaningfully used across language games. This is not done by postulating on "tablets of stone" but through a process of clarification of use of the concepts involved in human rights language, primarily: autonomy, agency, reason, and ideas of the good life.

This involves, in Part One, a discussion of Wittgenstein's views on language and whether it is essentially a private activity, on the nature of rule following and just how we as language users relate to such rules, on the concepts of "language game" and "forms of life" which encapsulate, if such is the right word, Wittgenstein's work, and on the relevance of and dangers in interpreting this strangely poetic body of remarks for political philosophy. In Part Two the discussion turns to liberalism and its embracing of human rights, how critiques of its position are dealt with, and just what level of clarity can be brought to the use of rights in the light of Wittgenstein's views on language. In the face of uncertainty as to the value of life Wittgenstein was able to show how sense is possible in the world because of ordinary language; language within which sense is found manifest in propositions, sentences and subjects.<sup>35</sup> Life is envisaged as a weave within which people resist the pull of the lowest common denominator, the attachment to sound doctrines, and openly court the diverse.

Though this has been a very personal project and needless to say all imperfections arising within and from it are of my own making, I must give thanks for counsel from the following without whom the work would have never been possible: Brian Barry, John Lee and Steven Mulhall.

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Notes:

<sup>1</sup> Jack Donnelly ("Universal Human Rights", Cornell University Press, 1989, Ch.s 3 & 6) talks of how burgeoning trade governed through the bureaucratic mechanisms of organisations like GATT and The World Bank is implanting a truly universal, homogenized

view of life upon anyone. Human rights respond to the need to preserve human dignity in the face of collapsing traditional group based identities, they provide a home for peoples self-identity, securing it against possible disorientation in an increasingly electrified world.

<sup>2</sup> Though for Locke ("Two Treatises on Government", (1689) Routledge 1903) the chief aim of government was the regulation and preservation of property (II, 3 & 124) it was not an end in itself but a manifestation of ones' rational relations with and duties to God (II, 34)

<sup>3</sup> From the Universal Declaration of Human Rights - General Assembly of the United Nations (UN) 10-12-48.

<sup>4</sup> Onora O'Neil "Transnational Justice" in David Held (ed.) "Political Theory Today", Polity Press, 1991, pp. 276-304.

<sup>5</sup> Markets are the result of individual interplay based upon self-assertive interests and not communal design. It is no accident that this type of institutional formation is carried over into philosophical justifications of rights whereby mutually egotistical individuals make contracts in order to better establish the conditions for stable living. People abide by the principles of social value upon which they have agreed because they have freely and rationally chosen to do so because they see them as the conditions necessary to enable anyone to get anything else. The principles are not ideologically descriptive, but procedurally so. Their focus is to provide the framework within which individual interests are best respected as being those of free and equal rational beings. However, this system implicitly invokes a value system to the extent that it skews distributional decisions in favour of those who are risk averse lovers of liberty who share a concern for their neighbour. Without this bias human rights as presently invoked would become nothing other than disposable market mechanisms, tools of the Big Bang. It is this that provides the impetus for international justice to counter the worst effects of economic market interplay through active wealth distribution (UN Resolution 3281, 1974) from rich to poor countries. This is maximin reasoning played out on an international scale.

<sup>6</sup> Stanley Benn "Egalitarianism and the Equal Consideration of Interests" in *Nomos IX*, pp. 61-78, p.63.

<sup>7</sup> Stanley Benn "A Theory of Freedom" Cambridge University Press, 1988, Ch.6.

<sup>8</sup> Michael Freedon "Rights", Open University Press, 1991, p.7.

<sup>9</sup> Richard Flathman "The Practice of Rights", Cambridge University Press, 1976, p.187.

<sup>10</sup> see Maurice Ash "The Fabric of the World", Resurgence Books, 1992, p.84.

<sup>11</sup> "... in the conditions of modern society human rights are a particularly appropriate mechanism to protect human dignity" Jack Donnelly - *op.cit.* - p.122.

<sup>12</sup> Three elements of autonomy outlined by Susan Mendus "Colston Lecture" in D.Milligan and W.Watts-Miller (eds.) "Liberalism, Citizenship and Autonomy", Avebury, 1992, p.11.

<sup>13</sup> Charles Taylor "Sources of the Self", Cambridge University Press, 1989, p.12.

<sup>14</sup> This was perhaps Wittgenstein's greatest source of angst about committing oneself to political positions, to social movements, for they necessarily excluded, at least over time, consideration of the other. This is why there should be no ethical universals. Whether this is an ethical position in itself is a question that the rest of this thesis never leaves too far in the background.

<sup>15</sup> Fania Pascal "A Personal Memoir" in Rush Rhees (ed.) "Recollections of Wittgenstein", Oxford, 1984, pp.34-36.

<sup>16</sup> Michel Foucault "About the Beginning of the Hermeneutics of the Self" in *Political Theory*, Vol. 21, No.2, May 1993, p.204.

<sup>17</sup> see Paul Engelmann "Letters from Ludwig Wittgenstein", Basil Blackwell, 1967, p.78.

<sup>18</sup> see John-Francois Lyotard - "Wittgenstein: After" in "Political Writings", trans. B.Readings and K.Geiman, UCL, 1993, pp. 20-24.

- <sup>19</sup> The architect Adolf Loos invoked the same argument in architecture - the use of adornment in buildings characterised by the *Secession* movement - leads to the confusion between art and culture, it smears naked reality with mystifying facades through a conflation of languages. It is more genuine to display new languages as they are - with their new forms, methods, materials, techniques. The emphasis upon the use looks not upon metaphor but fact, no matter how stark. (see B.Gravagnuolo - "Adolf Loos: Theory and Works" trans C.H.Evans, Locker Verlag, 1982 p.55.)
- <sup>20</sup> Z - §374.
- <sup>21</sup> C&V p. 18e.
- <sup>22</sup> Ray Monk "Ludwig Wittgenstein: The Duty of Genius", Vintage, 1991, pp. 412-413.
- <sup>23</sup> see Bruce Duffy's audacious "The World as I Found It", Penguin, 1987, p.14.
- <sup>24</sup> An attitude reminiscent of Thoreau's constant battle between his desire to end the hypocrisy of state control and his urge to desist from all involvement in public life "I came into this world, not chiefly to make this a good place to live in, but to live in it, be it good or bad" (H.D.Thoreau "Civil Disobedience" in H Bedau (ed.) "Civil Disobedience" Routledge, 1991, p.36.
- <sup>25</sup> Pierre Sané, Amnesty's Secretary General, says that nowadays governments no longer castigate human rights organisations openly, anxious as they are to gain prestige in international eyes, rather they turn to covert death squads and undercover agents so they can deny everything in a cloud of subtle and sophisticated security arrangements. "The hypocrisy of governments sometimes defies belief." For example, despite S.Korea declaring its commitment to truth, freedom and democracy at the UN Conference on Human Rights only a few weeks later that same government presided over the arrest and imprisonment of one of its leading human rights activists. ("The Observer" 12-12-93, p.17)
- <sup>26</sup> Herbert Read "To Hell with Culture", Keegan Paul, 1941, p.7.
- <sup>27</sup> Z - §440.
- <sup>28</sup> Z - §326.
- <sup>29</sup> see Baudrillard and Derrida especially.
- <sup>30</sup> Lyotard refers to this as *svetness*, or wakefulness to the need for reciprocal adaptiveness - op.cit - pp. 28-29.
- <sup>31</sup> C&V p. 11e
- <sup>32</sup> William Connelly talks of this in respect to the narcissistic traits of categorical imperatives. Citing Foucault and Nietzsche he effectively undermines the claims of such transcendentalists to universal relevance as merely veils behind which they hide their arrogance. See W. Connelly "Beyond Good and Evil" in *Political Theory*, Vol.2, No.3, Aug. 1993, pp. 365-389.
- <sup>33</sup> see R. Monk - op.cit - p.493.
- <sup>34</sup> For example, sex discrimination laws may ensure equal opportunity but do so by diminishing the role of giving birth to an irrelevancy, when clearly it is one of the single most important periods in any person's life.
- <sup>35</sup> Paul Engelmann "Letters form Ludwig Wittgenstein" - op.cit - p.99.

# *Part One*

# Chapter One

## THE PHILOSOPHY OF LUDWIG WITTGENSTEIN: NAMING THE SELF.

We possess nothing in the world - a mere chance can strip everything - except the power to say "I". That is what we have to give to God - in other words, to destroy. There is absolutely no other free act which it is given to us to accomplish - only the destruction of the "I".

*Simone Weil "The Self" in Siân Miles (ed.) "Simone Weil: An Anthology", Virago, 1986, p.99.*

### 1. A BRIEF OUTLINE OF WITTGENSTEIN'S EARLY PHILOSOPHY.

With perhaps one of the most apparently simple yet portentous statements ever to begin a book on philosophy, Wittgenstein described a view of a composite world which language was to model along the same logical lines:

1. The world is all that is the case.
  - 1.1. The world is the totality of facts, not of things...
  - 1.12. For the totality of facts determines what is the case, and also whatever is not the case.<sup>1</sup>

What there is and what there is not is determined by the totality of facts, facts being states of affairs or combinations of objects/things which we represent through language. Words refer to objects, their worldly referents, which exist independently of them and which give such words meaning. This type of logical relationship between concepts and reality envisaged the structure of language as mirroring the structure of reality, just as a picture mirrors its subject. The emphasis here is upon logical structures rather than the bland rendition of image. Wittgenstein envisaged the bedrock being composed of things or objects, which were themselves unalterable, basic. "Objects make up the substance of the world. That is why they cannot be composite."<sup>2</sup> Only with objects can the world have an unalterable form. These "simples", what is "unalterable and subsistent", combine to make up "states of affairs" or "complexes", "what is changing and unstable"<sup>3</sup>. Whereby the existence of a thing is a fact, a constellation of objects<sup>4</sup> which occurs within a field of logical possibility.<sup>5</sup>

Similarly, language is broken down into elementary words, or names, which combine to make up propositions. Words name things at the simple, irreducible level and combine to form

propositions in the same logical way as "simples", or objects, combine to form the aggregate reality of appearance, or states of affairs.

Names are necessary for an assertion that *this* thing possess *that* property and so on.

They link the propositional form with quite definite objects.

And if the general description of the world is like a stencil of the world, the names pin it to the world so that the world is wholly covered by it.<sup>6</sup>

Language and reality are linked through logic, "the scaffolding of the world".<sup>7</sup> Logic has no subject matter of its own, it is what allows us to describe and explain the world in the ways that we do through the unstable relationship between thoughts and propositions on one side and facts on the other.<sup>8</sup> The grammar of logic necessitates that language depicts something outside of itself, it applies to reality. It is possible to turn it in on itself, to experiment by looking at the world in peculiar ways - but only at risk of going against the logic of grammar if on doing so we seek to generalize the results into a new way of looking at the world. Representations, which we construct for ourselves using language, depict possible and non-possible states of affairs:

We picture facts to ourselves.

A picture presents a situation in logical space, the existence and non-existence of states of affairs.<sup>9</sup>

The limits of language are identifiable from *within* the pictures or representations of objects. A picture does not depict its form or structure (form being the possibility that things are related to one another in the same way as elements of a picture are),<sup>10</sup> because it cannot stand outside of its representational *form*. In order to picture in the first place a picture must share with reality the logical form.<sup>11</sup> Thus: "A picture represents a possible situation in logical space."<sup>12</sup>

The analogy of the divisionist painting style developed by Pissarro and Seurat helps bring out the crux of Wittgenstein's vision of reality as composed of individual points or "simples". The sense of the painting represents the logical space of possible relations between things outside of which it is impossible to pass, it is the field of possibility. The tone of the image itself: the hues of colour, the light, the form, structure and the spatial setting, are what constitute the state of affairs, a meaningful whole. The divisionist technique was to construct a painting in line with the atomic structure of reality. This involved producing an image composed of tiny atom-like dots which in conjunction formed the constitutive elements of the tone. The closer one examines the image the dimmer becomes the overall effect, the states of affairs, and the more intense becomes the logical structure or form of those affairs. In painting this way Seurat and other divisionists were using

precise and active description techniques to reveal what they felt was the formal harmony of the world.

The divided image is composed of dots which model atoms. This is very close to Wittgenstein's idea of the stuff of life, the "simples". "In a picture the elements of a picture are the representatives of the objects."<sup>13</sup> We do not normally recognize them as such, it is only upon close observation that such a logical structure behind the combined meaning, the overall image, is revealed. The dots in the painting, just like the "simples" of reality, are situated in concert, in "complexes", so as to create the images of the picture, the appearance of commonplace facts and states of affairs, yet both dots and "simples" remain discrete. If combined in a different way the meaning of the image would change, the states of affairs and facts would change, whereas the dots and "simples" themselves would remain the same. In both cases the fundamental idea is that complex propositions or states of affairs are functions of simples. But because relations between states of affairs and facts actually transcends the facts or states of affairs themselves, language cannot say anything about its own relation with the world because its propositions are a picture of that world, nothing can be meaningfully said about such relations - their meaning can only be shown through absence.

Words named things and propositions and sentences made up of those words reflected states of affairs made up of things, they reflected reality:

A proposition is a picture of reality: for if I understand a proposition, I know the situation that it represents. And I understand the proposition without having had its sense explained to me.<sup>14</sup>

Language relates to reality in that its limits coincide with those of reality, they share the same logical form, the sense does not come from outside, but on an internal level whereby propositions represent states of affairs as actual ones in a field of all possible ones. Meaning is found in logic if a proposition stands for a state of affairs whose configuration the logical relation models, it is true, and if it does not, it is false.<sup>15</sup> Such logical relations, however, cannot model the form of modelling, they can only display them. Propositions can describe reality but they cannot simultaneously show how such description was arrived at without being self-referential, governed as they are by the logic of such descriptions.<sup>16</sup> Thus we reach the limits of language, the boundary of linguistic technique beyond which we must remain silent.

This makes clear, then, that Wittgenstein was not advocating that the world was wholly open to scientific investigation, waiting to be unashamedly uncovered by the employment of rational criteria, despite his connections with logical positivism. In *Tractatus* he equates the world, or reality, to a white sphere covered randomly with black dots over which Newtonian mechanical laws have placed a uniform mesh. It is the shape of the mesh which determines how it is we are to see the world, for it is through the mesh that we interpret reality, it establishes the axioms of induction. Just as it is the fact that the sphere can be completely described by the net with a specific size of mesh,

rather than the net itself, which tells us about the nature of the sphere, so it is that the laws of Newtonian mechanics tell us nothing about naked reality, but the way in which we are able to describe it in this way.<sup>17</sup> Laws relate to the net and not what the net describes, they are logically rather than physically contingent; “The only necessity that exists is a *logical* necessity.”<sup>18</sup> People like the Logical Positivists were under the illusion that the laws of nature render plain descriptions of the world, an illusion because they failed to see that such a relation can only be shown, never defined as a foundation of knowledge.

The limits of language being set at the modelling of reality through logical form brings the *Tractatus* in its final sections, to consider what lies beyond the rendering of experience through the logical form of linguistic expression. Propositions represent what there is in the world of things, but surely what is of greatest meaning, of most significance in peoples’ lives, is not what is a fact as such, but what is a feeling, a sense of imagination and self, of value. There is a strict separation of what can be spoken about, the factual world of sensory experience, and what cannot be spoken about, at least in terms of propositions, the realm of value. We can convey facts to each other through language but the aesthetic and ethical finitudes of experience are rendered unintelligible by such a mode of representation; what is of ultimate value can never be spoken of: “It is clear that ethics cannot be put into words. Ethics is transcendental. Ethics and aesthetics are one and the same.”<sup>19</sup> Wittgenstein recognized that the mystical element in subjectivity, that which lies outside of the realm of questions, and yet remains life’s purpose, can only be shown through the use of allegorical, artistic and ironic attempts to use existing and past logical forms to re-structure one’s potential future. The idea being that in both art and ethics one sees things in conjunction with everything else, rather than as situated in everything else, such that:

The work of art is the object seen *sub specie aeternitatis*; and the good life is the world seen *sub specie aeternitatis*. This is the connexion between art and ethics. Each thing modifies the whole logical world, the whole of logical space, so to speak. As a thing amongst things, each thing is equally insignificant; as a world each one equally significant.<sup>20</sup>

This levelling of the world involved Wittgenstein in an incredibly solipsistic outlook where meaning was rendered to a relation between God and the subjective “I”; things only have significance by virtue of their relationship to the single human will. There is no knowing self *in the world* which we encounter in our experience; there is only the self that is the limit of that world, and this we cannot talk about, only make manifest

This is the way I have travelled: Idealism singles men out from the world as unique, solipsism singles me out alone, and at last I see that I too belong with the rest of the world, and so on the one side *nothing* is left over, and on the

other side, as unique, *the world*. In this way idealism leads to realism if it is strictly thought out.<sup>21</sup>

Talking about the self would be talking about or isolating,<sup>22</sup> at the limit of the world the self is nothing at all. The self is utterly privileged; the world cannot be understood other than through first person manifestations in the here and now.

The primary task of philosophy then becomes one of clarifying the realm of *gestalt*, the sense of form, and putting it in relief against that of value. In this way language was best seen as mechanical. The silent realm of personal value is governed by imagination, rejection of orthodoxy and personal leaps of faith. Any attempt to try and conflate fact with value leads either to the distortion of facts through an imagination running with abandon, or to the idea of moral legislation, natural law, which denies the essential subjectivity of what lies beyond the expressible through its attempt at prescription where there should be silence. These boundaries between the sayable (science) and the unsayable (ethics and aesthetics) show ideas of good to be a function not of rationalisation or legalistic code but of the life of imagination - the personal integrity of being, of the subjective will. Ethics, like aesthetics, has nothing to do with the consequences or utility of action and everything to do with the action itself.<sup>23</sup> "Good and evil" said Wittgenstein "only enter through the *subject*. And the subject is not part of the world, but a boundary of the world."<sup>24</sup> Thus, Wittgenstein concludes, the best method in philosophy would be to say what can be said, and this is most effectively done through the laws of mechanics, and to pass over in silence what is the sole preserve of that which denies the validity of form - namely art, poetry, religion and mysticism.<sup>25</sup>

Toulmin and Janik, citing Wittgenstein's correspondence with Paul Engelmann as well as *Tractatus*, see his early work as expressing an ethical point rooted not in what it says but in what it omits.<sup>26</sup> Value is found in the recognition of what it is we should be silent about - the whole book is geared up to showing us the distinction between what is rational, useful, and technique-based, and what is of real sense and greatest value which is what must lie outside of the world, outside of mechanics:

If there is any value that does have value, it must lie outside the whole sphere of what happens and is the case. For all that happens and is the case is accidental.

What makes it non-accidental cannot lie *within* the world, since if it did it would itself be accidental.

It must lie outside the world.<sup>27</sup>

Ethics should never be over intellectualized by seeking a foundation; it is the product of will, a subject's attitude to the world. There is no metaphysical subject to be found in the world, no altar of human self upon which we are to set the icons of identity. To find meaning we must look outside of the world, to god. The existential danger is that one may only see a void.

From the *Tractatus* view emerges potentially shattering questions for the nature of ethical rules like human rights. Either they are laws or principles and in that case, because ethics have no foundation, can only be prudential or useful guides to instrumental action; or they are indicative of an ethical aspect to the subjective will which, in their being called rights, has become confused with the rational aspect of individuals' use of linguistic technique. If the former then they cannot be absolute, inviolable nor universal, if the latter then they cannot be laws but that which renders ethics to the realm of an egalitarian silence depictable not by natural law but solipsistic image, allegory and metaphor. They are either expressible and hence legalistic rights or they are indicative but not explanatory of the ethical aspect of human subjectivity, not both. It would be wrong, then, to see human rights as an independent concept with an isolate pictured referent, but also wrong to see it as that which humans have *qua* human, and, moreover, that, say, deck chairs do not. From the solipsistic perspective the metaphysical subject defines the boundary of their world, whereas the human body is but one amongst many others, none of which has a pre-eminent place.

Because what distinguishes human rights from other precepts of conduct is their non-derogable, universal, species-specific and self-evident status the issue raised by Wittgenstein's early work is whether such ethical principles (to respect the rights to, amongst others, life, be free from torture, to self-determination, to a family, to free thought and association, to equality before the law, to be free from slavery, to be free from retroactive criminal penalty, to have a name) *can even be talked about* in terms of common capacity or foundation. If human rights are used as ethical codes then surely in the *Tractatus* sense any concomitant sanctions do not *accompany* their application, nor can they be *enforced*, for the whole point about ethics is that, like aesthetics, the reward and punishment, the sense of duty, the knowledge of "right" and good living, are wrapped up in the individuals' will. Good or bad are terms for the concern of the individual alone:

If the good or bad exercise of the will does alter the world, it can alter only the limits of the world, not the facts - not what can be expressed by means of language.

In short the effect must be that it becomes an altogether different world. It must, so to speak, wax and wane as a whole.

The world of the happy man is different from the world of the unhappy man.<sup>28</sup>

The rendering of facts is separate from the rendering of value, one is sayable the other is transcendental, one is the province of mechanical laws, the other of intense personal reflection. Ethics are not Kantian imperatives of practical reason but deep-seated spiritual convictions about what is of value. The happy person can inhabit the very same physical, economic and social space as the unhappy person and yet still occupy a different world for *the sense of value* in the world is rendered not by any physical setting but by ones' personal integrity, ones' capacity to take the leap of faith into solipsistic communion with a form of the self identity whereby in that nothingness, in that silence, one feels both great and small. Kierkegaard speaks of this feeling in his journals as the

uniting of two great forces: humility and pride. Such unison is intensely private, to be sought by the solitary enquirer who, upon experiencing such a "tranquil marriage of love" will have:

found what the great philosopher - who by his calculations was able to destroy the enemy's engines of war - desired, but did not find: that archimedean point which for that very reason must lie outside the world, outside the limitations of time and space.<sup>29</sup>

What is good, of greatest sense, the riddle of life, lies outside space, time<sup>30</sup> and even rational thought.

Human rights cannot, therefore, prescribe a specific ethical type nor can they act as ethical laws, for laws assume a source of commonly agreed authority used to promote effective social relations whereas Tractatan ethics are an entirely personal affair, they have nothing to do with punishment and reward outside of the action itself, and within the action the only thing that can be said is the tautology that the happy life is the good life. The good life cannot be described, it is transcendental, the ability to "renounce the amenities of the world" which "are so many graces of fate."<sup>31</sup> Improvement in condition is brought about through art. It is art which aims at the changing of peoples' minds in their universal condition, to tug them from their complacency, to upset their rational techniques in order to express oneself with integrity. This can leave an impression of frustration amongst some, like Koestler who has said the *Tractatus* represents as decidedly queer juncture in philosophical reasoning - "a man setting out to circumscribe logic and all but succeeding in castrating thought."<sup>32</sup> Human rights seem redundant in a solipsistic world; what has Wittgenstein left for us to even talk about with any meaning beyond that of personal integrity?

## 2. SHIFTING THOUGHTS.

Though Wittgenstein himself never lost his preoccupation with self discipline, with the riddle of life, with the grand questions of meaning and their possible sense, his philosophy underwent a radical development after he left Cambridge at the beginning of W.W.I to first become a rating on Austro-Hungarian patrol boat on the Danube, and thence to wander through a series of practical jobs such as teacher, gardener and architect. The need to understand the techniques and practices through example necessitated by these jobs became formative in his changing attitude to the concepts of meaning and value. The role of the architect, for example, was not that of artist but artisan, a craftsman able to use space in order to meet the needs of human subjects themselves created by the dominant values present within any one social tradition as it continued to flirt with and reassess its narrative past. Architecture was a practical and imaginative response to prevailing aesthetic values, a role best articulated by Wittgenstein's Viennese acquaintance, the architect

Adolf Loos.<sup>33</sup> Loos insisted on dividing the language of our needs and the practices which serve them, those of builders passing slabs to one another in order to construct shelter, from the language of our values, the same builders passing slabs to one another in order to construct, say, a mediæval cathedral. One is infused with sagacity, a conscious appraisal of what is useful, and the other is infused by a spirit of religious fervour, it has no practical purpose but glories in a faith which subsumes the vagaries of rain, frost and wind. For the cathedral builders "The essential / was to perpetuate the force of their hope beyond the erosion of each season."<sup>34</sup>, for the modern architect of the city the essential was to avoid the pretensions of transposing ornament from alien cultures or engaging in self-conscious ornamental design. The architect, neither of rustic agrarian or classical stock, should be respectful of continuity in culture by placing their services at the behest of a building's and its occupant's needs.<sup>35</sup> Paul Engelmann suggests that teaching necessitated in Wittgenstein the practical experience of having to translate his thoughts into and receiving reaction from a language used by children.<sup>36</sup> This experience heralded the turn from concentrating upon an ideal language of "wordless faith"<sup>37</sup> to that of the everyday, to the need to "jump into life so as to discover what man needs."<sup>38</sup>

The nub of Wittgenstein's changing perspective, then, was to be found in his realisation that although it was still of paramount importance to recognize the ultimately foundationless status of metaphysical godheads,<sup>39</sup> it was also the case that the ways we view ethics and aesthetics were themselves languages taught according to rules of use, ways conditioned by *our* language. There was a very conscious move from solipsism towards the view that language was an embodied social activity articulating peoples needs rather than the timeless and untethered murmurings encountered in the *Tractatus*.<sup>40</sup> Value, rather than being something mystical, allegorical and ineffable, was in possession of its own *techne* whose rules could be demonstrated. The *Tractatus*, whilst it emphasized self-discipline and self-expression as spontaneous expressions of our natural being, tended to suppress the need for "a measure of collaborative human presence"<sup>41</sup> present in contextual roots, an institutional tutoring, an awareness of the need for a narratively based rigor of action which acknowledges that it must use, re-use, develop and destroy by working within and at the boundaries of whatever positions we find ourselves in. Solipsism itself relies upon language such that instead of my language being the limits of my world, our language becomes the limits of our world.<sup>42</sup>

This change in Wittgenstein's attitude to value was an aspect of a more general debunking of the representation theory of language as presented in the *Tractatus*: language as representation was only one of the functions of language, and if there were more uses of language then there was greater scope for an ethical language to gain a grip on what is expressible, for what was expressible need not be limited by what was governed by the mechanical logic of theories. His later work, especially *Philosophical Investigations*, is akin to the *Tractatus* in that both see language as the starting point for philosophy and ask how it is that people are able to establish links, of whatever kind, between language and the world in the first place. They differ where the *Philosophical Investigations* sees such relations as existing in grammatical action as opposed to that of logic.

His concern was no longer with the "formal structure" of language or with any supposed similarity of structure between "propositions" and "facts" ... from now on Wittgenstein focused his attention on *language as behaviour*, concentrating his analysis on the pragmatic *rules* that govern the uses of different expressions, on the language games within which those rules are operative, and on the broader *forms of life* which ultimately give those language games their significance.<sup>43</sup>

The work is still informed by the urge to make people see clearly that we can never explain everything and mystery will always remain, but is also infused with the realisation that in order to posit any form of meaning, be it representational or otherwise, reference must always be made to the wider space of articulation. Thus, rather than rebuff the Kantian insistence upon a single, unique and compulsory rationality on grounds of its conflating rationality with ethics, Wittgenstein was now challenging it on grounds of it being too abstract, synthetic, certain and *a priori*. It ignored the actual features of existing and potential historical and cultural contexts. *Tractatus* was wrong not because it was a wrong theory but because all attempts to theorize in terms of absolutes are doomed to ignore the full but open and partial space of language. Meaning shifts from the transcendent in *Tractatus* to the linguistically expressible in *Philosophical Investigations*, but only when acknowledged that such languages are themselves characterized by diverse, often opaque and always emerging propositions.

Meaning is never complete and enclosed.<sup>44</sup> Naming something can only represent an *element* of reality,<sup>45</sup> it does not embrace the essence of what it is to mean or say something. Using concepts like colour samples<sup>46</sup> Wittgenstein tries to show the bewitching effect language can have on us when it is assumed that the subject/predicate form used in naming objects is imposed schematically upon language. It encourages the assimilation of what actually are different *uses* of words into the name-object form. Even in cases where they do name things, such as proper names, it does not get us far to say that, for example, the meaning of the United Nations is the body United Nations, or the meaning of Declaration of Human Rights is the piece of paper upon which it is written, or part of the furniture of the universe. The picture naming theory employed the dual notions of reality, things-as-they-are, and language, things-as-we-see-and-name-them, and explored the relationship between the two; language explains or orders reality in this or that way and it does this best when it is in the logical form name-object. In *Philosophical Investigations* language becomes far less rigid in that its meaning comes not from a mechanical logic but its use:

One thinks that learning languages consists in giving names to objects. Viz, to human beings, to shapes, to colours, to pains, to moods, to numbers, etc.. To repeat - naming is something like attaching a label to a thing. One can say that it is preparatory to the use of a word. But *what* is the preparation *for*?<sup>47</sup>

To better explain this Wittgenstein characterizes language in terms of games. Games have characteristics: they can be played with concentration using physical endurance and mental skill; they can be emotional; and they often require practice and dedication. But they can also be none of these things; there is no single common denominator to games distinguishing them from other practices. We learn a game according to contextual criteria rather than rigid sufficient and necessary conditions. Only then can we understand how to distinguish a "game" of chess in Patrick McGouhan's "Village" from one in a street cafe; the rules are exactly the same, only the contexts, the implications, the purposes differ. We can still recognize it as chess because there are what Wittgenstein calls "family resemblance's" between the two contexts in which the concepts of "chess" and "game" are used. Family resemblance's establish coherence in language, they encapsulate the texture of words which are similar enough to ensure that their use in language games criss-cross and overlap in many different ways but never in a sufficiently rigid manner to discern any essence in such games.<sup>48</sup> There is no one single common thread to them, they find stability by being wound round each other, like threads making up a fibre "...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 those fibres."<sup>49</sup> Meaning occurs as a family of use in a language.<sup>50</sup> "Language", says Quinton, "is accepted [in *Philosophical Investigations*] as it actually and observably is, as a living, unsystematic, polymorphous array of working conventions for a large and not simply classifiable range of human purposes."<sup>51</sup> It does not represent a reality reducible to component parts comprising a formal logic but is a component of a non-reducible and non-linear reality.

To take the divisionist painting analogy again: along with much of the modernist movement in art, divisionism was very consciously trying to reveal the skeleton of things, to get behind surface appearance so as to represent basic structures. Its statements are scientific, abstract and absolutely static. As a result the paintings themselves are devoid of all life and movement because they only attempt, as did *Tractatus*, to emphasize structure, one aspect of what Wittgenstein now saw as reality governed by grammatical rather than contingent logic. Seurat's pictures "hang" in a two dimensional, static plane, they do not reflect the partial, chaotic, tragic, emotional aspects of life. In a similar way the "Tractatus.." can be seen as presenting a rarefied and scientific aspect of reality which it mistakenly sees as its only linguistically expressible aspect; when really language can be made to do a lot more than paint in dots or speak in names.<sup>52</sup> Language is not used just to represent but also to report, to question, to persuade, to instill, to rebel, to exclaim and so on. Words and things, language and states of affairs, do not have stable signifiatory relationships. One word does not mean just one thing, indeed things in themselves are never stable, there is no separate, immutable frame called logical space which defines the parameters of language, "things" are always part of language and the parameters of language, its rules of grammar and what Wittgenstein called "forms of life",<sup>53</sup> which are themselves subject to change. The Divisionists, then, were using art as a representation, a form of expressing reality as they saw it, indeed they could not go beyond such a form to reveal the actual structures of reality, they could only ever interpret what they felt from within

the confines of their language game, painting according to a scientific methodology. But in theorising about reality they could never represent a whole reality, they were isolating an aspect. Language does not have to limit itself to literal statements of fact, meaning can be less tangible, emotional, an intuitive expression of feeling for which it would be ridiculous to seek support in terms of evidence yet which still retains a kind of weird sense because the grammar of language is flexible.<sup>54</sup> Grammar does not require that the uses of words maintain strict definitional relations with worldly referents because it itself is an aspect of that world and not a commentary upon it.

### 3. THE PRIVATE LANGUAGE ARGUMENT.

Language encloses us, envelops our identity in its grammatical folds so that it becomes impossible to disassociate the two, the identity of the self is something inherently linguistic. This leads Wittgenstein onto a discussion of whether it is the nature of this constituting language to be inherently private. The implication being that because language was understandable through behaviour, through action, then meaning was not the product of some Cartesian *deus ex machina* but something governed by contextual situations. It was to further explore this that he developed his private language argument.

The idea of a private language is inherent in the Cartesian emphasis on that ghostly substance the mind; the mental has to be the progenitor of meaning because all any of us can ever be sure about is our own feelings and experiences - whether those undergone by others are similar is something we can only infer from outward signs. The pain I feel upon leaving a friend for a long time is an intensely private sensation which may be linked via some non-tangible tendril to outward expressions like depression or tears but remains essentially part of my own private world of meaning separate from the sensory worlds of others. This is the image of a private language which Wittgenstein rejects.

"What", asked Wittgenstein, "gives us so much as the idea that living beings, things, can feel?"<sup>55</sup>

It is the presence of a soul as separate from a thing:

Look at a stone and imagine it having sensations. - One says to oneself: How could one so much as get the idea of ascribing a *sensation* to a *thing*? One might as well ascribe it to a number! - And now look at a wriggling fly and at once these difficulties vanish and pain seems to be able to get a foothold here, where before everything was, so to speak, too smooth for it.<sup>56</sup>

So, people understand the idea of pain because they are of an attitude to others that they are qualitatively different from inanimate things, people have something which demarcates them as

people. Now such an attitude cannot be present if sensations were inherently private because private sensations prohibit generalisation: if it is only from my own experiences that I know what it means to suffer then must it not be the case of everyone else too? But then how can I generalize about how it must be with others when I cannot make sense of their experiences?<sup>57</sup> It is with questions like these that Wittgenstein reveals the isolate desolation of an individual in the Cartesian world, an absolute void, a context-less context, there is no instituted framework within which people can even begin to identify their minds as that which does the experiencing of meaning. To understand things we need to look at the role they play in language games, not at mental definitions.<sup>58</sup> It is how we use concepts like "pain" which reveals their meaning:

Whether I know something depends upon whether the evidence backs me up or contradicts me. For to say one knows one has a pain means nothing.<sup>59</sup>

Wittgenstein was trying to show that talk of an inner realm where thoughts, meaning and knowledge occur was a piece of disguised nonsense. Disguised because it seems to make perfectly good sense to claim privileged access to one's own "inner" states, nonsense because things in themselves, including the ideas of "inner" and "outer" realms, do not exist.

We are tempted to think that the action of language consists of two parts; an inorganic part, the handling of signs, and an organic part, which we may call understanding these signs, meaning them, interpreting them, thinking.<sup>60</sup>

The Cartesian mistake is to assume that concepts like knowledge, memory, understanding and pain are not consecutive events which accompany the appearance of what is to be interpreted, memorized, understood or felt. My sense or feeling of pain does not accompany the sentence or any resulting pain behaviour, it is *part* of the very language, part of the whole concepts of pain. What signifies understanding, thinking etc. are the circumstances of their expression, The organic and inorganic distinction is wrong because it compartmentalizes what are in actual fact better seen as aspects of open as opposed to discrete phenomena. Aspects change, they are transient, because they are expressed in different contexts. Recognising them is like having a musical ear; just as people can usually hear variations on a musical theme so they can use their imagination and their will to undertake various uses of a concept or undergo various feelings. Pain, like all concepts, has many aspects, both physical and emotional, connected through family resemblances and use.<sup>61</sup>

It is a mistake, says Wittgenstein, to see language as just reporting our inner sensations because *what* we feel and *how* we express what we feel are *part of us*, our being, and feelings are not limited to sensations alone - they encompass emotions which cannot be pointed to, located, and do not give us information about the external world. There are reasons for emotions and causes of sensations which cannot be isolated from the sensations themselves,<sup>62</sup> whereas the Cartesian views inner experience and feeling as caused by some antecedent event or memory of an event. When

Rousseau collapsed under the apple tree in a state of utter despair about the turpitude of the world it was not the cause of his grief but its object. He grieved *about* something, not *because* of something.

Language should not be viewed as an accompanying process, something which reports on inner sensations, emotions or thoughts. The expression of these, the cry of pain, the facial look, the proposition, are aspects of the experience.<sup>63</sup> The private language view is caught up in a paradox which has it that sensations can be something, but also they can be nothing too, because we are unable to say anything about them that has any meaning, enclosed as they are in little boxes the inside of which can only be understood by the single subject of the sensation, who themselves have no reason to look beyond the immediacy of their own being. The paradox is put thus by Wittgenstein: imagine a solitary individual who, anxious to create a language, records sensations in a diary so as to remember their occurrence and what names he gave to them. He creates his own rules: for this sensation of pain I use "Arghh", for that one I use "Ow". The problem with this story lies not only in its assumption that such things as diaries and the practice of using them already exist, but also in the complete absence of separating a rule, that which governs correct identification of a feeling, from thinking one has identified a rule, the feeling of correct action. If a language was essentially private then the resulting vacuum of contextual reference means we can make any action or feeling accord with a rule, relying as we do upon inner memory. There is nothing specifying when it is best to use what concept - does "Ow" refer to a pain in the shoulder, a dull pain, a long-lasting pain, fake pain or grievous pain? There is no possibility of being sure because we can only rely upon our memory, outside of which we are unable to make any appeal as regards meaning. It is a case of the third man; I can check on my meaning of "Ow" by looking back at my memory, but that presupposes a something further which provides a check on the accuracy of my memory, and so on. Thus,

..to *think* one is obeying a rule is not to obey a rule. Hence it is not possible to obey a rule 'privately': otherwise thinking one was obeying a rule would be the same thing as obeying it.<sup>64</sup>

It is this distinction between a rule and following a rule which precludes essentiality in language: language requires regularity in use, there are rules of connection between correctness and the criteria for correctness which a Cartesian individual is not in the position to establish. It is their loneliness which precludes the possibility of regularity.

The only way to escape this paradox is to see language not as a method of naming or reporting on inner sensations but as part of such sensations such that, for example, the exclamation "I am in pain!" is recognised as part of the sensation of pain, one which people have been trained to use as a more refined and articulate replacement for crying or uttering a moan, it is an expression of a feeling, and being so such a feeling cannot be reduced to a private episode.

To recognize pain in others, then, is not to see pain but, rather, *that* someone is in pain which is a

grammatical remark[s], not [a] statement about the observational limitations of the human beings in respect of the mental ... any more than the claim that ones left hand cannot give one's right hand a gift exhibits a peculiar set of (physical?) limitations on the range of human behaviour.<sup>65</sup>

The idea is that feelings are aspects of grammar which we can all of us understand; given certain criteria, I can be as certain of pain as of any fact.<sup>66</sup>

Consciousness in another's face. Look into someone else's face, and see the consciousness in it, and a particular *shade* of consciousness. You see on it, joy, indifference, interest, excitement, torpor, and so on. The light in other peoples' faces.

Do you look into *yourself* in order to recognize the fury in *his* face. It is there as clearly as in your own breast.<sup>67</sup>

Understanding the pain of others, to attend to their wounds, is something we infer from behaviour and experience, but it is never a case of transplanting our experience of pain onto them. What we are doing is understanding a new aspect or dimension of the concept of pain, an aspect which is constituted in part by our part in it. The language use of pain is an extension of what Rousseau terms our *pitié* for others, a primitive sympathy for the plight of our fellow beings, the good Samaritan in us all.<sup>68</sup> There would be no room for doubt because doubt would represent not just a mistake but a manifest failure to understand the concept of pain. Doubting the existence of pain does not arise because people fail to wear their pain on their sleeves,<sup>69</sup> it is not an issue of inner and outer but of what over time has come to constitute pain criteria.

Here, then, Wittgenstein is refuting the Cartesian outlook by appealing to the nature of language games. Cartesianism finds the reasons for action in the psychological, it reduces what is essentially a question of social practice to one of purely mental interpretation and reflective consciousness. It is misled into thinking that concepts like pain and thought are mental objects and so only accessible through some form of inner sense, misled because they fail to see the necessity of the context for their intelligible expression. Wittgenstein did not say that I, for example, can feel someone else's pain, he did not want to deny pain as an inner experience, rather, he wanted to show that it was possible for criteria, the context, to establish the certainty of pain, grief and so on and that without the context of pain behaviour (writhing around, groaning, screaming, collapsing, linguistic expressions and so on) or grief (facial expressions) pain can never be made sense of. Judgements of experience are not reached through action or feeling alone but in the background against which those feelings and actions are seen, against the characters and surroundings of action.<sup>70</sup>

Experiences are defined by criteria, not by things, criteria which are not just outward manifestations of behaviour, but part of a logical grammar which is rooted in the specific contextual schemes

belonging to its use.<sup>71</sup> Language, then, is based upon nothing essential, simple and single. Simplicity itself is a contextual phenomenon. The prisoner in Camus' "The Outsider" confined to the blank, uniform vista of his cell walls gradually comes to see greater and greater intricacies in what to any non-confined person would seem mere bland and uninteresting marks on the plaster. What was once simple is revealed under extreme conditions to be something very complex.

#### **4. LANGUAGE, CONTEXT AND UNIVERSAL CONCEPTS.**

If meaning is something found in how concepts are used in contexts, in grammatical criteria, as opposed to some ghostly substance like the mind which seeks to impose it upon the outside world, then the implications for human rights, as universal ethical codes of behaviour inextricably linked to private, inviolable inner cores of subjective identity, are, or at least should be, worrying. The private language argument resists the temptation to dignify ourselves as isolated bestowers of value and understanding. These processes are far less glamorous and mysterious than the Cartesian ghostly substance, rendered meaningful not because of prior justification but *in* their contextual or grammatical use by the individual language user according to the established techniques and practices under whose influence that person finds themselves. Philosophy cannot transcend this grammar, it must serve to clarify for us the connections we have to our narrative context and not seek to replace one fly bottle with another

Philosophers who say: "After death a timeless state will begin", or "at death a timeless state begins", and do not notice that they have used the words "after" and "at" and "begins" in a temporal sense, and that temporality is embedded in their grammar.<sup>72</sup>

This temporality consigns universal, ethical principles like human rights to irrelevancy on four counts. Firstly it undermines their supposed origin. Traditionally rights are seen as emanating from the private sphere of inviolable self-hood within which people can and should be able to take responsibility for their own decisions, interests and beliefs. Such an atomized entity is, as far as ordinary language use is concerned, a romantic fiction conjured up in the imaginations of those who believe in ghostly substances. Secondly, it challenges their justification. Human rights are inviolable, inalienable and universal because they specifically isolate that aspect of our selves that is inherently ethical, our ability to rationally abstract from our immediate surroundings in order to determine the "good life" on self-willed terms. Speculation on potential avenues of activity has inherent worth because it shields the self from being subsumed by culturally and institutionally driven forces of control. Human rights seek to recognize this worth by providing and protecting space for speculation. The private language argument, however, apparently denies that such an untethered state is

possible, cementing everything as it does within the grammatical confines of established linguistic practices and criteria of meaning. Worth is devoid of meaning outside of its use as a concept, and how it is used is defined by grammatically driven techniques and purposes of action. Justifying human rights requires local language, not abstract spheres of space. This leads on to the third count. That grammar circumscribes activity in the ways it does suggests that human rights, as aspects of a grammar, only have meaning to those language users who have learnt the relevant techniques and purposes of their application. Even if it is supposed that people are essentially choosers before being defined by what they have chosen, this can only ever be a belief, a contextual, culturally bound practice or tradition with limits in its use. To the extent that there are cultures that deny the validity of human rights reasoning it is wrong to suppose that they can be made to understand the reasoning behind rights use. The final count arises from human rights claims to be relevant not only in all places, but at all times. Inalienability suggests human rights are something very akin to natural rights. Deontological enquiry, which places duty before value such that irrespective of the consequences there are certain rights entitlements that must be adhered to, rests on the idea that such a duty is innate to the nature of people, whatever their historical position. On the private language view, although there may still be rights, they are such concepts as arise out of customs and traditions of the social weal and not out of a *sui generis* human nature. This is not saying rights have to be the creation of social institutions like the state<sup>73</sup> but that they are not consequent upon abstract, inviolable spheres of individuality. Rights have to be more contextual, what they *do* is, in the words of Spencer, give "formal sanction and better definition to those assertions of claims and recognitions of claims which naturally originate from the individual desires of men who have to live in presence of one another."<sup>74</sup> Human rights cannot, therefore claim a timeless jurisdiction, they only operate when there is a natural need for them within a community and demonstration of this need and use is what is required to show their relevance.<sup>75</sup>

These four elements are very much inter-related and will require, before this thesis is done, much greater development. Suffice it to say at this stage, however, that they rest on the shift made in Wittgenstein's work from linking ethics and the individual will to that of the individual's will *in grammatical context*. Language is seen in much less strictured terms than in the *Tractatus* and this loosening of the communicative harness re-admits the sense of value and individual spirituality as aspects of grammatical criteria rather than outer expressions of inner feelings. Whilst liberating the potential for the expression of value it also implies an apparent tethering of such potential to the existing grammatical criteria found in the context of such expression.<sup>76</sup> The relinquishing of the subjective "I" takes place within a context, it is no longer an immanent process.

The "Kantians", as Richard Rorty calls them,<sup>77</sup> who still hang onto the idea of abstract, universal human rights try to see development in linear terms, as progress towards what is rational, and so can fail to recognize that what is salient to the idea of human rights, namely concepts such as dignity and respect, are public ones, reliant upon a specific cultural background to give them meaning. In denying the influence of cultural maxims on ethical concepts they remain under their Cartesian stone, feeling that anything other than such a denial will dilute the stringency and

universalism of the message. Without an innate sense of worth and self with abstract ontological backup human rights would be no more important than cultural rights and justice would become a relative matter, one over which no progress or convergence was possible. Rorty himself, as I will discuss in greater depth later on, fakes such a view. In donning what he calls a pragmatic attitude to other cultures he is recognising the specificity of moral development and dispensing with meta-narratives by rooting dignity and morality in intentions collectively invoked by groups and their contrast with those other groups. Human rights have no use in such a schema. Our Western, democratic community requires that we treat people in an open, tolerant and respectful manner and that is just it, that is how we do things, that is part of our web of beliefs, conventions and purposes. That other cultures may not behave likewise is something we can try to change, no form is immutable, through persuasion and sympathetic understanding, but we cannot invoke supra-cultural justifications, we have to be ethnocentric.<sup>78</sup>

The dilemma for human rights becomes this: either they are universal, and then they cannot possibly be confined to a specific form but, instead, linked to some pre-social characteristic innate in every human being, something which then contradicts Wittgenstein's supposed assertion that it is meaningless to speak of a subject outside of a context, or they are specific to the narrative history of traditions in terms of meaning, and so cannot possibly be regarded as having universal meaning and applicability, something which undermines their avowed purpose. What I shall attempt to show is that rather than resolving such a struggle it is better to dissolve it as one thrown up not by Wittgenstein's philosophy at all, but by a dualist vision of the world. Crudely put, dualistic visions have on the one side a view of external objective reality which lends our pursuits and actions purpose and which determines truth and falsity (empirical realism), and on the other an indirect reality as we know it through our forms of life, and to talk of reality as external to such inter-subjective agreement is to talk of a chimera (an position espoused by various philosophical positions such as sensationalism, relativism and anti-realism).<sup>79</sup>

There are a number of facets to this dualism, and it is helpful to get them straight. They concern: the nature of explanation, of what constitutes the best method of accruing knowledge; the nature of any external reality and its relation, if any, to meaning, explanation and understanding, what exists and how it relates to our activity; and the role of language and its relation to reality, whether it limits reality or is limited by it, whether epistemology is subsumed by ontology or whether ontological questions are annihilated by the inevitability of an epistemologically bias method of enquiry. The confusion is created when meaning is conceived in zero-sum terms as a *sui generis* stream towards which human enquiry works, as is reminiscent of a scientist view of things; as an inter-subjective<sup>80</sup> creation based upon customs as is espoused by idealists, sensationalists and relativists; or, as skeptics see it, something of a coincidence devoid of any real sense at all and the outcome of cultural accident.

Rorty, and those who uphold the pragmatic line of reasoning as a response to their more idealistic, transcendent bretheren, is not so in tune with Wittgenstein's legacy as might at first be apparent. There is a scent of cultural Darwinism in Rorty's work which is not found in Wittgenstein. In

Rortian space the moral concepts that survive are those most frequently used in a context, and use here is linked to efficacy, to survival of the particular linguistic heritage in which they are articulated. The implication of this being that liberal democracies, being the "healthy" orthodox system to which all aspire, represent the best culture yet - though we (liberals) are contingently limited to our cultural home, this should not bother us as we are fortunate enough to live within boundaries which are at ease with themselves. It is an ethic of utility. Wittgenstein on the other hand was not concerned with establishing truth or certainty at all, but in showing how it is our use of such terms can lead to confusions as to their nature. Though, as will become apparent, this does involve difficulties for any conception of human rights, it is not a direct attempt to replace one orthodoxy (be it abstract or utilitarian) with another. Wittgenstein linked meaning with use to highlight what he saw as senseless claims to be in possession of "truth" or even greater "depth". To show this I will have to delve back into Wittgenstein's philosophy and explore more fully just how he saw us as language users; the linguistic self defining their being through the following of grammatical rules. In this way I will emerge with a view of language use that recognises not only the influence of cultural *minutiae* but appeals to what Williams calls a "wider we" that can be used to criticize a more limited Rortian version of "us".<sup>81</sup>

Notes:

- <sup>1</sup> T - p.5
- <sup>2</sup> T - 2.021.
- <sup>3</sup> T - 2.0271.
- <sup>4</sup> Paul Engelmann 'Letters from Ludwig Wittgenstein' - Basil Blackwell, 1967 - p.101.
- <sup>5</sup> T - 1 - 2.0121.
- <sup>6</sup> NB - p. 53e
- <sup>7</sup> T - 6.124.
- <sup>8</sup> Logic is not a body of doctrine, but a mirror image of the world." - T - 6.13.
- <sup>9</sup> T - 2.1, 2.11.
- <sup>10</sup> T - 2.151.
- <sup>11</sup> T - 2.172 - 2.174.
- <sup>12</sup> T - 2.202.
- <sup>13</sup> T - 2.131.
- <sup>14</sup> T - 4.021.
- <sup>15</sup> This description is taken largely from S. Toulmin and A. Janik "Wittgenstein's Vienna", Weidenfield and Nicholson, 1972, p.186.
- <sup>16</sup> Ibid. - p.190. Also NB - appendix II, p.107: "Logical so-called propositions *shew* [the] logical properties of language and therefore of [the] Universe, but say nothing. ... It is impossible to say what these properties are, because in order to do so, you would need a language, which hadn't got the properties in question, and it is impossible that this should be a *proper* language. ... In order that you should have a language which can express or say everything that *can* be said, this language must have certain properties; and when this is the case, *that* it has them can no longer be said in that language or *any* language."
- <sup>17</sup> T - 6.341 - 6.342.
- <sup>18</sup> T - 6.37.
- <sup>19</sup> T - 6.421.
- <sup>20</sup> NB - p. 83e
- <sup>21</sup> NB - p. 85e. Wittgenstein reiterates this solipsistic view on p. 82e ("The "I" of solipsism shrinks to an extensionless point and what remains is the reality co-ordinate with it")
- <sup>22</sup> T - 5.631

- <sup>23</sup> T - 6.422.
- <sup>24</sup> NB - p. 79e.
- <sup>25</sup> T - 6.522.
- <sup>26</sup> S. Toulmin and A. Janik - op.cit - pp. 192-196.
- <sup>27</sup> T- 6.41. The idea of value lying outside the world is what encouraged Wittgenstein's solipsism. My language being only that language I understand, that upon which I confer value, supposes that the limits of my language are the limits of my world. So far as acts are good and bad, then, they must change the world in that they change my perspective. Ethics is not about relations with others but the integrity of the self.
- <sup>28</sup> T - 6.43.
- <sup>29</sup> Soren Kierkegaard "The Journals", Translated and Edited by Alexander Dru, Collins, 1958, p.43.
- <sup>30</sup> T - 6.4312.
- <sup>31</sup> NB - p. 81e.
- <sup>32</sup> Arthur Koestler "Wittgensteinomania" in "The Heel of Achilles: Essays 1968-1973.", Hutchinson & Co., 1974, p.110.
- <sup>33</sup> See Benedetto Gravagnuolo "Adolf Loos: Theory and Works" - op.cit - p.19.
- <sup>34</sup> Ian Mortimer "The Cathedral Builders", Nexus, Nov. 1987, No. 4, p.9.
- <sup>35</sup> "Only a very small part of architecture belongs to art: the tomb and the monument. Everything else, everything that serves a purpose, should be excluded from the realms of art" Loos quoted in K. Frampton "Modern Architecture", Thames and Hudson, 3 ed., 1992, p.92.
- <sup>36</sup> Paul Engelmann "Letters from Ludwig Wittgenstein" - op.cit - p.115.
- <sup>37</sup> Ibid. - p.135.
- <sup>38</sup> Loos quoted in Benedetto Gravagnuolo - op.cit - p. 46.
- <sup>39</sup> This foundationless state did not leave Wittgenstein in either skeptical or fatalistic moods. The happy man was not he who had his happiness written up above (see Denis Diderot "Jaques the Fatalist", Trans. M. Henry, Penguin, 1986, p.29) on the scroll of destiny. Rather we as language users are encouraged to use imagination - the reality of what is determinate is itself dependent upon what we allow to be counted as determinate.
- <sup>40</sup> Bernard Williams "Wittgenstein and Idealism" in Royal Institute of Philosophy Lectures, Vol 7, St Martins Press, 1974, pp. 75-80.
- <sup>41</sup> Taken from F.R. Leavis "Memories of Wittgenstein" in R. Rhees (ed.) "Recollections of Wittgenstein" - op.cit - p.65.
- <sup>42</sup> Bernard Williams "Wittgenstein and Idealism" - op.cit - 82.
- <sup>43</sup> S. Toulmin and A. Janik - op.cit - p.223.
- <sup>44</sup> discussed in Richard Flathman "Wilful Liberalism", Cornell University Press, 1992, pp 54-55.
- <sup>45</sup> PI - §59.
- <sup>46</sup> PI - §16.
- <sup>47</sup> PI - § 26.
- <sup>48</sup> PI - §65-67.
- <sup>49</sup> PI - §67
- <sup>50</sup> PI - §77.
- <sup>51</sup> A. Quinton - "Wittgenstein" in G. Pitcher (ed.) "Contemporary British Philosophy", Doubleday, 1966, p.9.
- <sup>52</sup> This is similar to Wittgenstein's statement in PI, ii, xi, when asking of a picture of a triangle whether it is seen as hanging up, standing or falling over: "Could I say what a picture must be like to produce this effect? No. There are, for example, styles of painting which do not convey anything to me in this immediate way, but do to other people. I think custom and upbringing have a hand in this." To see things, aspects, we have to be immersed in practices of interaction, trial and error and education.
- <sup>53</sup> PI - §241.
- <sup>54</sup> It is in trying to express the scope of language that Wittgenstein talks of Tuesday being thin and Wednesday being fat. (PI, part II, section XI, p.216.)
- <sup>55</sup> PI - §283.
- <sup>56</sup> PI - §284
- <sup>57</sup> PI - §292-§295.
- <sup>58</sup> PI - §182.
- <sup>59</sup> OC - §504

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- <sup>60</sup> BB - p.3
- <sup>61</sup> PI, ii, pp. 222-225.
- <sup>62</sup> Z - §488, §491.
- <sup>63</sup> Z - §304, §317.
- <sup>64</sup> Z - §202.
- <sup>65</sup> Jeff Coulter - "Mind in Action", Polity Press, 1989, p.83.
- <sup>66</sup> see Ibid. - pp. 84-86.
- <sup>67</sup> Z - §220.
- <sup>68</sup> see Z - §540-541, §545.
- <sup>69</sup> Z - §556.
- <sup>70</sup> Z - §567, §577, §587.
- <sup>71</sup> Z - §163-§165.
- <sup>72</sup> C&V - p. 22e.
- <sup>73</sup> This being Bentham's position - rights are institutional creations conferred upon individuals informed by the teleological nature of human beings to realize the good. Tools of maximisation and control rather than innate gifts.
- <sup>74</sup> Herbert Spencer "The Man Versus the State", Penguin, 1969 (1884), p.167.
- <sup>75</sup> Spencer himself does this through sociological analysis of various "ungoverned" tribes who despite their lack of institutional direction display rights-type behaviour in the ascription of property, truth and punishment. Societies embody private claims as a natural right, but one emerging from "the natural relation between efforts and benefits" (op.cit - p.179), not the timeless, natural character of the individual. Spencer emphasizes character in context.
- <sup>76</sup> see, for example, B. Williams - "Left-Wing Wittgenstein, Right-Wing Marx", Common Knowledge, Spring 1992, 1,1. pp. 33-42., What is natural is what we find to be so, and nothing more. Rather than trying to justify this feeling we must just try to get on living within it. All changes, thus, have to be based upon that understanding realisable only within a shared, social practice. As a consequence, all moral concepts remain rooted to specific linguistic contexts. Our ethical ideals are rooted in our ethical practices, and none can escape to obtain a universal relevance.
- <sup>77</sup> Richard Rorty "Postmodernist Bourgeois Liberalism" in "Objectivity, Relativism and Truth" ,Cambridge, 1991.
- <sup>78</sup> Ibid. - pp. 198-201.
- <sup>79</sup> Trigg identifies this dispute as separate from that existing between materialists (who identify reality solely with what is observable) and idealists (those who see reality as composed purely through mental activity, the mind is all that exists). The realists' position is that there exists something which is real and independent from human knowledge. The anti-realists hold that nature is humanized through the representations manifest in people's attempts to seek a unity in the chaos through the imposition of organisational power. Trigg sees Wittgenstein as representative of the latter, as one who equates reality with "reality-for-us", there being no being separate from "being-as-expressed-in-ordinary-language" See R. Trigg "Reality at Risk" Harvester Wheatsheaf, 1989, 2nd ed., Ch.2 pp. 30-39.
- <sup>80</sup> Wittgenstein's language games are reliant not upon inter subjective agreement but agreement in forms of life, agreement in action, something which is altogether less deliberate. The social extends beyond the inter-subjective into the primitive, the traditional and the narrative.
- <sup>81</sup> B. Williams - op.cit - p.41.

## Chapter Two

### THE NATURE OF RULES AND THEIR SURROUNDINGS.

Man knows he cannot embrace the universe with all its suns and stars. But he finds it unbearable to be condemned to lose the second infinity as well, the one so close, so nearly within reach. Tamina lost the infinity of her love, I lost my father, we all lose in whatever we do, because if it is perfection we are after, we must go to the heart of the matter, and we can never quite reach it.

That the external infinity escapes us we accept with equanimity; the guilt over letting the second infinity escape follows us to the grave. While pondering the infinity of the stars, we ignore the infinity of our father.

Milan Kundera *"The Book of Laughter and Forgetting"*, Penguin (1979) 1983, p. 165.

The *Tractatus*' distinction between fact and value consigned ethical principles, which had no referent, to an entirely personal *logos* of being-in-itself which could never be explained or justified but only made apparent through the personal integrity of the living subject themselves. This solipsism was itself subsumed by Wittgenstein's later work which clarified meaning as lying in use and verification, a logical cleansing which threw out the idea of any foundation to ethics, including that of subjective integrity. Language was no longer connected through representation to the logical form of an external reality, it was embedded within established grammatical rules of use. No longer, it seems, can even the ethical integrity of the subject be called into question outside of their social customs, for the meaning of their actions becomes, according to pragmatic and realist interpretations of the post-1929 Wittgenstein, firmly implanted in the motherly bosom of their cultural home, free from the critical gaze of those intent upon inter-communal vetting or missionary style conversion. In *Philosophical Investigations* understanding becomes a shared social activity, a publicly defeasible act of conformity with the dominant paradigms of existing practices which themselves, being the arbiters of what is correct and incorrect, are seemingly beyond scientific and ethical reproach. The only possible engine of change being a momentous and populous switch in attitudes brought about by shifts in conceptual use themselves dependent upon relations with a pre-established and necessary grammatical logic. In such circumstances ethical change becomes an increasingly rare bird, set to flight only with the greatest of agitation and largely content to sit upon its cultural nest nurturing an increasingly homogenous offspring.

Such is the conservative rendering of Wittgenstein's later work. But there is much in *Philosophical Investigations* and his other collected remarks which challenges such an interpretation. Though Wittgenstein's concepts of rule, form of life, family resemblance, language game and natural facts reveal a sympathy with and an appreciation for what might be called the politics of living, within their formulations lies a deep egalitarianism and an urge to clarify which are far from supine when it comes to the examination of social institutions. The gist of the later work is that though linguistic meaning comes to be determined by intra-linguistic rules rather than through a logical form shared by language and reality, this in no way offers those in control over and dominant in the significant language games grammatical *carte blanche*. Language use does not involve the pliant manipulation of language users which the extensive references made by Wittgenstein to rule following may suggest. Instead we have a picture of language as requiring both agreement and diversity. Wittgenstein's ideas of linguistic, or grammatical, rules is important because it shows language use as a reciprocal awareness of narrative condition coupled with an acknowledgement of the creative and expressive elements in recursive and self-referential activity of dialogue. Language is very much part of the *agora*, a marketplace of face to face debate from which flows a stream of not only of genealogical meaning but confusion and opacity.

## 1. RULES.

### 1.1. Rules and their Meaning.

A rule is best described as being like a garden path in which you are trained to walk, and which is convenient. You are taught arithmetic by a process of training, and this becomes one of the paths in which you walk. You are not compelled to do so, but you just do it.<sup>1</sup>

It is only through *grammatical* rules, as opposed to rigid rules or private rules, that we are able to distinguish between thinking we are following a rule and actually following a rule because it is only within such a system that it is possible to avoid the absurdities of the sceptical *reductio* which has it that because language is based on what is mental or perceptual it can never escape the arbitrariness of individual whims in the ascription of meaning to sounds. The "inevitability" of such anarchical Cartesian thinking is avoided when the real status of language is clarified. The meaning of any inner or private ostensive definition presupposes an already existing linguistic framework otherwise it fails to identify the extension of the use of a word, nor can it even establish the criteria of correctness/mistake outside of an already assumed linguistic heritage. Private or mental rules of language would just "hang in the air", devoid of any meaning because they were unable to establish any normative regularity.

What determines our judgements, our concepts and reactions, is not what *one* man is doing *now*, an individual action, but the whole hurly-burly of human actions, the background against which we see any action.<sup>2</sup>

And the same goes for speech, language is a weave, a pattern which repeats itself with variations on a regular theme. It is not just a set of assorted sounds uttered by individuals but the regular application of sounds/words in specific contexts. Such regularity is established by following a rule, but it is wrong to assume that such rules compel us within themselves, that they are coercive. People are able to hold by rules because they can be guided by them.<sup>3</sup>

In *Philosophical Investigations*<sup>4</sup> Wittgenstein said that there exist criteria which show us a person does not understand a word, criteria for thinking he understands the word, though he does not, and, lastly, criteria for his correct understanding. "In the second case", says Wittgenstein, "one might speak of subjective understanding. And sounds which no one else understands but which I *"appear to understand"* might be called a private language." The subjective second case is distinct from the criteria for correct understanding, the third case as such, because appearing to understand necessitates checks of memory which in actual language use do not go on, there being no way to ascertain the correctness of one's memory without relying on something external to it, which then has to rely on something beyond it *ad infinitum*. Instead, said Wittgenstein, we use language in accordance with rules which articulate the internal connection between understanding and its expression.<sup>5</sup> This internal link forges the foundation of grammar whereby the link between a rule and its application also becomes, as G. Baker and P. Hacker point out, an internal one: "The foundations of language are not in private experience, the given 'indefinables', but in normative regularities of conduct."<sup>6</sup> For something to be a grammatical proposition there must already be an element of sense and meaning built in to its use, its expression.<sup>7</sup> If a rule is understood, if it is grasped, then it must be *applied in a certain way*. Thus, there is no room for an interpretative intermediary, otherwise we get back to the sceptical paradox outlined in §198 (PI) of being able to interpret any action as following a rule, one dissolved by Wittgenstein in, amongst others, the following remarks:

How am I supposed to follow a sign post if whatever I do is a way of following it?

But, that everything can (also) be *interpreted* as following, doesn't mean that everything is following.

But how then does the teacher interpret the rule for the pupil? (For he is certainly supposed to give it particular interpretation.) - Well, how but by means of words and training?

And if the pupil reacts to it thus and thus; he possesses the rule inwardly.<sup>8</sup>

Rules *stipulate* legitimate moves in language games, they fix meaning, but on a grammatical level; it is not a fact about the world that we are entitled to use

language, but how we come to have a grammar that we are able to talk about facts with the certainty we do.<sup>9</sup>

Grammatical rules are those indications which point out where it is possible for us to move about within our language, they govern the techniques and purposes of our grammatical actions.<sup>10</sup> They do not force us to play certain language games, we can choose to follow rules, not so choose, or create new rules, but in so changing the rules we inevitably change the meaning of our activity because of the internal link between understanding and following a rule. Stuart Shanker sums this up as follows: "Although the actual existence of a rule may, so to speak, be dependent upon us, the "truth" of the rule is dependent upon the rule itself."<sup>11</sup> A rule shows me what I must do<sup>12</sup> because a rule is part of normatively regular action, they enable us to do the things which we choose to do with the confidence that we are doing so correctly. This is manifest in our behaving in a regular and intelligible manner. We follow a rule correctly, then, because we have decided to *use* it as a model in a particular way. It is in this sense that Wittgenstein says we follow rules blindly, the sense which we feel when we no longer need to interpret anything, when we have internalized the rule as "my last court of appeal for how I am to go".<sup>13</sup> A rule is a sign for us always to do the same. "The employment of the word "rule" is interwoven with the employment of the word "same".<sup>14</sup>

The same application is not rendered sensible like some commandment on stone. Sign posts, or rules, must themselves be understood:

There is a gulf between an order and its execution. It has to be filled by the act of understanding. Only in the act of understanding is it meant that we are to do THIS. The *order* - why, that is nothing but sounds, ink marks. Every sign by *itself* seems dead. *What* gives it life? In use it is *alive*. Is life breathed into it there? - Or is the *use* its life?<sup>15</sup>

Understanding rules is not a single process which we can point to and describe, an established entity which repeats itself inside our minds. The fact that we describe the process misleads us into seeing it as a single, identifiable experience. "But", says Wittgenstein, "we forget that what should interest us is the question: how do we compare these experiences; what criterion of identity do we fix for their occurrence"<sup>16</sup>. The reasons for why things happen, the explanations given of the meaning of words, the descriptions of sensations, these are possible because of the system of hypotheses and conventions within which we undertake to consider them, namely language. Peter Winch writes..

..we cannot decide that one form of word expresses a proposition and another does not by comparing these expressions with something non-linguistic (as we do when it is a question of comparing the truth). We can make the distinction only by referring to certain features of linguistic expressions themselves.

It is equally inadmissible to try to account for the meanings of names by reference to their relation to something non-linguistic. What distinguishes an expression which has meaning (and is, therefore, a name) from one which does not can only be something to do with its rôle in language.<sup>17</sup>

Language is the vehicle of understanding;<sup>18</sup> sense comes from grasping the application of the rule; we can urge ourselves to try to understand, but we cannot urge ourselves to understand without first accepting the ways in which we classify what makes sense. This point is made clear by Michel Foucault whom, in "The Order of Things",<sup>19</sup> talks of a Chinese encyclopædia which classifies animals into a bizarre taxonomy which includes those for: suckling pigs, animals drawn with a fine camel hair brush, frenzied animals, animals which from a long way off look like flies; and so on. Such a system is, far from being absolutely natural and secure as a true reflection of reality, partly an arbitrary and historical construction (representation) based upon specific interests and biases of those who drew it up. A similar argument is run by Keith Thomas<sup>20</sup> who describes the move from the anthropocentric system of classifying nature, for example the naturalist Buffon's classification of animals into edible and inedible, the tame and the wild, the useful and the useless or Aristotle's division of animals in terms of human characteristics such as mean or generous, noble or cowardly, to a more "scientific" or objective system of classification, for example the Linnaean plant classification which looked at the internal structure of stamens, pistils etc. to determine relative positions within the framework. What was changing was not the nature of reality, but people's representations of it. It is, says Foucault, through representations such as classification systems that we perceive reality, indeed there is no other form of knowledge, people cannot exist outside of the representations of grammar. We assume the authority to dictate what has meaning through a process of narrative segmentation and selection run in accordance with certain rules to which we, as players, agree to commit ourselves but there is no way in which we can claim to occupy an archimedean point outside of all language use altogether.<sup>21</sup>

To better explain the idea of grammatical understanding is why, to go back to a point made earlier, Wittgenstein characterizes language in terms of games. It is an analogy which works as an expression of the creative aspects of language use which is nevertheless dependent upon rules for its purposes and techniques. These language games have no essence, no single formula, except that in some way they are run in accordance with rules.

We remain unconscious of the prodigious diversity of all the everyday language games because the clothing of our language makes everything alike. Something new (spontaneous, "specific") is always a language game.<sup>22</sup>

Rules do not restrict, rather they enable us to use our creative skill, we become convinced by a rule because it is us who commit ourselves to its auspices as it were, they are not forced upon us nor do they form part of an invariant set or system.

## 1.2. Rules and Language.

So rules are convenient ways of going about one's daily activity, very convenient because without them there would be no possibility of a consistent and coherent use of language. Given certain basic facts of human nature and social traditions whereby we are instinctually pleased with certain harmonies, rhythms, proportions and relations it is helpful to organize ourselves in certain classificatory ways such that we distinguish when using language between statements, descriptions, orders, questions etc. Language rests on our having largely the same judgements as to what constitutes the correct application of those concepts. This is ensured through training and experience, through practice and example, and through punishment and reward. Rules are guiding mechanisms which stand there like "signposts"<sup>23</sup> showing the appropriate direction for activity to follow and as sign posts their meaning is clear, however such sign posts rely upon the framework of general agreement which, rather than mediating between a rule and its extension provides the background against which the rule following takes place. As Wittgenstein said: "A person goes by a sign-post only in so far as there exists a regular use of sign-posts, a custom."<sup>24</sup>

If one of a pair of chimps scratched the figure # in the earth and thereupon the other the series ###.., the first would not have given a rule nor would the other be following it.

If, however, there were observed, for example, the phenomenon of a kind of instruction, of shewing how and of imitation, of lucky and miss-firing attempts..; if at length the one who has been so trained put figures one after the other in sequence as in the example, then we should probably say that one chimp was writing rules down, and the other was following them.<sup>25</sup>

They involve normative sanction, the use of correction and our being convinced of their efficacy through what has already been developed.

Thus, rules alone do not suffice to complete the Wittgensteinian idea of meaning, understanding and explanation. Games, like language, cannot be explained by listing rules because the rules themselves have to be used according to a purpose and technique and the rules of any one game can only be understood by an initiate if they have previously understood the technique of rule application by playing other games.<sup>26</sup> We can follow a rule blindly and yet still end up like Goethe's sorcerer's apprentice following the procedure of the spell but utterly confused as to the point, purpose and techniques involved in the context of application. What it is that makes us understand rules and know that we understand them correctly, or what breathes life into the signs of our language, is what Wittgenstein was expressing in his concept of "form of life" which is the wider context of language use, the system of grammar which establishes what is to count as correct and incorrect.

To go back to the idea behind teaching a rule I quoted earlier, the teacher is able to interpret a rule for the pupil because the reaction to such instruction ..

..which is our guarantee of understanding, presupposes as a surrounding particular circumstances, particular forms of life and speech. (As there is no such thing as a facial expression without a face)

(This is an important movement of thought).<sup>27</sup>

This important movement continues the development of an argument from that against private language, to normative regularity in meaning based on rules, and thence to the wider context of recognising rules of language games as part of forms of life, ways of going about things which connect language games in ways similar to how family resemblances connect concepts. It is to this movement, this recognition of "just how much there is to the physiognomy in what we call "following a rule" in everyday life",<sup>28</sup> that the next two sections turn. Forms of life will be seen not merely as systems of rules interacting with each other but as a much more vibrant, organic conflation of contextual meanings found in social traditions, systems, schisms, cycles and changes. Firstly, however, it is necessary to address the specific point of rule following and its attachment to the human face, more specifically the recent interest given to the notion of rule following machines. Can a rule be followed by a machine?

## 2. RULES, ALGORITHMS AND ARTIFICIAL UNDERSTANDING.

Artificial Intelligence (AI) calls itself a science, but Wittgenstein's argument shows that any "neutral" analysis of human action as is supposed by the "disengaged" comparison between neural networks, meaning and electrical impulses is itself normatively loaded. Just as scientific cant is dependent upon the common sense language of the everyday,<sup>29</sup> (the practical knowledge of how to rather than the more technical knowledge of knowing that), so everyday language is developed by scientific cant. But this relationship cannot be conflated with that existing between the objects of science and scientists themselves. Linguistic rules are linked to scientific rules, both have meaning, because their subjects are both human. It is misguided, so the Wittgensteinian clarificatory process has it, to look at these rules in terms of causal relationships between neurones, synapses, nerves, the brain, stimuli and so on because although that is how machines and particles are explained, it is not how the activity of those doing the explaining, or any activity, are themselves understood. Explaining and giving reasons are themselves normative activities undertaken for some purpose, such that we are very often not revealing connexions or instances of regularity (as the natural scientists avows, though not necessarily practices) but making certain connexions by emphasising

certain aspects rather than others: "To claim that "x" is the same action as "y" can be to make a connection between them rather than simply to record a pre-existing relationship."<sup>30</sup>

To ignore this is only to reiterate the Cartesian claim to unique knowledge of the inner state, the postulating of a private, cognitive human identity which many linguistic philosophers, like Chomsky, Jerry Fodor, or Steven Stich<sup>31</sup> think as the genesis of language. They envisage an internal realm of complex, precise rules, a Chomskian black box bestowed upon humans *qua* humans which contains the wiring, the inner rules, which allow us to create wholly unique linguistic phrases from a limited number of phonemes. These inner rules decode and encode information received from the senses. Meaning is reduced to non-reducible essences, the equivalent of algorithms or Wittgensteinian simples or facts, which can be re-organized to mould utterly new, unique phrases and meanings.

It is the idea of our brains acting in a manner akin to the workings of machines, as highly complex information processors, which has kindled the AI debate; if thought is the product of an inner complex of rules, the expression of an inner identity manifest in a process, then it equates with the computational procedures of machines. The flaw in this equating of human identity with a system of internal, almost mechanical rules, lies in the assumption that human thought and mechanical procedure lie on the same descriptive level of reality, that of discrete logical systems. That machines and people operate in similar ways at the level of specific action, that certain human actions can be computerised, is nothing more than a tame observation (though a technological achievement) and in no way justifies the assertion that they act similarly as rule followers.

To see this more clearly I am going to briefly look at the epistemological implications for the concept of mind and identity of the self in the work of perhaps the best proponent of AI, Alan Turing, and more specifically at Stuart Shanker's rebuttal of his claims for mechanical rule following capacity.

## 2.1. Why Only Agents Can Follow Rules.

Alan Turing's work formed the nascent conjectures of AI in his work on computable numbers,<sup>32</sup> originally designed to prove the impossibility of ever providing a definite method which could be applied to any mathematical assertion and guarantee to determine its truth or falsity, and the extension of his conclusions beyond the realm of mathematics alone to the nature of intelligence in general. In "Computing, Machinery and Intelligence"<sup>33</sup> he created the "imitation game", a process designed to supplant the question "Can machines think?". In the game an unsighted interrogator, via an interpreter, who enabled the response to be differentiated from whom (what?) was giving it, must distinguish between a machine imitating a human and a human, both of whom (which?) are answering her questions. If she cannot tell the difference between the outputs then thinking can be attributed to the machine. Envisage a variation on a chess game where a player is in combat with both a machine and another human, each initiating moves. The opponents remain unsighted from

each other, and the objective of the game is for the single player to tell the other two apart by analysing the moves made by each.

Turing had envisaged that a machine could mimic a human through the translation of observed human behaviour into an instruction table, a set of rules, which would subsequently govern the finite and definite configurations of the machine. As the machine engaged in the imitation game it would learn through logical inference and probability. The machine could be programmed to act according to imperatives which governed the order of rule application, such that, for example, if one method of action proves quicker than another, though they both yield the same result, then the quicker one is to be given preference.<sup>34</sup> Thus, as Turing envisaged, instructions could be produced by the machine itself through a kind of scientific induction. Turing's explanation of how people reason equates very closely with attitudes prevalent today. It accepts that thought proceeds along inductive as well as deductive grounds, and that the environment is crucial, that thought is an evolving process, people, and machines, can learn from their mistakes.

Shanker<sup>35</sup> points out that Turing never bestows cognitive ability upon machines; machine thought is only manifest in what he terms the shift from "brute facts" to "learning programmes", the instructions contained within the latter being dependent upon some non-cognitive expression of the former. The categorical leap from brute facts to self-modifying algorithms means the machine is able to improve upon its previous effectiveness, to learn from its surroundings. It is able to alter its own rules, rules which consist of algorithms, sub-rules devoid of cognitive content which determine the "state of mind" of the machine. What Turing is trying to show is that although the machine is necessarily defined by algorithms, fragmented human rules of calculation and spatial awareness, rules whose meaning the machine cannot actually know, the machine can still be said to be thinking because the essence of thought "is a function of the complexity of the programme which the computer [the machine] follows rather than the individual steps of the algorithm."<sup>36</sup> Despite the fact that a machine which uses algorithms cannot comprehend the meaning of the rules which the algorithms go to make up, it can still think because its output, the result of any number of finite manipulations, remains indistinguishable from that human calculation. It is a calculator.

Shanker believes this to a fundamentally miss-founded argument and in need of the therapeutic benefits of a Wittgensteinian massage. The point of calculation is part of the logical grammar of its expression, it incorporates rule-following. Just as two chimps can be said to follow a rule within a context of mistakes, teaching, practising etc., so it is with calculation. Rule following is internally related to regularity but it cannot be reduced to it. Turing's imitation game refuses to recognize this. Calculation is a publicly defeasible process, our description of it is governed by the ability of the "computer" to justify/explain the rules they are following, and in the imitation game this is left out. Asking the person to play against unknown opponents is to disassociate thought from the human physiognomy altogether:

Thus, what Turing does is to incorporate into his test the very thing which is in dispute, whether being intelligent, thinking, etc.. can be independent of any singular human characteristic.<sup>37</sup>

For a human to be able to employ a rule, even an algorithm, is to do more than merely display the successive avoidance of error; it involves an ability to explain and justify against a background of established semantic techniques and purposes.<sup>38</sup> Even if there is syntactic representation of all possible differences in rule content these representations cannot determine the content of the rules, syntactic operations do not interpret. Interpretation is only possible through a nexus of intentions, reasons and so on. People can habitually follow a rule, but this regularity can never be equated with that of a machines because rules are dependent upon the possibility of grammatical reflection of the agent. Wittgenstein was saying that it is not a question of mechanical capacity or output at all, for in a sense it seems that experience, far from being a product of physical and chemical processes, is that condition upon which these processes have any sense in the first place.<sup>39</sup>

Just as a machine cannot follow a rule, nor can a human use a meaningless rule. To posit the reducing of recursive functions to sets of mechanically calculable units so as to make it possible that by performing the totality of these tasks the machine would perform the function Turing had to invoke the idea of sub-rules or algorithms. He was wrong to assume, however, that algorithms, no matter how simple or regular, reduce complexity; they are just another set of rules applicable because of a different context which, says Shanker, reflects the fact that different rules in different contexts display differing degrees of efficacy. The decomposition of rules does not dissolve their normative content, a mistake which is made by all those theorists who assume that a normative action can be represented by a causal nexus of mental events which the agent somehow discovers inside of him, so to speak. Just as Turing mistakenly saw the relation between calculation and result as external rather than conceptual, those who see language as emanating from inside of us, from some physiological and psychological make up, confuse the nature of what it is to follow a rule, to act. For Turing the human condition, in true reductive fashion, is broken into parts, such that the whole becomes an agglomeration of external results (neurone firings, psychological predilections, secretions of the hypothalamus and so on). What this ignores is that understanding and creativity are not single performances, they are relative to the conditions of expression, and they are not translatable from those conditions into black boxes or computer programmes.

### **3. THE RULE -FOLLOWING CONTEXT.**

#### **3.1. Regularity or Community?**

This emphasis upon the conditions of expression has led to a certain level of confusion as to just what Wittgenstein did envisage as sufficient and necessary for such conditions. Philosophers like Baker and Hacker seeing the private language argument as pointing to the need for normative regularity in rule following language, it being the multiplicity of *actions* which is central to language,<sup>40</sup> whereas those more skeptical of isolate meaning like Norman Malcolm and Saul Kripke believe he envisaged language as only ever being possible because of a normative regularity established by the multiplicity of agents (*community agreement*).<sup>41</sup> The issue is important for human rights because if it is the former then there seems much more scope for the practice of human rights to go beyond the immediate confines of a single communal tradition, able as they are to be used by agents isolate from the orthodox language, whereas if it is the latter then rights as concepts which attempt to isolate what is not isolatable - people from their specific cultural background - become a confused concept.

Digesting Wittgenstein's comments on chimps and rule following it seems clear that in the distinction between one chimp copying another in a regular series and one chimp following another after instruction, mistakes and so on, there is an awareness that language requires more than just *behavioural* regularity in action. Although it is possible to envisage rules which only require regularity, the following of a line for example, his argument against A.I shows he did not think linguistic rules of this type; they are normative and involve established sanctions.<sup>42</sup> Moreover, they have conditions of success or failure built in. We follow a path *to or from* somewhere. Clearly to speak a language is to take part in a practice involving techniques and normative purposes with a specific narrative history, that much is agreed amongst Wittgensteinians at least, but to what extent any specific narrative history is necessarily based upon community agreement is still in dispute.

The skeptics use community agreement as a forum of justification to overcome the "problem" of philosophical regression in the interpretative paradox of §198 (PI): if individual interpretation was the basis of correctly or incorrectly following a rule then any action could be made to accord with any rule and thus following a rule would be indistinguishable from thinking one was following it. Here regularity is determined by the empirical precedent<sup>43</sup> of a community standard which is to act as some form of supra-language game yardstick by mediating between correct and incorrect rule following. Only in this way can we avoid the absurdities of the sceptical *reductio* of infinite justificatory regress.<sup>44</sup> Baker and Hacker's gripe is that this reduces following a rule into acting in accordance with an empirical majority, and, moreover, the invoking of an appeal to a body existing independently of, and hence in some quasi-causal relation with, each individual action. This they see as indicative of a temptation to see the inevitability of a forum of epistemological, *a priori* justification, one which runs counter to the central tenet of Wittgenstein's achievement in getting us to recognize that if language is going to be possible at all then rules and their extensions have to be related *internally*. Just like the link between intending and knowing what will fulfil my intention is an internal one, so the understanding of a rule cannot be separated from the knowledge of what constitutes a correct application of it. To separate them is to re-admit dualist confusion's arising from

attempting to analyse how it is that the two connect, or how the individual action “represents” the correct one.

*Given that there is a certain rule, then nothing other than the rule constitutes the standard of correctness. In particular, it is misconceived to argue that this act does not accord with this rule because most people would not act in this way when given this rule.[.] Contra Russell, nothing mediates between a desire and what counts as its satisfaction, or between an order and what counts as fulfilling it. So too, community agreement does not mediate between a rule and what counts as accord with it.*<sup>45</sup>

It is not the community but the rule which acts as a standard of correctness, nothing stands between the rule and action.<sup>46</sup>

In *Zettel* Wittgenstein asks himself the very same questions about community agreement in response to how it is we judge that we have paid attention in establishing correctly an inner ostensive definition:

But isn't human agreement essential to the game? Must not anybody who learns it [the definition] first know the meaning of “same”, and do not the pre-suppositions of this include agreement? and so on.<sup>47</sup>

To say this is red, how do we know, is it only by human agreement?<sup>48</sup>

The answer he gives is negative, for community agreement is acting here like “viewing by inspection”, something which implies that in addition to the process of looking or seeing there is an external process of “turning round” to see if such a view is correct,<sup>49</sup> whereas we do not speak in this way. The expression of a rule is only part of following a rule - we can learn through the teaching of technique and aims but there is no ultimate court of appeal in this, no final expression that this is what constitutes following this rule.<sup>50</sup> It is true that rules only exist when there is an established practice, an historical component, but, say Baker and Hacker, this practice which constitutes the framework of a rule need not be agreed upon (contra Malcolm), though it must be shareable (have the potential to be a *social practice*) in that others may come along and understand it because of its regular nature. Agreement in judgement is pre-supposed by a shared language and community rules but to follow a rule, to speak a language, presupposes not that they are shared, but only that they can be.<sup>51</sup> Our language presupposes shared rules and concepts, as do all common human languages, but this is no reason to suppose that the *concept* of a language presupposes a community of speakers. Rules are used to intend, to teach, to instruct, to justify, to correct and so on, and these are not collective dispositions but normative practices.<sup>52</sup>

What, I think, Baker and Hacker are trying to point out, is that Wittgenstein was wary of any appeal to grounds of objectivity, of any claim either within the community or in some transcendental realm to certain knowledge. What we must concern ourselves with is how it is we come to understand each other, a question which is not empirical or epistemological but grammatical. Now Malcolm would have no trouble with this, for he doesn't wish to invoke universally objective standards either; rather both antagonists seem to agree that it is normative practices which are the "framework" upon which community invokes rules and meaning. Malcolm emphasizes that although an isolate individual can follow a rule on their own, Robinson Crusoe can talk English in the absence of any other people, this ability is dependent upon his first having learnt social rules a long time ago. Baker and Hacker believe such a statement to be rather otiose, that to concentrate upon "everything pertaining to the genesis of the relevant normative capacity" is "irrelevant to the criteria for the possession of such a capacity."<sup>53</sup> That such a practice was once learnt from others and is social is true but "it only constitutes an objection so far as it presupposes the dubious principle that the genesis of an ability is relevant to the determination or identification of a current ability."<sup>54</sup> What they are anxious to show is that Wittgenstein believed that the Cartesian private language could not logically be taught to another, there is no such thing as following a symbol which cannot be understood by others. Language is grammatically bound with the possibility of sharing judgements, but not with its actuality. Wittgenstein was not saying that language could not be spoken alone, but that it was not in the nature of language to be essentially private.

Following rules, then, involves us in ascribing mastery of a technique to action, and such mastery may be found in the behaviour of a solitary person, whether they have been a member of a community or not.<sup>55</sup> Regularity rests on some form of agreement, a level of surety in the relations between language users which ensures that the majority in the majority of cases behave in an interpretable manner.<sup>56</sup> The problem arises, then, as to just how such agreement comes about, and at what level. The level to which Baker and Hacker are inclined is not that of the community but that of the wider context of forms of life and natural facts, something of which Malcolm himself was also aware.<sup>57</sup> An arena of "agreement" which is not a final court of appeal to which look to for decisions as to the correctness of an action, but a potential for common judgements.

### 3.3. The Common Aspects of Understanding: Forms of Life and Natural Facts.

*Philosophical Investigations* is a response to the question Wittgenstein poses for himself in §437 (PI) about how it is we can as language users envisage what constitutes "correct", as opposed to "thinking it correct", rule following - "Whence" he asks "this *determining* of what is not yet there. This despotic demand?" How is it that we already know what will satisfy a thought, an intention or a correct rule following procedure when those things are not even there, when we have not as yet experienced them, and when we make no majority appeals? The Cartesian's answer this with reference to internal mental states of subjective awareness which render meanings to external objects through some private act of inner ostensive definition, knowledge of which others can only

infer. The *Tractatus* answered using a mechanical mind model whereby an image occurs in the mind each time a word is spoken such that the picture of a sentence was linked to its truth conditionals through a method of projection, and a picture of a word was linked to its worldly referent or simple. Frege saw it as lying in the ability to map the sense of a proposition onto the presentation of that proposition through identity statements. In each of these cases, however, there is no work being done in the explanation - inner ostensive definition still requires an explanation of how such meaning ascription still takes place outside of a linguistic framework, the laws of projection of pictures onto words have themselves still to be explained, and the modes of presentation are in a like position for them, like the pictures, seem reducible to just about anything. How an intention to act links with what it is intention of, and how a rule links with its being followed, is not solved by reference to mental, picture or presentation models, for these merely shift the issue about.<sup>58</sup>

The answer Wittgenstein gives is that we are able to follow rules because of the *natural consensus in judgements and actions*<sup>59</sup> apparent in our intentions to act being in agreement with our actions themselves. There is a regular connection between the uttering of a sentence, a resultant action, and the occurrence of that state of affairs that brings the purpose of the action about. This regularity is found, says Wittgenstein, in the wider context of grammar called forms of life and natural facts:

“So you are saying that human agreement decides what is true and what is false?” -  
It is what humans say that is true and false; and they agree in the *language* they use. That is not agreements in opinions but in form of life.<sup>60</sup>

Understanding in *Philosophical Investigations* comes to be seen as a process of increasing involvement with the technique of application of rules and of acquaintance with the purposes and techniques of the activity itself. It is in forms of life that we come to grasp the meaning of subtle glances and movements, what Wittgenstein terms the “imponderable evidence”.<sup>61</sup> This is the role of grammar, the logic of doubt is wrapped up in the grammatical rules and criteria of application. But doubt, and hence agreement about what is not in doubt, is not possible in the first place without the natural propensity to learn, a basic fact of nature, and the belief that there is something to doubt, a form of life. Belief and ability are necessary preconditions for the expression of doubt.

The fetishistic temptation to constantly explain through reductionism<sup>62</sup> is displaced by a conception of meaning in language use, which in turn is characterized by actual and potential webs of beliefs, interwoven strands of ideas, concepts, techniques and practices informed by a common grammar of family resemblances, resemblances which themselves are informed by basic facts of nature, things which are anchored in all our questions.<sup>63</sup> Thus, meaning is varied because of the variety found within these forms of life, and that existing between them. That we are inextricably linked to forms of life does not imply that any resultant forms of life or language games are limited to a specific linguistic community or that we are inevitably confined to those forms of life within which we find ourselves; after all Wittgenstein's chief preoccupation was to steer us away from the urge to

seek justification in external appeal. The agreement in judgements is quiet, unobtrusive, and represents something prior to the use of concepts like mistake and correctness, they provide the conditions within which normative ascriptions have life.<sup>64</sup>

### 3.4. The Background Conditions of Certainty.

Forms of life allocate reasons for the construction of language games and rules, though not necessary, invariant or compulsory ones.<sup>65</sup> Without the resultant certainty language would be impossible. "For language games to persist its essential that doubt is impossible at certain points."<sup>66</sup> or "Doubting and non-doubting behaviour. There is the first only if there is the second."<sup>67</sup> Doubt is logically excluded from the domain of propositions in the sense that to believe anything we must first be committed to a whole system of propositions which give mutual support to the process of linguistic activity. This system of conviction within which all doubting and accepting takes place, it is a type of mythology which

"..belongs to the essence of what we call an argument. The system is not so much the point of departure, as the element in which arguments have their life."<sup>68</sup>

The grammatical nature of meaning necessitates that belief come before doubt, through the logical syntax of grammar we come to accept the axiomatic nature of certain beliefs which go to make up the world picture through which we engage in activity. Wittgenstein, as Shanker has said, is trying to take us away from the realist/anti-realist pictures of meaning, both of which rest on the assumption that prior to beliefs must come epistemologically demonstrable supports for those beliefs, be they discovered or created.<sup>69</sup> There is no one system of propositions we ought to follow, rather a great variety of language games each of which allows us to cast in dark shadow certain beliefs in order that we may shine the light of enquiry upon specific axioms or propositions. Certainty is based not on the sense of a *priori* truths but on the fact that without established systems language would disintegrate into meaningless chaos. "I really want to say that a language game is only possible if one trusts something (I did not say "can trust something")."<sup>70</sup> Wittgenstein said:

For a doubt can only exist where a question can exist, a question only where an answer exists, and an answer only where something can be said.<sup>71</sup>

A person can doubt only if he has learnt certain things; as he can miscalculate only if he has learnt to calculate. In that case it is indeed involuntary.<sup>72</sup>

It is this level of agreement which Wittgenstein calls, in *On Certainty*, the:

Inherited background against which I distinguish between true and false.

The propositions describing this world picture might be a part of a kind of mythology. And their role is like that of rules of a game; and the game can be learned purely practically, without learning any explicit rules.<sup>73</sup>

This background, or mythology, is what we have to accept it in order to be able question anything at all. Thus, nothing *makes* rules correct, they are systems not of cultural hegemony but internal regularity: correctness is just what we call applying the rule, to seek an external justification is meaningless. The necessity of quiet agreement is not based on the need for external justification, but for establishing what is right<sup>74</sup> through our *actions*. If, for example, we are trying to teach someone that the earth rotates around the sun<sup>75</sup> and they refused to accept the proof then to express doubt at this fundamental level would, says Wittgenstein, not be to question at all:

It would be as if someone were looking for some object in a room; he opens a drawer and doesn't see it there; then he closes it again, waits, and opens it once more to see perhaps if it isn't there now, and keeps on like that. He has not learned to look for things. And in the same way this pupil has not learnt how to ask questions. He has not learnt *the game* that we are trying to teach him.<sup>76</sup>

The process is not wrong, it is meaningless.

Forms of life, or mythologies, however, are not envisaged by Wittgenstein as absolute. That things are consigned to the shadows does not mean they cannot be challenged; "the unthought is not unthinkable".<sup>77</sup> These changes can put us in the position where we can no longer proceed with the old form of life - the facts buck and we loose our seat in the saddle.<sup>78</sup>

In every serious philosophical question uncertainty extends to the very roots of the problem.

We must always be prepared to learn something totally new.<sup>79</sup>

In this way changes in understanding, for example the switch from seeing the earth as rotating around the sun (Aristarchus)<sup>80</sup> to the earth as a fixed body around which the sun and other planets proscribe epi-cycles (Ptolemy) and then back again to the view that the sun is the point around which the planets orbit (Copernicus), change the nature of what is seen as "common sense" and of what constitutes fact, the nature of the certainty which enables people to conduct language games and the concepts used in those games. *Post-relativity* theory, the belief in any fixed point of rotation may come to be seen as a bizarre piece of voodoo rather than the product of a rational outlook.<sup>81</sup> Wittgenstein himself talks of the "ludicrous" suggestion that a man may ever end up on the moon as an example of orthodox certainty. Such certitude was his inherited background, that against which he distinguished between truth and falsity. Such a background can be hardened through use, yet the

potential for it to revert back to a more fluid state always remains. Indeed, to know something is a changeable activity in itself:

What interests Wittgenstein about our social practices is not the contingent features of life in any given society, still less is it a general account of the necessary and sufficient conditions for social practices as such, but the fact that nature has so constituted us that the ways in which we speak about activities such as "knowing" obscure the fact that knowing is a mode of behaviour<sup>82</sup>

Knowing and understanding change, both at the level of individual propositions and, though with much less frequency and rapidity, at the qualitative level of linguistic forms. At any one time we stand as an individual in relation to a system of normatively regular beliefs which it is possible, through the actions of the self in conjunction with such a system, to change for possible others.<sup>83</sup>

### **3.5. Basic facts of Nature.**

Whilst forms of life are characterized by an essential variety it would be misleading to suggest that Wittgenstein made no attempt to look at commonalities which extended beyond beliefs in systems and towards behaviour itself. Though this can never be isolated from grammar, the acknowledgement of natural propensities to agree at the level of forms of life, basic facts of nature forming an aspect of belief systems, allowed him to posit the idea of normative regularity, as opposed to normative regularity in a culture, as being that which enables us to distinguish between correct and incorrect rule following. This natural urge to behave logically does not mean we are automatons, but creatures of certitude. We see the sign-post and follow it with no external reference to anything else because it is part of our dynamic make up just to do so. Natural facts act like a river bed through which movements of water, or the playing of specific language games, flow. "What we are supplying are really remarks on the natural history of human beings; we are not contributing curiosities however, but observations which no one has doubted, but which have escaped remark only because they are always before our eyes."<sup>84</sup>

These general facts are what give our lives the texture they have, they are something akin to subconscious agreement in how we are to behave with each other. They involve the natural, pre-linguistic human reactions to the world inherited through common experience, facts which are manifest in a variety of refined and subtle ways through language which we learn as we develop. Things like eating, sleeping, chatting, playing, arguing, sex, arranging and so on. What Wittgenstein is doing is taking us back to the limits of meaningful justification, to the edge of the "abyss",<sup>85</sup> to the most basic of languages:

I want to regard man here as an animal; as a primitive being to which one grants instinct but not ratiocination. As a creature in a primitive state. Any logic good

enough for a primitive means of communication needs no apology from us.

Language did not emerge from some kind of ratiocination.<sup>86</sup>

What it did emerge from are natural expressions; for example, in saying "I have a sharp pain", where I am not describing a thing but experiencing a pain, the exclamation is a substitute which we have learnt to use instead of some pre-linguistic groan or cry:

"The origin and the primitive form of the language game is a reaction; only from this can more complicated forms develop.

Language - I want to say - is a refinement, "in the beginning was the deed".<sup>87</sup>

The logic of our spontaneous species behaviour dictates that we are able to act in accordance with the normative requirements of rules. It is only because of this that we are both able to impose regularity in terms of linguistic structures at all and attempt to translate the languages of others using different systems of grammar. What is natural does not, however, form a necessary end,<sup>88</sup> they are historicized as soon as they are articulated and cannot be spoken about with any meaningful separation from their context.<sup>89</sup>

To explain this Wittgenstein envisages an explorer in foreign parts who, upon encountering behaviour from a tribe completely unknown to him, is able to translate its meaning on the assumption that there must be enough natural normative regularity between the natives' actions and his words to establish consistent connections. Without this regularity, irrespective of any conceptual divergence's based upon varying narrative traditions, there would be no language, no logical behaviour.

The common behaviour of mankind is the system of reference by means of which we interpret an unknown language.<sup>90</sup>

Wittgenstein reiterates this point when he asks us to consider

under what circumstances will the explorer say: The word "..." of this tribe means the same as our "and so on"? [ref. to giving further examples of what a rule means]  
Imagine the details of their life and their language, which would justify him in this.  
Following a rule: this can be contrasted with various things. Among other things the explorer will also describe the circumstances under which some of these people doesn't say he is following a rule. Even when in this or that respect it looks as if he were.<sup>91</sup>

The explorer is able to so interpret because he is already in possession of language, the basics of which he is able to use in trying to translate the meanings of the foreign language games. This

implies that there exist connectives between all language users. The natural facts render practices interpretable.

Given that all languages are in principle translatable...we may properly speak of a grammar of concepts as an endowment of *the species as a whole*, however any segment of mankind actually participates in its available resources.<sup>92</sup>

We can understand other forms of life, they are not hermetically sealed off from each other, but just different, some closer than others. The boundaries are blurred and cross-over points, especially at the deep level of natural facts of human nature, allow a foothold to "outsiders" who remain insiders in the sense that they use concepts in similar ways to the rest of the species.<sup>93</sup> In *Zettel* Wittgenstein speaks of what it may feel like to encounter alien languages, their concepts may seem very queer to us, even to the extent that incommensurability between concepts may arise, but this fact of nature<sup>94</sup> does not imply that others do not have other concepts which criss-cross our own to the extent at least that essentially different concepts are always imaginable to ourselves and that we are able to recognize normative regularity in the behaviour of others.<sup>95</sup>

#### 4.CONCLUSION.

What a word means depends upon the grammatical context of its use, or what Maurice Ash refers to as the environment of application.<sup>96</sup> Such an environment is never universal but composed of "rough edges"<sup>97</sup> which shift. Thus the malleable and non-essentialist grammatical forms of life, though they provide the bedrock upon which we deal with ourselves, others and the rest of the world, are never immutable, comprehensive or universal. Even a form of life as "sure" in itself as mathematics requires "a good angel".<sup>98</sup> No matter how firm or "precise" are mathematical concepts, they are inextricably linked to normative rules<sup>99</sup> the requirements of which are an "expression of an attitude towards a *technique* of calculating".<sup>100</sup> To employ a calculating concept is to expand a series in accord with an attitude which is part of an *activity* whose propositions are true and false due to certain levels of agreement persisting throughout mathematical forms of life - the fact that, for example, mathematicians do not quarrel over the result of a calculation.<sup>101</sup> The resultant embeddedness is not akin to being controlled by the exercise of institutional power relations such as the state. Nor is escape from its clutches to be characterized by a narcissistic gaze into oneself in order to unearth one's true identity like some prize truffle from the undergrowth. The impression is more one of individuals articulating their selves using the open and often chaotic rubric of language games and forms of life. Their identity is not something constituted at all, either mentally or culturally, but is something which emerges from and dissolves into, at one and the same time, consociational patterns of will and grammatical narrative. There is a type of Damocles effect in all

this - a pervading sense of the possibility of the other hanging over whatever it is we do and think in the present, ranging as it does from absolute certainty to sheer confusion.<sup>102</sup> Under such partiality identity of the subject adopts a kaleidoscopic hue. The human condition is one of occupation of what are a multiplicity of systems which are constantly open to reconstruction (though some more than others) through the introduction of new rules of behaviour. In such behaviour I am never absolutely certain, there are always aspects of my consent to social practices which contain within them seeds of disquiet which may or may not flower into a substantial conflict with what we are attuned to as a form of life.

This leaves human rights in a curious position. That they are no longer justified by appeals to an inner coherent self is, I hope, clear in the light of language being characterised by normative regularities established via open commitments to games, practices, techniques, purposes, traditions and the like. Meaning is not rooted in the transcendental self. Nor is to be found in the transcendent principle, the moral code behind which lies god, or some such figure of axiological omnipotence. What philosophy shows us is that meaning is rooted very much in ordinary language. This language itself, however, is embodied by diversity. Groups of people form and disband on the grounds of all sorts of reasons - human consociations are formed in tongues, but no specific one. This implies that language users have an identity not reducible to the flow of institutionalized practices; indeed a practice itself presupposes the existence of opacity, of change. That some groups of people, especially governments and religious institutions, can attempt to internalize commonly received opinion to the extent that those rebelling against established procedure results in a conflation of politics with the circulation of orthodox institutional power. Individuals are capable of resisting such control, but still from within the *agora*. This is apparent in Wittgenstein's insistence that we recognize the differences between things, a recognition which can provide human rights with space to articulate what is necessary to the proper functioning of a language, the resistance of grammatical enclosure. Although Wittgenstein himself made no overtures in this direction it will be my intention to so do.

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Notes:

<sup>1</sup> WL - p.155.

<sup>2</sup> Z - §567.

<sup>3</sup> RFM, V, §45.

<sup>4</sup> PI - §269.

<sup>5</sup> PI - §318.

<sup>6</sup> G.P. Baker and P.M.S. Hacker "Scepticism, Rules and Language", Basil Blackwell, 1984, p.21.

<sup>7</sup> S.Shanker - "Wittgenstein and the Turning Point in the Philosophy of Mathematics", Croom Helm, 1987, p.56.

<sup>8</sup> RFM, VI, §47.

<sup>9</sup> S. Shanker - op.cit - p.31.

<sup>10</sup> see G. Baker and P. Hacker - op.cit - p.43.

<sup>11</sup> S. Shanker - op.cit - p.67.

<sup>12</sup> PI - §198.

<sup>13</sup> RFM, VI, §48.

<sup>14</sup> RFM, VI, §59.

<sup>15</sup> PI - §431 & §432.

<sup>16</sup> PI - §322.

<sup>17</sup> Peter Winch "Trying to Make Sense", Basil Blackwell, Oxford, 1987, p.7.

<sup>18</sup> "[.]In so far as I do intend the construction of a sentence in advance, that is made possible by the fact that I can speak the language in question." such that "...in order to *want* to say something one must also have mastered a language." PI - §337-§338.

<sup>19</sup> M. Foucault - "The Order of Things" discussed in B. Willis intro. to "Art after Modernism", New Museum of Contemporary Art, N.Y. - (1984) 1989 pp. x-xviii.

<sup>20</sup> Keith Thomas "Man and the Natural World", Penguin, 1984.

<sup>21</sup> In this Wittgenstein remains true to his insistence throughout the *Tractatus* that any language describing the properties of language use is an illogical and void of meaning.

<sup>22</sup> PI, ii, xi, p224e.

<sup>23</sup> PI - §85.

<sup>24</sup> PI - §198.

<sup>25</sup> RFM, VI, §42.

<sup>26</sup> Games can be learnt without ever having learnt or formulated rules but by watching how the aspects of the game fit together; however this is only possible if the watcher already knows what a game is in the first place, that he has previously understood similar things. (PI - §31. )

<sup>27</sup> RFM, VI - §47.

<sup>28</sup> RFM, VI - §60

<sup>29</sup> see J. Coulter - op.cit - pp 20-23.

<sup>30</sup> Ibid. - p.15. Coulter is re-iterating a point made by Wittgenstein:

"I am leaving the room because you tell me to."

"I am leaving the room but not because you tell me to."

Does this proposition *describe* a connexion between my action and his order; or does it make the connection ?

Can one ask: "How do you know that you do it because of this, or not because of this?" And the answer perhaps "I feel it" ? " (PI §487)

<sup>31</sup> see, for example: N. Chomsky "Rules and Representations", Blackwell, 1970; J. Fodor "The Language of Thought" Cambridge, Mass., Harvard U.P 1979; S. Stich "From Folk Psychology to Science", Cambridge, Mass., 1983.

<sup>32</sup> Although primarily concerned with addressing mathematical problems outlined by Hilbert, Turing's work is relevant in that by developing a machine capable of reading and processing information (one which he later built, the first computer) he addressed the possibility of defining human calculation in mechanical terms, of equating the logical pattern of the mind to that of abstract, soon to become real, machines. An accessible discussion can be found in Andrew Hodge's biography of Turing "The Enigma of Intelligence", Unwin, (1983) 1986, pp 90-110.

<sup>33</sup> Alan Turing "Computers, Machinery and Intelligence" *Mind*, Vol. LXI, No.236 (1950).

<sup>34</sup> Although Turing's machine was hypothetical today there are computers set up with "neural simulations" which spot patterns in images and events and so can learn how people react in order that it may continue in a similar fashion without external inputs.

<sup>35</sup> S. Shanker "Wittgenstein versus Turing on the Nature of Church's Thesis" *Notre Dame Journal of Formal Logic*, Vol. 28, No. 4 (Oct.1987).

<sup>36</sup> A. Turing quoted in Ibid. p.633.

<sup>37</sup> W. Sharrock, R. Anderson and J. Hughes "But a Machine Surely Cannot Think.." unpublished m.u. - p.17.

<sup>38</sup> Thought is a process of dignification to which only humans have access. (S. Shanker "Wittgenstein and the Turning Point in the Philosophy of Mathematics" - op.cit - pp.20-22.) To say this is not to decry the ability of machines to perform in valuable or destructive ways, they are powerful, and to say that they cannot think is to impose no limitation upon them whatsoever, just as it is no limitation upon a natural scientist that he cannot be God.

<sup>39</sup> The trouble with the question "Is it possible for a machine to think?" is not really that we don't yet know a machine which could do the job. The question is not analagous to that which someone might have asked a hundred years ago: "Can a machine liquefy a

gas?" The trouble is rather that the sentence, "A machine thinks (perceives, wishes)" seems somehow nonsensical. It is as though we had asked "Has the number 3 a colour?" (What colour could it be, as it obviously has none of the colours known to us?)" (BB - p.48)

<sup>40</sup> G. Baker and P. Hacker - op.cit , and in "Malcolm on Language and Rules" in *Philosophy*, No. 65, April 1990 pp.167-179.

<sup>41</sup> see, for example, Norman Malcolm "Wittgenstein of Language and Rules" in *Philosophy*, No.64, January 1989, pp. 5-28 and R. Fogelin "Wittgenstein", R.K.P (1976) 1987.

<sup>42</sup> see T.S. Champlin in "Solitary Rule Following" in *Philosophy*, July 1992, Vol.67, No.261. He distinguishes between a non-normative and normative rule, saying that the later is that which persists in a custom, the former being found in habits.(p.293) Customs rely upon an agreement found amongst us.(p.298).

<sup>43</sup> G. Baker and P. Hacker "Skepticism, Rules and Language" - op.cit - p.'s 85-90.

<sup>44</sup> Ibid. - pp. 61-77.

<sup>45</sup> G. Baker and P. Hacker "Malcolm on Language and Rules" - op.cit - p.170.

<sup>46</sup> RFM, VII, §60.

<sup>47</sup> Z - §428.

<sup>48</sup> Z - §431.

<sup>49</sup> Z - §436.

<sup>50</sup> We say things like this is so and so, and we have no right to say them as such, but we still do "For of course I don't make use of the agreement of human beings to affirm identity. What criterion do you use then? None at all.

To use the word without a justification does not mean to use it wrongly." (RFM,V,§33)

<sup>51</sup> G. Baker and P. Hacker - op.cit - p.171.

<sup>52</sup> S. Shanker (op.cit - p.21) supports this conclusion with manuscript evidence of Wittgenstein's which points to his conceiving a Crusoe character as being able to play language games with himself. To envisage someone following a rule we do not have to be able to impose our normative standards upon her behaviour but only recognize a complexity in her behaviour that is indicative of normative regularity.

<sup>53</sup> G. Baker and P. Hacker - op.cit - p.176.

<sup>54</sup> Ibid. - p.178.

<sup>55</sup> Ibid. - p.178.

<sup>56</sup> OC - §509-510.

<sup>57</sup> see N. Malcolm's discussion of forms of life in - op.cit p. 22-23.

<sup>58</sup> PI - §97.

<sup>59</sup> PI - §242.

<sup>60</sup> PI - §241.

<sup>61</sup> PI, ii, xi.

<sup>62</sup> see fn. in Sabina Lovibond "Realism and Imagination and Ethics", Basil Blackwell, 1983, - p.189.

<sup>63</sup> OC - §105.

<sup>64</sup> see S. Lovibond - op.cit - p.150.

<sup>65</sup> see S. Shanker - op.cit - pp.320-321

<sup>66</sup> OC - §530.

<sup>67</sup> OC - §359.

<sup>68</sup> OC - §105. See also R. Monk - op.cit - p.563.

<sup>69</sup> S. Shanker - op.cit - p.56.

<sup>70</sup> OC - §509. Something equally well articulated in PI, II, xi: "My attitude towards him is an attitude towards a soul. I am not of the opinion that he has a soul."

<sup>71</sup> T - 6.51.

<sup>72</sup> Z - §410.

<sup>73</sup> OC - §'s 94-95.

<sup>74</sup> Z - §289.

<sup>75</sup> Proper names have reference fixed through family resemblance and elastic rules - there is never any one specific description because reference is fixed by relations between the speaker of the name and their environment. Such relations are best understood

not by reference to mental states of the speaker but at their acquisition and use of the name. Thus, as well as inference, belief and discrimination influencing reference, the natural and social environment also plays an important role. (see Tylor Burge - "Philosophy of Language and Mind", *The Philosophical Review*, Vol101, No.1 January 1992, pp3-51.(pp23-25).

<sup>76</sup> OC - §315.

<sup>77</sup> R. Flathman "Wilful Liberalism" - op.cit - p.60.

<sup>78</sup> OC - §'s 616,617.

<sup>79</sup> RC - p.4e

<sup>80</sup> see H. Turnbull "The Great Mathematicians", Methuen, 1962, p.50

<sup>81</sup> PI, ii, xii.

<sup>82</sup> Alan Janik - "Style, Politics and the Future of Philosophy", 1989, p.73.

<sup>83</sup> OC - §'s 95,271.

<sup>84</sup> PI - §415.

<sup>85</sup> OC - §370.

<sup>86</sup> OC - §475.

<sup>87</sup> C&V - p.31e.

<sup>88</sup> G. Baker and P. Hacker - "Wittgenstein: Rules, Grammar and Necessity" Basil Blackwell, 1985, p.240.

<sup>89</sup> Wittgenstein tries not to justify this by reference to nature: "But our interest does not fall back upon these possible causes of the function of concepts; we are not doing natural science, nor yet natural history - since we can also invent fictitious natural history for our own purposes." (PI, II, xii)

<sup>90</sup> PI - §206 & §207.

<sup>91</sup> RFM, VII, §'s59-60.

<sup>92</sup> J. Couffer - op.cit - p.100.

<sup>93</sup> Thus though Wittgenstein's explorer occupies a similar position to Donald Davidson's radical translator in that they both assume that it is part of the natural expression of individuals to act regularly (that what they intend (p) is how they act (p) and that state of affairs (p) is brought about), the two differ in their view of what constitutes this regularity. Wittgenstein sees the explorer as being able to assume that the tribe's intentions to act correspond with their actions because the observable regularity in action reveals an agreement in form of life, whereas for Davidson it is agreement in rationality. Davidson sees radically different conceptual systems precluded by the principle of charity: we have to assume that in the majority of cases people have a logically and rationally coherent set of beliefs which, for the most part, are true. This is not to say that they are never wrong, but that the context of ascribing a mistake will only allow us to go so far in recognising error before we begin to seriously question the correctness of our own interpretations of their beliefs. Thus there can be no mind radically different from our own because minds are what we attribute to people when we interpret their action in rational terms. There are no minds outside of minds-as-we-rationally-understand-them because, as Michael Root says of Davidson's schema,

...when we attribute attitudes to an agent in a way that conforms to those norms [interpretative norms of rationality] we posit an agent who herself intends that her attitudes conform to the norms. [M. Root "Davidson and Social Science" in E. LePore (ed.) "Truth and Interpretation", Basil Blackwell, 1986, p.295.]

We can understand other languages to a greater or lesser degree but no language is impossible to translate. Now Wittgenstein would agree that because all languages have the normative requirement of displaying regularity then all are recognisable as languages, but his explorer is placed in the far less certain position of recognising only the potential normative regularity, and not the commensurability of concepts used. It is in this sense that if a lion could speak we would not understand it.

<sup>94</sup> Z - §374.

<sup>95</sup> Z - §388.

<sup>96</sup> Maurice Ash - "Journey into the Eye of the Needle", Green Books, 1989, p.37

<sup>97</sup> PI - §102.

<sup>98</sup> RFM, VI, §26.

<sup>99</sup> RFM, VI, §40.

<sup>100</sup> RFM, VI, §46.

<sup>101</sup> PI, II, XI, p.225e.

<sup>102</sup> "If in life we are surrounded by death, so too in the health of our intellect we are surrounded by madness" (OC - p.44e).

## **Chapter Three**

### **EXPLANATION, GENERALISATION AND THE SCIENCE OF KNOWLEDGE**

"It is venturesome to think that a co-ordination of words (philosophies are nothing more than that) can resemble the universe very much. It is also venturesome to think that of all of those illustrious co-ordinations, one of them - at least in an infinitesimal way - does not resemble the universe a bit more than others"

*Jorge Louis Borges "Avatars of the Tortoise" in Labyrinths, Penguin (1964)  
1981, Trans. by J. Irby, p.243.*

What emerges from the philosophy of Wittgenstein is a picture of human selves which both circumscribes and are circumscribed by language games and forms of life. As linguistic selves we are certain in our beliefs, but not trapped by them. Grammatical rules render us able to live in the world we do whilst still feeling a sense of "concern and unrest"<sup>1</sup> in the face of the emerging prospects for action. This is fine for the seasoned language user. But what about those speaking from the periphery? How are people, whom Wittgenstein admits are fashioned by the practices and techniques into which they are born, able to tear themselves from the centripetal force generated by the organic and often hierarchical arrangement of cultural practices.<sup>2</sup> As responses to the need to control our linguistic conditions human rights have traditionally made appeal to an acultural, transcendent essence to the human self. As in science <sup>3</sup> we *uncover* a rational identity as agents in common, an invariant aspect of us all which is somehow distinct from both the rest of nature and our cultural traditions but which remains the focus of ethical attention.<sup>4</sup> It is only in this way that we can possibly make real individual choices as to the good life for without such an inner core we become creatures of the moment - changing character from relative point in time to relative point in time. If people can flit between forms of life like some Will-o-the-Wisp then concepts like truth remain relative to the forms of life in which they are used and so open to manipulation by power brokers motivated not by duty but self interest. As with the aim of scientific explanation, there is a tendency to seek general ethical answers, covering laws, lurking behind the everyday conditions of experience.

As may be indicated by the discussion so far, Wittgenstein's linguistic self is not anticipated as fitting in with this reductionist scheme; indeed many see his work as actively anti-realist, a levelling of the great questions to mere cultural curiosities. Science and rationalist ethics become merely anti-ritualistic ritual. This interpretation of Wittgenstein, however, is misguided both in its assumptions and its point of attack. Wittgenstein was not averse to scientific enquiry *per se*, but acutely sensitive towards the differences between forms of life, differences it is all too easy to conflate.

This chapter explores concepts of scientific explanation like causation, rationality, generality and attempts to put them in the perspective of their use. In so doing it hopes to explain how it is not

even science can claim access to the truth behind things and that human rights, to the extent that they seek to claim a similar vantage point in ethics, do so at the risk of confusion in their meaning and alienation from their purpose. Taking the work of W.V.O. Quine as that champion of the scientific method most sensitive to the influence of contextual conditions. In contrasting this position with Wittgenstein's it shows how identity, and more specifically human identity, is manifest in rather than linked to language

## **1. SCIENCE AND THE CONTEXT OF ITS METHOD.**

### **1.1. Wittgenstein and Quine on Science.**

Quine's pragmatic view of science recognizes that we cannot occupy positions outside language, that we cannot assume a self which stands in relation to "reality" as does Rousseau's "Legislator" in relation to the people: an intelligence "wholly unrelated to our nature, while knowing it through and through"<sup>5</sup>. This pragmatism, however, has a realist tinge in asserting that scientific knowledge, garnered solely through sensory experience and language, enables us to have the *most* efficient and predictive control over our lives possible. When it comes to explaining human nature, for example, the non-cognitive idioms like beliefs, desires and intentions which we usually use to explain action become, for Quine, expressions of attitudes and tastes of people which can be used instrumentally to explain in terms of a folk-psychology of the everyday (we use certain concepts to subjectively classify things) but in no way ones which give a scientifically correct account of the mind. The scientific picture of human nature based upon neurology and psychology is ontologically prior, it represents greater truth, because it places the idea of a human soul back in the natural net from which rationalists like Kant and Descartes tried to extricate it. Rather than attempt to split the world in two we should acknowledge the pragmatic necessity of our being an inextricable part of a natural world which is nevertheless open to that rational interpretation best encapsulated by the realist method of improving knowledge of the world through theories which are realistic approximations of what actually exists in physical space and time, the precise nature of which we will understand once we compose a unified theory of everything.<sup>6</sup> Quine, then, presents science as that practice of understanding which best approximates reality.

This priority of science stems from Quine's belief that the only fundamental objects in the world are physical ones (the fundamental particles of physics making up the world together with laws governing their behaviour).<sup>7</sup> Science is not the only form of knowledge, but it is our Western one and it is very effective at letting us control our lives. "What is there?" is always going to be an open question because it is dependent upon what we feel is necessary to establish certainty at that time, but it is always something, says Quine, which is revealed through our scientific theories; Quine is a

material realist: "I hold that physical objects are real, and exist externally and independently of us" and that people are included in such a classification of physical objects. The feelings, intentions, desires, fantasies and emotions which people experience are micro physical properties of those physical objects we see as people such that there is a closed system of physical cause and explanation. Their language is set off by external stimuli. This does not imply that we are physically determined, we do have free will:

"Freedom of the will means that we are free to do as we will; not that our will is free to will as it will, which would be non-sense. Our actions count as free in so far as our will is a cause of them. Certainly the will has its causes in turn; no one could wish otherwise. If we thought wills could not be caused, we would not try to train our children; you would not try to win votes."<sup>8</sup>

Though this statement reveals Quine's belief that understanding is dependent upon how we orientate our cognition around the experience of facts, he is not being crudely empiricist. Theories of understanding need to be postulated and refuted not only on the grounds of evidence but in terms of their precision, non-conditionality, simplicity, unity, explanatory power and so on. Theories are always under-determined. Knowledge is "hypothetico-deductive"<sup>9</sup> such that we have a theory about the world from which we deduce which observations we can likely expect under various observable conditions. We believe the theory until such time as there is a lack of correlation between what is observed and what is expected, then we look either to revise the possible theory or ignore our experience. There is then no one correct theory, no one truth, there will always be more than a single theory for any given body of evidence and, dominant paradigms will change.

Quine felt such qualified realism to be free from the vagaries of relativist reduction because within each paradigm, at each stage of the development of science, there is a feeling of certainty with which absolute relativity can be countered; though such certainty is necessarily contingent upon theories, it is so via its relationship with observable phenomena.

This adoption of realism stems from his holistic view of language and more specifically his attack upon the analytic/synthetic gap. There is no distinction between contingent truth, that truth dependent on facts, and analytical truth, that which relies on established linguistic relations and whose meaning is fixed, because to base analytic truth on meanings is to forget that meanings themselves have no established identity criteria. Meanings are related to the experiences which confirm or deny them and such experiences cannot be separated from experience as a whole. All sentences are related to experience of the world to some extent through an interdependence of meaning and fact, such that there are no sentences which are immune from change - there is no analytic truth

Language is for Quine, as Rorty points out,<sup>10</sup> a gauze or mesh through which we causally interact with our environment, garner impressions and so on; he invokes a *Tractatus* view of language

in the sense that it is constrained by or mirrors such a reality. Knowledge and identity concern what is a potentially recognisable condition of all humans. Quine's view, then, lies in stark contrast with that of Wittgenstein's in *Philosophical Investigations* where knowledge and identity are not contingent upon reality nor upon a reality-as-our-experiences-see-it but upon grammatical criteria and as such are not found in connections *between* anything at all. These criteria exist in a complex and open ended nexus of symbiotic relations with each other, a view developed by Peter Winch in his "The Idea of a Social Science",<sup>11</sup> and are not put in a hierarchy of rationalist approximation. Quine wants to keep for science the mantle of rational method, something which escapes appeal to the taboo of metaphysics and customs of the cultural mind. To this end he envisages only that evidence as is made directly clear to the self to provide the basis upon which to find and develop identity through hypotheses or theories. Science becomes self-justifying because of the principle of theorising according to evidence and counter-evidence and as such is open to though not manifest in all cultures. But what Wittgenstein's later view of language shows is that such accrual of evidence cannot be divorced from its implementation, and it is in the practices of application that science gets what is to count as a fact to be used as evidence in the first place. Science can only ever be objective and truthful on its own terms, according to its own self-validating norms. The standards of science can not be extrapolated from their form and used to judge another form's standards in terms of truth and falsity. It is an epistemological mistake to assume that just because science is a dominant paradigm determining what constitutes rational explanation in a certain *weltanschauung*, it must be the only or even the best way of forming meaningful explanation. "Only" and "best" make no sense here. This is not an attack upon what science can achieve, but an attempt to clarify just what it is we do when we do science. It is the case that science is the dominant method of explanation now, but this success can have as much to do with the power play of colonising nations, the need for weapons and industrial technology, the desire to protect jobs in weakened markets, a subconscious Jungian archetype, as it has with an inherent rationality and a tradition of efficacious prediction and penetration of "truth". Science is a form of life with its own rules of normative regularity which themselves are informed by the participants and their contact with other forms of life.

The conclusion reached by Winch and Wittgenstein is that it is nonsense to speak of truth and falsity outside of the conceptual form of life in which they are used, science does not give us generalized accounts of an objective truth which can be used to arbitrate the correctness or otherwise of other forms. Forms of life differ in their purposes and techniques: science seeks a paradigmatic truth to explain an external reality, religion on the other hand can seek glory through faith, whereas magic courts the occult in order to control. As forms of life they all seek to explain, protect, destroy and help, only in different ways. Such that physicists can be Buddhists and witches can be biologists; they can be complimentary as much as they can be contradictory. In arguing against anthropologists like Frazer, who criticised tribal magic as an incorrect way of seeing the world, Wittgenstein was saying that the language of science and its appeal to agent-independent reality does not have a monopoly on determining "what there is" and nor can it claim to be superior at garnering knowledge.

Metaphysics, ritual and convention play as much a part in abstract theorising as they do in symbolic dances. To criticize the practices of other forms of life using science as *the* correct method of understanding reality is to display a blinkered *hubris* reminiscent of the Enlightenment's confidence in the efficacy of the rational method to solve all social and private ills.

Wittgenstein's criticisms also undermine the materialist assumptions on which Quine's view of science is based. Our norms are encased in by our sensory experiences of physical reality such that although our theories will never be wholly determinate, there are always rival theories each of which can look plausible on the basis of the available information, that is how it is. People find meaning in how they interpret and react to nature via scientific theories and meaning becomes relative to that scientific theory through which people are viewing the world. The bedrock to meaning, and hence to explanation and knowledge, is in fact not "solid", or certain, at all, but akin to what Wittgenstein called an axis,<sup>12</sup> kept in a single place by the centripetal force of people engaging in linguistic activities. Unlike Quine, however, Wittgenstein did not prescribe any one type of form or language game as being superior in terms of distinguishing truth and falsity. For Quine language results from the sensory bombardment by experience, and that experience has taught us to accept that the inter-subjective agreement giving rise to science, our conceptual scheme, is how we establish meaning. We cannot stand outside of such a reality and talk of truth and falsity. But, says Quine, once we accept this truth, we can universalize it, we take our world theory of science seriously and use it to arbitrate the correctness of other theories.

What Quine would see as realism Wittgenstein and Winch would see as dogmatism for as it is admitted that science cannot link itself to any transcendent state neither can it be supposed that it has access to a better "truth" than any other form of life. Realism renders language the result of conscious agreement on approximate theories in the face of apparent evidence. Identity statements and hence meaning are cast so as to be falsifiable and as evidence comes to light so theories develop on the basis of shifting accords of opinion. Language for Wittgenstein, though, is not the result of inter-subjective agreement but of agreement in action, in forms of life, which is something deeper and much more varied than the contractual overtones found in Quine's version. Just as Quine quite rightly objects to empiricism in his recognising the importance of axiology as well as evidence to establishing theory, so Wittgenstein would have us go further and say understanding is not reliant upon a constant reference to monolithic background theories at all, but is an ability manifest within a linguistic context where the form of life as a whole, and not just the rules of form applicable to the scientific orthodoxy of the time, are important in establishing meaning. Science has to admit a linguistic context.

## **1.2. Science and the Linguistic Context.**

Some theorists<sup>13</sup> have linked Wittgenstein's views on language to the quantum language of modern particle physics - both share, it seems, a predilection for indeterminacy over stability and

probability over certainty. Though there may be similarities it is still the case that quantum configurations have meaning in relation to probabilistic *evidence*, and are not on their own terms akin to grammatical rules. Sci functions have meaning in so far as they accord both with the rules of mathematical calculation and with the structures of the quantum world, whereas Wittgenstein's saw rules as guiding posts pointing in directions dictated by the grammatical criteria of forms of life, *which are themselves normative*. Though Wittgenstein does allow for the influence of some contingent tendencies in the guise of basic facts of nature, such general parts of a form become part of the normative structure constituted by linguistic expressions. To show how science is itself conditioned in how it accrues evidence it is necessary to look not at the subject matter alone but those undertaking the study.

Recent work on the context of science enquiry<sup>14</sup> has revealed that the practice of science is characterized not by the domination of theoretical testing or comparisons between paradigms (*contra* Kuhn) but through the interplay between our theories about the world, what counts as a phenomena, and experiments which take place free from theoretical blueprints. It is suggested<sup>15</sup> that theory and experiment are linked through models which select aspects of a web of potential phenomena, which are defined not according to sense data but in terms of publicly defeasible and noteworthy regular and stable events, and link them to theories articulated within the confines of what experimental devices are available. As such, phenomena are created within the controlled atmosphere of a localized laboratory rather than discovered, in ways similar to how the human self is created through linguistic endeavour rather than unearthed. This lends support to the idea put forward by Timothy Lenoir, that science is an amalgam of sub-cultures "with different constitutive interests, and with different experimental traditions, organized socially in terms of access to resources and oriented around different repertoires of techniques and apparatus."<sup>16</sup> Scientists are seen as engaged in a historical process; investigating models through the development of concepts based upon the deliberate isolation of *aspects* of investigational fields. Galison compares this isolation of aspects from their background conditions to the hewing of a statue from a block of stone. The backgrounds must be identified and blanked out in order that the phenomenon being analysed stand in relief. This is done through the changing of equipment configurations which, as long as the phenomenon remains despite the changes, produces ever greater confidence that it is real rather than just an "artefact of the apparatus" and throws the phenomenon into an ever sharper relief; Galison calls these processes stabilisation and directness respectively.<sup>17</sup> As such, the reality of phenomena is reliant upon local conditions: equipment, intellectual tradition and so on. At the level of the practice a whole further level of clarity is reached when the plurality of sub-groups, each with their own narrative though linked through competition, come, over time, to agree.

So the picture of the form of life that is science which emerges is of an activity not only dependent upon what is observed but also on local contingencies such as equipment reliability and sophistication, negotiation, the nature of the academic rank and institution involved in the modelling, the opportunities consequent upon "revealing" new phenomena, personality, the style of delivery and

the methodology used. The presence of these contextual influences expresses the epistemological point, says Lenoir, that it is intellectually deficient to see science as expressing the relationship between theory and experiment as a closed logical implication.<sup>18</sup> It is also indicative, however, of the role of grammar in meaning, and of the epistemologically prior point that the bedrock to meaning is something which has to be accepted not in terms of truth and falsity but just as a form of life in which scientists engage.

The point behind Lenoir's and Galison's arguments is to show how scientific practices as a whole are embedded within the even wider context of social and political institutions, the conditions necessary for the sustaining of a form of life.<sup>19</sup> The practice itself can be socially constrained. Scientists develop theories through languages which are often technical and seemingly impenetrable to those not "privileged" enough to be party to the cant. But this language or ritual still remains "a natural extension of ordinary language adapted to the fields of scientific knowledge."<sup>20</sup> Indeed science itself at times uses concepts from other forms of life, for example the physicist Lord Kelvin, influenced by his work on political economy and his entrepreneurial ideals, talked of physics in anti-Newtonian terms such as work, waste and entropy, to the extent that he came to equate measurement with the assignment of economic value.<sup>21</sup> Quantum analysis has shown how concepts such as position or velocity, in the light of new practices, can come to have a more varied and vague meaning, something which Heisenberg thinks reflects the vagueness of everyday language where complementarity often occurs. There is, then, no over-arching meta-vocabulary to which only science has access; it, like many other forms, employs a language related to that of others through family resemblances, rules of language are followed in a context wider than that of any one specific practice.<sup>22</sup> Thus, when an idea as revolutionary as quantum physics is developed it is not only a new concept which is introduced within an existing framework, but, rather, a fundamental reassessment of the relations and rules governing the practice itself, and such a re-organisation itself can only take place within the wider framework of a general public language.<sup>23</sup> This is a case of where the practice itself is changing. New ideas require new concepts and rules which come from outside of the established cant of the paradigmatic practice. Science is no longer a link between the human and non-human, it, along with other forms, involves persuasion and the continual re-definition of goals and the amendment of language, and not in the quest for convergence towards some predetermined reality but in order that the narrative be sustained with, in Rorty's terms, unforced agreement and tolerant disagreement.<sup>24</sup> Agreement is not *found* through the driving of theoretical piles to ever greater depths in the ontological swamp but in what is to constitute correct methods and evidence at any one time. Quine saw scientific theories as never complete, using Wittgenstein's work shows not only this incompleteness but also their narrative contingency.<sup>25</sup>

This brief discussion of science as the archetypally true form of life reveals how moribund is the intention to look beyond boundaries, to emulate the universe, if such emulation is characterized as movement towards a non-human truth. Even science has to make concessions to the political context of language games; so when it comes to explaining entities characterised not by discrete

linear relations but open ended feed back loops, entropy, reason, emotion, spirit and fear, amongst many other things, contextual influences become even harder to resist and ignore.

That science has to involve the historical and narrative conditions of its proponents shows just how much more must a related form of life, the science of peoples' activity. People give meaning to objects yet are objects themselves, something which Foucault envisaged as an "essential instability" between the desire to see humans as physical objects, the matter for a precise science of context free prediction, and the recognition that such abstract, universal theorising will never yield anything but a confused picture of what is contextual and imprecise, namely human action. To have a science of human action, then, is impossible because as a meaning-giver humans are the condition of their own objectification and you cannot objectify the skills which make the process of objectification possible in the first place. In trying to explain human action with reference to scientific causes social analysis is seeking to objectify through scientific classification what can never be so reduced. Dreyfus, in his discussion of Foucault, reiterates the point which Peter Winch made:<sup>26</sup> natural science abstracts meaningless aspects such as "velocity" or "position" from a meaningful context and uses them as general tools for explanation, whereas with social science such abstraction leaves out essential background conditions necessary for the understanding of a practice:

The meaning of the situation plays an essential role in determining what counts as an event, and it is precisely this contextual meaning that theory [scientific theory] must ignore. ... Imprecision in the study of human capacities is inevitable because what counts as an everyday fact depends upon a background of meanings and skills which is explicitly excluded by the de-contextualization required by theory.<sup>27</sup>

Such background facts are not physical or psychological computational states governed by strict covering laws but social practices; language games run in accordance with the open, guiding rules of grammatical criteria.

What Winch and Wittgenstein were concerned to show was that just because generalisation is a good method of explanation it does not mean the two concepts are inextricably linked to the extent that one necessitates the other. Generalisation from reductive analysis is the form of explanation used within the normative framework of natural science, within different contexts it is used in different ways and so takes different roles. Even within each form it is a paradigm, it is not an immutable method. In natural science it is the rules of the form itself which govern the nature of the matter to be observed/explained, In social science it is the rules and grammatical criteria of the objects under study which should govern the nature of explanation. To apply natural science methods is to place too much faith in the prediction of regularities in human agency, it is to fail to recognize the differences:

Man has to awaken to wonder - and so perhaps do peoples. Science is a way of

sending them to sleep again.<sup>28</sup>

Explanation must be aware of the normative rules by which what is being explained and that which does the explaining are governed. That science is confined by Wittgenstein to its own form of life rather than intimately attached to an outside reality upon which it depends for verification has led Roger Trigg,<sup>29</sup> amongst other realists, to say that the consequent linking of truth conditions with public language cripples possible explanation. Trigg believes that without adopting realism (people's judgements are to be constrained by a discoverable truth existing independently of them) all explanation is open to the ill and uncertain winds of relativism.

## **2. RELATIVISM: IDEAS ON TRUTH AND FALSEHOOD.**

Wittgenstein said "show me how you are searching and I will tell you what you are looking for". Winch<sup>30</sup> sees this emphasis on how one is explaining, rather than solely on what one seeks to explain, as indicative of an urge to shatter the universal attraction of causal explanation.

The insidious thing about the causal point of view is that it leads us to say "Of course it has to happen like that." whereas we ought to think: it may have happened *like that* -and also in many other ways. <sup>31</sup>

To know something is a changeable activity in itself and looking for cause is only one way, if we switch to another form of life then what constitutes "knowledge" can change, knowledge is enmeshed in the endless variety of forms, it is in this way that science can send us to sleep. The scientific laws of the realist encourage us to bypass the solipsist's or idealist's questions on value and meaning (How can we possibly *know* what anyone else means? How can expressions of belief make sense?) by ignoring the tendency of grammar to conflate the metaphysical with the experiential.<sup>32</sup> Realism forgets the many different ways in which we use words like "feel", "imagine" and "know". In echoes of Blake who saw "dark, satanic mills" as an expression (not an accompaniment) of Baconian natural laws, Wittgenstein urges us to untie ourselves from the shackles of reductive, naturalist explanation which knits in us a snare. To know another culture, another person, for example, it is not sufficient to assume that an agent is rational in a given situation and to measure the deviation from that "instrumental mean", for the criterial facts of knowledge change between cases. To penetrate another realm we cannot just deconstruct significations to compare the "resultant" parts with our own. We have, instead, to become attuned to different language games through an appreciation of forms already in existence. Religious knowledge, for example, is not based upon observable regularities in given evidence; we do not doubt the efficacy of prayer because things, despite our heavenly

missives, continue to bode ill for the world. Religious knowledge is an acknowledgement of the limits of our powers to effect change for the good. We do not seek to cause anything by it.

Trigg sees an objective, external reality as the only thing preventing a rapid slide into the quagmire of relativism. Without such a yardstick determining truth then criticism and the urge to discover become meaningless, truth loses all cogency, there is nothing left to be rational about.<sup>33</sup> What is central to his claim is that there is an empirical repository of evidence which is independent of but sits in judgement on us and takes precedence over our cognitive claims about the world. Wittgenstein's equating of reality with inter-subjective agreement, says Trigg, promotes a relativist model of different groups in self-contained conceptual systems which can only lead to "the breakdown of mutual understanding and of the exercise of reason."<sup>34</sup> Wittgenstein's world is one where there is no regulating principle, where all viewpoints are equally valid and reasoning has no point because all beliefs are rooted in something other than reality. We end up with Rorty's view that the world is characterized not by objective truth but narrative history and cultural justifications based upon a myriad of multi-faceted belief systems. Once this is accepted, thinks Trigg, then there is no longer a gap between beliefs and their objects and so we are left with the very real possibility of there being neither any distinction between profundity and superficiality, between rational judgements and prejudice, nor any truth except in the rather limp coupling of right with efficacy.<sup>35</sup> Bashkar adds to this point by saying that in addition to this epistemic dimension there is an intransitive, ontological one. This is a recognition that things like laws of nature "...continue to operate (transfactually) outside the closed conditions which permit their empirical identification in science."<sup>36</sup> Thus even if as is implied here realism has a tendency to conflate reality and knowledge, it still remains the point that *laws* operate outside of our language games.

Herbert Marcuse expands upon these criticisms of Wittgenstein by saying that not only does ordinary language philosophy jeopardize rigorous pursuit of truth, but confines us all to one-dimensional, mutilated condition of established modern discourse. What Wittgenstein forgets is that analysis of everyday conditions yields transcendent and qualitatively different results; for example Marx's discovery of ideology. Wittgenstein pushes us into the straight jacket of common usage, encouraging us to find only those solutions already there and so carries a distrust of new experiences and different tongues. Wittgenstein is guilty himself of abstracting from reality by seeing people only in conjunction with what is given, of confining philosophy to the role of yes-man and ignoring the often oppressive conditions under which many people have to exist.<sup>37</sup>

This decay into skepticism, conservatism and relativism, however, need not be so imminent. Wittgenstein is trying to show us that the human condition just is one of consent to, and often disgust with, social and natural environs which themselves remain open to change. Laws or rules, including general covering ones, are normatively loaded aspects of language use which, through our consent as agents able to engage in regular language use, fix what is to count as following them, and anything ascribing truth or falsity at a level "outside" such laws is missing the point. To call something like science a form of life, then, is *not* to envisage "a cosy and self-justifying cocoon of conceptual

custom" nor does the limiting of scientific method constitute "the recommendation to indulge in minute observation of the actual customary law of one's speech, and to accept it without further pursuit of either proof or general pattern".<sup>38</sup> To envisage a logic of grammar is not to see a closed community in which people have no choice other than to follow established practices but, rather, to show how it is we are able to agree at all on what constitutes conceptual sovereignty in the language games we play. Not only do other societies have different conceptual schemes, we ourselves employ different ones at different times, and to see one as dominant, that which makes appeal to empirical evidence, is to artificially subsume the internal contradictions we face as members of a society in possession of many conflicting and changing forms of life. We should therefore never see one form as ultimate nor envisage our culture as the sole source of justification.

The *Tractatus* held the simples of reality and representation of those simples as occupying the same logical form, the later philosophy subsumes such identity statements in grammatical criteria to which the individual agent gives their consent through use: "Whether a proposition can turn out false after all depends upon what *I can* make count as determinants for that proposition." [my emphasis]<sup>39</sup> What gives us certainty, order and stability in our lives is not an external reality against which we measure achievements and practices but what lends such practices their coherence: the logic of grammatical criteria. Such criteria have their end in "the point at which my spade turns", and rather than attempt to step outside of myself in order to further justify my actions I am inclined to say this is just what I do, this is what I am, this is the system to which I have given my allegiance. It is not an establishing of what could be called correct or incorrect but of our self through its commitments to practices which define and re-define that self.<sup>40</sup> There is not a cognitive gap waiting to be filled at all because there is no "outside" truth with which we can "connect" in any possible sense:

No one *can* speak the truth; if he has still not mastered himself. He *cannot* speak it; - but not because he is not clever enough yet.

The truth can be spoken only by someone who is already *at home* in it; not by someone who still lives in falsehood and reaches out from falsehood towards truth on just one occasion.<sup>41</sup>

Truth is enveloped in the mastering of the self, in the self's seizing hold of interpretations. To understand truth involves both a description of a system of reference *and* an appeal to conscience, a combination which "would have to result in the pupil himself, of his own accord, passionately taking hold of the system of reference."<sup>42</sup> Rorty picks up on this point; in recognising the embeddedness of truth we are not abandoning the possibility of criticism.<sup>43</sup> Languages, *pace* Davidson, do not stand to reality as scheme does to content, there is no gap to fill and so no way in which some true beliefs are related to reality in a way others are not, such that degrees of certainty are based upon these different relations.

Relativism is only an issue if you accept that truth has to be embodied in a specific culture or

by a single method, and such acceptance is only possible if you occupy a bird's eye view of different cultures and forms from which to assess the possibility of truth. Trigg finds Wittgenstein responding negatively to the question "Is there a correct way of representing the world?" and so sees him as a relativist, whereas what Wittgenstein was doing in emphasising the role of grammatical criteria actually dismisses as senseless any attempt to talk of truth and falsity at such an ontological level.<sup>44</sup> As Jane Heal points out, it is a question that seeks to transcend what we do in order to assess what we do, and so is no question at all. We have no way of reaching such a totality without invoking a given form of action, which is exactly what the question is asking us to avoid.<sup>45</sup> To recognize the historicity of truth, its creative aspect, is nothing to do with relativism, which is a universalist position asserting that each and everyone is inevitably confined to varying and hermetically sealed off versions of what is true. Wittgenstein and Winch are not saying that we have to accept a myriad of truths because there are a myriad of forms but looking at what it is to use a concept such as truth. To use concepts we first have to accept that some judgements lie beyond justification,<sup>46</sup> that in order to confer meaning there must be agreement at the level of a form of life,<sup>47</sup> the natural propensity to act in accordance with a rule. At this level it makes no sense to ascribe truth or falsity because correctness is dependent upon criteria which themselves require a common stock of values.<sup>48</sup>

We must first of all be *attuned* to a form of life before we ascribe truth or falsity because what is correct or incorrect can only ever be determined by reference to the practices and conditions through which confidence or certainty in our actions is attained and maintained.

- .. Everything that I have seen or heard gives me the conviction that no man has ever been far from the earth. Nothing in my picture of the world speaks in favour of the opposite.
- But I did not get this picture of the world by satisfying myself of its correctness; nor do I have it because I am satisfied of its correctness. No: it is the inherited background against which I distinguish between true and false.
- The propositions describing this world picture might be part of a kind of mythology. And their role is like that of rules of a game; and the game can be learnt purely practically, without learning any explicit rules.<sup>49</sup>

Forms of life change over time, they can also persist side by side, they represent a variety in outlook which rather than being damned as the barrier to universal understanding can be seen as necessary *mélee*, one which develops the urge for a concern for what is correct.<sup>50</sup> Truth is not immutable, it changes according to the interplay of this diversity and is dependent upon grammatical rules. Trigg, in calling for the ascendancy of an objective reality which is the sole arbiter of truth to which our knowledge approximates, forgets that his appeal to explanation which is natural and free from perspective and which gives us effective prediction and control is not an empirical but a mythological issue; we are certain because we agree at certain fundamental levels, not because we

find some forms of expression less 'merely' human than other forms. We always have to approach things from a perspective and as such, says Rorty, there is no best description of anything:

[T]here is just the explanation which best suits the purpose of some given explainer. Explanation is, as Davidson says, always under a description, and alternative descriptions of the same causal process are useful for different purposes. There is no description which is "closer" to causal transactions being explained than others.<sup>51</sup>

Explanations in social science, then, cannot be explained with reference to cause because they involve purposes infused with narrative spirit, a whole history of an incident. They must be embedded in the normative considerations of the practices or language games they seek to explain.<sup>52</sup> To explain the action of others it is necessary, as I said when discussing the "explorer" and "radical translator" cases, to engage in sympathetic appreciation of customs, habits garnered from observation of the regular behaviour being undertaken. This sympathy does not have to involve conservatism. The emphasis upon ordinary language is not a crude and supine attempt to render useless all critical activity but an honest appraisal of how we as people in grammatical contexts are influenced by surrounding social narratives and histories. Indeed, it is only through acknowledging the existence of our position in language games and forms of life that it is possible for us to envisage ourselves as potentially other than what we are. The language of friends, colleagues, enemies, poets, workers, conspirators and all manner of other signifiers are different, they ebb and flow through our own grammatical positions like tides of meaning varying in accordance with the seasons and our relation to them. It is in recognising this flux that we are able to resist the impositions of reified, abstract principles and ideologies which attempt to purify language, to impose upon it a single correct way of being.

### **3. THE IMPLICATIONS FOR A VIEW OF THE SELF.**

So in addition to the Cartesian skepticism on meaning being de-bunked in favour of a linguistic sense of meaning as use, Newtonian ideas of a universe of constituent parts ticking with a pre-ordained hum explicable through sensory experience, causal reasoning and controlled reductionist mechanics is replaced by explanation via grammatical context. Science, just like the mind, is not the grand arbiter of truth, nor is the scientific method of generalisation the path to such truth. Scientific theories, like theories in art or social science, are construed grammatically; imbued with social and historical narrative. The *techne* of science precludes ultimate rational and technical control over an independent reality because it is used within the often chaotic contingencies of

existing and past social conditions; science can be as much about narrative persuasion as it can be about logical refutation. Similarly, when looking to explain complex social phenomena like human rights (complex because they are not susceptible to the rigours of prediction based on observable regularity, human because they are means by which linguistic agents seek to organize their relations) what should be accounted for is their use in grammar. This use establishes a regularity that is ultimately open ended and non-definitive.

The Cartesian *reductio* had it that the only thing I can be sure of is myself, all else is open only to inference (assertion on the basis of my own experience) and the resultant atomisation, along with Kant's development of a world divided between myth, reason and ethics has informed views on human nature and the consequent development of human rights ever since. The historical and social nature of science suggests that its *logos* and principles represent background conditions against which scientists study but which are themselves are neither transcendentally dominant nor teleologically final. Our position as language users means we can no longer occupy agrammatical positions from which to analyse rational immutables, rather we understand through description and re-description from within an evolving context of consensual and iconoclastic language games. As language users we encounter differences in our conditions as a matter of course.

The Cartesian distinction between mind as the seat of consciousness and body as an atomized material substance open to reductive analysis was developed by Kant's view of an autonomous, rational soul distinct from the often onerous and stultifying conditions in which it has to exist, namely social and religious institutions, into a view of human nature which essentialized our character to one that was absolute, rational and ethical. The way to face cultural difference, according to the Kantian system, is to isolate through generalisation and formalisation, aspects which are impervious to such distinctions and emphasize the ethical need for their protection.<sup>53</sup>

It is supposed, then, that the roots of being human lie with the ingredients of conscious life: the capacities for rationality, intention formation, pain aversion, responsibility, and so on, those which Charles Taylor sees<sup>54</sup> as making best sense as we continue to "progress" in our attempts to weave ourselves ever more tightly into the fabric of our social outlook. The fabric is often supposed by formalistic explanations of institutional power structures to be a result of these individual workings and so answerable to them. Suspicious of appeals to higher values we as isolate, autonomous beings confident only in our own sense of right and wrong are anxious to protect our identity over time.

The grammar of identity, however, resists this generalized story of human nature. Concentrating upon grammar means one avoids the temptation to seek metaphysical justification for our experiences, and instead concentrates upon how it is we are able to engage and re-engage with the world by adopting, using and rejecting a constellation of language games. Just as the world has no essence, neither does the self; both are grammatical in the ordinary language sense: they do not occupy privileged languages in which "facts" or "beliefs" are inextricably linked to "externally reality" or and "inner core". The language of the self proffered by Wittgenstein does not deal in representations of the world, but in rules of action for how we are to live in the world, thereby

emphasising the volitional as opposed to the essential characteristics of being human.

In a recent book Vinit Haksar invokes the idea of a non-reduced self as an agent whose identity persists through time as they guide their action and experiences in accordance with life plans. This he contrasts with a reduced view of the self where the agent does not exist in any deep, inner manner, their nature being constructed out of an historical attachment to and sense experience of various contexts.<sup>55</sup> Now it would seem that the Wittgensteinian insistence upon the necessity of forms of life to forming identity judgements invokes a historical or narrative view of the self whereby we decide what constitutes our identity according to the circumstances in which we find ourselves. If we were unable, for example, to follow rules and established social practices in our behaviour then we would not have the same identity or self as if we were. It is somehow as though the social practices and institutions in which we find ourselves constitute what we call self consciousness, we cannot meaningfully invoke the idea of an inner self to which all the social experiences occur. But if our identity is just a succession of social experiences then there is no subjective unity upon which the idea of individual agency, and more specifically human rights, can find a grip; rights become those social constructs which apply only to those able to follow the requisite rules and play the language games. As such, points out Haksar, we come to exclude many periphery cases such as children, congenital idiots and the senile. What is needed, he suggests, is an identity which cannot be reduced to physical and social experiences alone, that although the influence of social rules is important, what gives the agent a persistent self is a basic, primitive subjective world-of-the-individual which lends a unity of consciousness to all that the agent experiences.<sup>56</sup> It is the presence of an inner life, of being aware of what it is to be themselves, which provides agents (actual or potential) with the title of moral personhood.<sup>57</sup> Such inner life need not be proved against some body of knowledge based upon factual belief but can be invoked as the result of subjective intuition and practical reasoning, we have to be perfectionist about ascribing an individual moral identity separate from cultural rules and practices.

Haksar is not claiming to follow the anti-rationalist line of Chomsky's "black box" here. Chomsky's view of language centres around a bundle of wires somehow inside of us which constitute the formal features of language necessary to engage in the specifics of linguistic behaviour. His is an attempt to explain how it is we come to speak whilst being largely ignorant of the grammatical rules we follow. We are able to give an infinite number of messages using a limited number of phonemes and rules because of our having wired in our head from birth an inner compulsion to follow grammatical imperatives without constant assessment or even conscious awareness. Thus in following what is "in" our minds we are not being rationally autonomous but submitting to a set of mental dictates the character of which we know nothing about. Haksar's inner self is too Cartesian to support such a view. We are able to create, using language, original propositions because there persists at our core an essential subjective being whose expression of itself is manifest in the orderly, independent, non-prejudicial use of reason ultimately free from cognitive debt to any "outside" culture or form of life. Though unlike Descartes' *cogito* this persistent self is not self-justifying in that it can

stand alone as thought in itself, nor is it composed of two distinct elements, it is Cartesian in its distinction of the unitary self, albeit a basic, primitive one, from the influence of tradition, authority, and social experience. Being so distinct from the compulsions of historical narrative the only remaining source of identity has to be found in our employing reason to rationally order our identity and knowledge of the world. It is reason which lends us a persistent sense of inner being. Haksar's persistent inner self, then, is realist in that judgements of personal identity come to have a correct answer independent of our decisions on the matter, each subject persists in a subjective world of self-consciousness.<sup>58</sup> It is found in a conjunction of *rationality* and an *inner life* to be rational about.<sup>59</sup> It is only by positing the idea of a persistent inner self that the full import of rights can be brought out, without it people become nothing more than logical constructs to whom rights are granted as prudential tools of social engagement.

Presumably this position is in contrast to that put forward by people like Charles Taylor and Wittgenstein. Taylor recognizes a necessity of contact between agents in what he terms a qualitative discrimination, "...it is the horizon within which I am capable of taking a stand"<sup>60</sup> outside of which I am devoid of identity, unable to distinguish between good and bad, right and wrong. What distinguishes the self, says Taylor, is not the reflective awareness of an individual but, rather, an orientation towards some concept of the good as represented by a qualitative discrimination used within a public arena; we can only be a self in a context of other selves making common judgements.<sup>61</sup> Taylor's frameworks are akin to Wittgenstein's forms of life in that there is no outside or inside vantage point from which to assess meaning; meaning is internally related to linguistic relations. For Haksar rights make no sense when attached to such "frameworks" because they seek to identify the nature of rules which people follow and not the people themselves.

Wittgenstein is not necessarily antithetical to this idea of self and he certainly does not subscribe, which at times Haksar assumes he does,<sup>62</sup> to a relativist view of the self. Instead Wittgenstein's view of language takes us away from the scientific desire to see questions of identity in terms of persistent, general, constitutive building blocks at all - be they Taylor's social practices or Haksar's perfectionist intuitions about an inner self. The fact that we use the same names to refer to people now, their past and in their possible future is a composite use of people under ordinary circumstances such that were the circumstances to change, were it the case for example that all people looked alike yet had markedly different characteristics - some were choleric in temperament, some were mild, some brusque and insecure, others resigned, then we may identify people according to their characteristics, not their physical being. "One might say in such a case [a schizoid man whose identity is defined through memory whereby on even days he skips over everything undergone on odd days and on odd days skips over everything experienced on even days] that the term "personality" hasn't got one legitimate heir only."<sup>63</sup> Language is partaken of by creative, imaginative agents with their own commitments to rules they will institute and be instituted by, and it just is the case that THIS is what we do. It is nonsense to look outside or inside for a genesis to the process for this is to fall into the epistemological trap of always looking for roots to justify our individual identity, of looking for

general causes. Rather than look for absolute conceptions of what we are, the adoption of "ideal" theories and ideologies which blinker our awareness of surrounding grammatical contexts which may differ from our own, concentrating upon language emphasises the need for communication, discussion and education. The link between practice and self, or agent and action, is internal: "How the performance is being produced is not something just inseparable from seeing what kind of performance it is."<sup>64</sup> Thus the ascription of subject identity is not something which takes place at a meta-level, but at the level of ordinary language which necessarily involves both consciousness and corporeality. There need not be anything ambiguous and hence perfectionist about this. The concept of pain, for example, is used by the agent as something which is felt and not observed and by others as something which is observed and not felt. Both are integral to the meaning of the word pain. This is what is meant by Wittgenstein in his urging us to see the distinction between opinion or decision and attitude:

My attitude towards him is an attitude towards a soul. I am not of the *opinion* that he has a soul.<sup>65</sup>

There is nothing to have an opinion on for this soul is nothing which can be isolated and pointed to. That "I am the vessel of life"<sup>66</sup> is not a non-metaphysical expression of meaning, it is not something for which we require information or a justification - we have an attitude to others that they have a soul because of natural and spontaneous systematic regularity in the way we are. This soul is not, as Haksar at times suggests, an identity *justified* at a discrete logical level different from that of our social selves, but one which is a necessary aspect of speaking a language in the first place - before doubt comes trust of other language users and their role in language games as subjects-other-than-yourself. We can see ourselves as having exceptional places in life, yet to equate this use of identity with proof, with the question "Are you sure you are special, unique, show me?", is non-sensical move in the language game for it is impossible that I should be mistaken in identifying myself because it is *me* who is doing the identification. The word "I" is not essentially different from my name, or my body, it just is used as a different way in our language.

The relation between an identity and culture becomes a symbiotic one in which neither the social rules *nor* the persistent, subjective self are replaceable or reducible; action and rules are not logical constructs in themselves, rather they are grammatical concepts used by agents. Wittgenstein is not saying that we can identify the experience itself separate from the person. A rule cannot be broken down into algorithms, it always has a normative content, likewise a view of the self cannot be broken down into a bundle of experiences or inner selves each one specific to a certain arrangement of social rules which, if they change, cause a change in identity.

Haksar's distinction succumbs to the Cartesian urge see the debate in 2-D, that the only way to resist relativist implications and save a concept of universal human rights is to posit a de-contextualized self *connected to* external states. Because when we use the word "I" as subject we do

not refer to a physical body (Behaviourist) it is assumed that we refer to something bodiless seated in our body.<sup>67</sup> In ascribing unconscious, propositional knowledge to an isolate core of the self he is ignoring that just like machines cannot follow a rule, neither can anything inside of us (be it the nervous system, soul or the brain). Similarly, what underlies human rights, when they function as rules, as codes of behaviour, is not the physical minutiae of human agency, existing, like algorithms, as unconscious carriers of purposeful behaviour, nor an invariant intuited soul - but an attitude towards others as language users internally linked through language games. Language acts here, as Foucault envisaged, as "a way a human being turns him-or-herself into a subject".<sup>68</sup> By using a normative institution with a totalling aim (to govern the relations of people with people and their environment/context) to express themselves as actively shaping their own individualized destiny. The self is created through linguistic expression, not by the isolation of metaphysical grounding. Wittgenstein's overriding concern was that people should keep faith with themselves and this is best done by realising "I" does not denote a specific thing, be it mental or bodily, but a grammatical prodigy as it were; only when one is true to oneself as a language user can the world be improved as a whole.<sup>69</sup>

To try and explain people's intentions in terms of absolute social conditioning, or in terms of some subjective "id", to try to answer questions such as to what extent is my mind, like an empty bucket, filled by social conditioning, and to what extent is it the product of unique, individual creativity, is to suffer from the dualist fallacy that any such division is possible. There is no mystery behind "I", it has a variety of uses in a variety of contexts, as Coulter says:

"I" does not denote a spiritual locus of experience somewhere inside me; it is not the name of an entity, although it can betoken a body or a body-part...., it should not be thought that there is something necessarily hidden away eternally from our understanding of people."<sup>70</sup>

Wittgenstein's emphasis upon language games, forms of life and the background conditions of certainty display a concern to get us to move away from looking for justifications for things like the self in either the make up of human psyche's or their social structures but to look for language use for it is only there that one is able to recognize meaning found in normative regularity expressed through agreement at the level of forms of life.

#### **4. THE POSITION OF HUMAN RIGHTS.**

The self as rendered meaningful by Wittgenstein is one which is both intelligible to itself as that which institutes or becomes and to others as that which is instituted or has become, and the two

aspects are in a narrative weave. The private language argument refutes the Cartesian and Kantian views of the self as in some way transcendent of the sensible world and the concepts of rule following and forms of life refutes the behaviourist, realist and relativist views of the self which see it as mere flotsam tossed about on a sea of uncontrollable physical stimuli, abstract truth or cultural edict. The way in which we are able to use language to create an identity is dependent not upon inner states but on our commitment to rule following behaviour, but such rules do not govern the totality of our being, they are not algorithms which define prescribed, error-free outcomes but axioms which we compel ourselves to recognize. Rules and forms of life, then, only make sense in conjunction with self-conscious agency, and *vice versa*.

As such, modern attitudes to justice which emphasize procedure, the displacing of people into hypothetical positions whereby they may make choices as to principles of conduct in a neutral and rational manner, often fail to recognize that such a practice denies the importance of a pre-existing ontological background to our decision making, to the establishing of certainty and the very possibility of contracting or agreement in the first place. When we sense something imperfectly, says Taylor<sup>71</sup>, rather than look for external criteria to justify initial impression, which is impossible in that something exogenous to perception is thereby not understandable, we take a second look, we re-adjust our perspective. A similar, though no identical, point is made by Wittgenstein: to know is supposed to represent a relation between a fact and me, the me which consents to and is constitutive of background conditions of certainty,<sup>72</sup> not me as a Baconian child before nature confronted by a sense proposition. The linguistic self reacts not to external criteria nor refers to an internal core but works within language games and forms of life, often at their "edges", testing the adequacy of our vocabulary, and the boundaries of such adequacy may be drawn for a number of reasons, in order that they may render themselves more sensible and intelligible to themselves as well as others.

Human rights represent boundaries of a sort, but are they to keep people out or in? Do they restrict or enable? Are they to be transcended or respected? To draw the boundaries of human rights is not to say what we are drawing them for.<sup>73</sup> It is this sort of question which the thesis will address in the second part. So far it has remained in waters well chartered by Wittgenstein himself, and in doing so attempts to render clear the pivotal position he envisages the language user as playing in the phenomena of language, meaning and understanding. There emerges in this a view of people whose self is both constituting and constituted by the environs of their life, something reminiscent of what Koestler later called "Janus faced holons"; a subject with both an integrative and an assertive face, or aspect, to their being. Thus, they can envisage their ego aspect of the self as centrally important to the universe around it *and* yet can also abnegate this ego through integration in forms of life where consent and participation involve acts of contrition, be they spiritual (transcendental normativity), ideological (group or tradition based normativity) or physical (dreaming). These aspects of the self, though, are not mutually exclusive, one is never seen at the expense of the other. They cannot be isolated *a la* Cartesianism or Behaviourism such that either the inner or the outer self becomes dominant. The philosophical importance of grammar, forms of life and natural facts lies in their

revealing the nonsensical nature of our ever attempting to define pure entities such as the ego or the group-self in isolation. This is best seen in how it is we relate to each other, in how it is we *act* in accordance with the criteria of a logically adequate kind for the ascription both of behaviour and feeling in oneself and in others. Such action takes place as consent to linguistic practices. The subject not only attempts to immerse themselves in social practices to determine their identity, to beg inclusion, but does so whilst having the option of resistance in our attitude to these practices.

If life becomes hard to bear we think of a change in our circumstances. But the most important and effective change, a change in our attitude, hardly ever occurs to us, and the resolution to take such a step is very difficult for us.<sup>74</sup>

Both the self-consciousness of being a self and that of being part of a group or material context are necessary to the understanding of being a human subject at all.<sup>75</sup> Talk of action here exemplifies the reference made by Wittgenstein to the role of *consent* to language games: action involves deliberative intent and commitments to such intent made by the agent - it is essentially this which separates it from other events in the world. The consent is not made by an agent outside of a context but is manifest in an agent's action, it is something one does, not what one decides to do prior to doing it. So human rights, as boundaries to action, can be explained only with reference to how the idea of the self as language user put forward in this first part uses or may use ethical or just standards to govern their activity.

Wittgenstein was relatively hostile to the advocating of one political or ethical point of view over another. This was not through a disinterest on his part but because of a fundamental drive to keep his philosophical work at a distance from the politics and dogma of the world. For it to do any work philosophy must show us the differences between things, and hence must never lay claim to "truth", but only make clear the roles we have as ordinary language users. Philosophising can never change ordinary language, it must not try to escape the forms of life in which we all seek coherence and consistency, forms which constitute not the barriers to knowledge but their conditions.<sup>76</sup> In doing philosophy we want to understand something which is already present, to make it clear, rather than hunt for anything new. As the thesis now turns to just how this Wittgensteinian view of the self fits into human rights theorising it would be well to remember the risk of diluting, or even polluting, what in itself is a very pristine and focused urge to get us to see the differences behind things, to witness the possibilities of use.

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**Notes:**

<sup>1</sup> Wittgenstein quoted in M.Dury "Some Notes on Conversations" in R.Rhees (ed.) "Recollections of Wittgenstein", Oxford University

Press, 1984, p.88.

<sup>2</sup> Ernest Gellner "Reason and Culture", Blackwell, 1992, pp 116-123.

<sup>3</sup> Otto Neurath's equated science with a boat from which we were able to remove certain planks in order to test their nature whilst standing on those that remained. In this way everything is open to explanation from rival theories, the most successful being those providing the safest or least tested, foothold.

<sup>4</sup> Kant saw practical reason as engendering naturally ordered objects of knowledge such as were found in the mechanical, sensible world governed by the laws of nature. In such an orderly, neat world there is no meaningful space to include beings who autonomously and rationally create and consent to ethical laws and so humans, or those aspects of their nature integral to their identity (cognitive and moral), are seen to exist separately, intelligible as something persisting outside of the sensible realm of facts, outside of what is open to our senses and which can only be inferred by others. Knowledge and identity are only to be found by stepping *outside* of something (nature or culture respectively) and by concentrating upon inner compulsions (reason or thought respectively) which provide the ultimate criteria for our actions.

<sup>5</sup> J.J.Rousseau "The Social Contract", Trans. G.D.H.Cole, Everyman, 1983 edition, p.194.

<sup>6</sup> This definition of realism is taken from N.Maxwell "Orthodox Quantum Theory and Scientific Realism" in *The Philosophical Quarterly*, Vol.43, No.171, April 1993, p.141.

<sup>7</sup> see Christopher Hookway - "Quine", Polity Press, 1988, Ch.3.

<sup>8</sup> Willard Quine in Brian Magee "Men of Ideas", BBC, 1978, p.173.

<sup>9</sup> *Ibid.* - p.177.

<sup>10</sup> see R.Rorty in "Pragmatism, Davidson and Truth" in "Objectivity, Relativism and Truth." - *op.cit* - p.145.

<sup>11</sup> P.Winch "The Idea of a Social Science", R.K.P., (1958) 1986.

<sup>12</sup> OC - §132

<sup>13</sup> Roger Trigg ("Wittgenstein and Social Science" in A Phillips Griffiths (ed.) "Wittgenstein: Centenary Essays", Royal Institute of Philosophy, 1991) argues that Wittgenstein's view of language attacks the distinction between subject and object, the language user being unable to stand back from their context sufficiently enough to enable anything other than "blind acceptance" of one's form of life" (p.216) and has therefore much in common with the language of quantum physics and the related dilemma of Schrodinger's Cat, where the only way to discern existence as particle or wave is through immersion in the very experiment; thereby invalidating claims to sufficient detachment for objectivity (p.221)

<sup>14</sup> see Timothy Lenoir "Practice, Reason, Context: The Dialogue Between Theory and Experiment" in *Science in Context* 2, 1 (1988) pp.3-22.

<sup>15</sup> *Ibid.* - p.5

<sup>16</sup> *Ibid.* - p.7

<sup>17</sup> *Ibid.* - p.17

<sup>18</sup> *Ibid.* - p.16

<sup>19</sup> see Cornelius Castoriadis - "Modern Science and Philosophical Investigations", in *Cross-roads in the Labyrinth*, Harvester, 1984, p.172.

<sup>20</sup> W.Heisenberg "Physics and Philosophy", Allen and Unwin, (1959) 1971, p.149.

<sup>21</sup> see T. Lenoir - *op.cit* - pp.20-22.

<sup>22</sup> P.Winch ("The Idea of a Social Science.." - *op.cit* - p.89) sees technical concepts as used by the social scientist, for example

liquidity preference, to explain the nature of certain actions, such as the exchange of money, which presuppose the explainer has a level of understanding of what it is to be an agent within such a language game, and therefore of those more prosaic concepts such as money used in the game. Technical concepts are linked to prosaic ones. The social scientist must have sympathy for and an understanding of the practice she explains.

<sup>23</sup> see Ibid. - pp.114-116.

<sup>24</sup> R Rorty "Science as Solidarity" in *Objectivity, Relativism and Truth* - op.cit - p.40.

<sup>25</sup> Looking at the evolution of scientific methods it is interesting to note how what was once regarded as certain, the base tools of explanation or what Popper calls the *explanans*, is brought increasingly into question as evidence is accrued such that it becomes what is to be explained, the *explanandum*. Good theories are not those which reach ever further towards something, but ones which enable agents to explain more of their conditions than they could before. (See Guy Robinson *Philosophy* Vol68, 226, October 1993, pp483-504.)

<sup>26</sup> P. Winch "The Idea of a Social Science" - op.cit - p.87.

<sup>27</sup> H. Dreyfus "Why Studies of Human Capacities Modelled on Ideal Natural Science can Never Achieve their Goal" in

J.Margolis, M.Krautz and R.Burian (eds.) "Rationality, Relativism and the Human Sciences", M. Nijhoff, 1986, p.15.

<sup>28</sup> C&V - p.5

<sup>29</sup> Roger Trigg "Reality at Risk" - op.cit - p.48, p.57

<sup>30</sup> Peter Winch - "Darwin, Genesis and Contradiction" in *Trying to Make Sense* - op.cit. This is similar to Foucault's refusal to recognize universal truths. By historicising reason, for example, rather than proclaiming it an innate gift of all humans which will guide us all to some felicitous social order he looks at the roles it has played in various social practices, he looks not at why reason is used (the ends of reason) but at how it is used. We do not use reason because we are in the possession of some guiding principle which establishes absolute standards of action, rather we use what we call guiding principles in specific and localised ways. (see. P.Rabinow's introduction to "The Foucault Reader", Penguin, 1984, pp. 3-7)

<sup>31</sup> C&V - p.37.

<sup>32</sup> To know rests on a "locality". To feel pain can be to know it in Euclidean space so that we can point to it, but we can also know that someone else is in pain, we can feel their pain metaphysically rather than experientially (BB- pp48-50).

<sup>33</sup> R. Trigg "Reality at Risk" - op.cit - p.197

<sup>34</sup> Ibid. - p.203

<sup>35</sup> Ibid. - p.210

<sup>36</sup> Roy Bashkar "Reclaiming Reality", Verso, 1989, - p.149.

<sup>37</sup> Herbert Marcuse "One Dimensional Man", Ark,(1964)1986, pp170-185.

<sup>38</sup> E. Gellner - op.cit - p121 & p120.

<sup>39</sup> OC - §5

<sup>40</sup> See Stanley Cavell "Conditions Handsome and Unhandsome. The Carus lectures 1988.", University of Chicago Press, 1990, p.95.

<sup>41</sup> C&V - p.35e.

<sup>42</sup> Ibid. - p.64e.

<sup>43</sup> R. Rorty "Is Natural Science a Natural Kind?" in *Objectivity, Relativism and Truth* - op.cit - p.50.

<sup>44</sup> We don't satisfy ourselves of the correctness of grammatical pictures of the world, rather they frame the possibility of one using

the term correctness at all." (OC - §94)

<sup>45</sup> Jane Heal "Fact and Meaning", Basil Blackwell, 1989, p.149.

<sup>46</sup> W.Sharrock, R.Anderson and J.Hughes "Philosophy and the Human Sciences", Croom Helm, 1986, p 179.

<sup>47</sup> see discussion of this point in Ibid. - pp. 179-180

<sup>48</sup> Ibid. - p.176.

<sup>49</sup> OC - §'s 93-95.

<sup>50</sup> The idea that variety is necessary for truth is akin to Machiavelli's observation that peace and order is only possible for an organization if such a social structure is characterized by internal dissent, such that there will always be groups with diverging attitudes, each capable of leadership but only at specific contextual points; the strong and visionary in times of adversity, the pliant in times of conciliation etc. Truth, and what is right, are not single things.

<sup>51</sup> Rorty in "Is Natural Science a Natural Kind?" - op.cit - p.60.

<sup>52</sup> see PI - §337 where he talks of playing chess in similar terms, the intention to play chess being reliant upon a pre-existing technique to which one is committed.

<sup>53</sup> Freya Mathews "The Ecological Self", Routledge, 1991, gives an account of how this attitude has fixed western society with an analytical gaze such that it sees itself as an agglomeration of individual wills, each an individual substance with their own and probably divergent sense of what is right. Human rights thus come to be seen as tools for the protection of an ontologically separate unity characterized by rational self-interest.(pp.35.40.)

<sup>54</sup> Charles Taylor "Sources of the Self", Cambridge University Press, 1989, pp.56-57

<sup>55</sup> Vinit Haksar "Indivisible Selves and Moral Practice", Barnes and Noble, 1991, pp. 5-7.

<sup>56</sup> Ibid. - p.41.

<sup>57</sup> Ibid. - pp.53-55.

<sup>58</sup> Ibid. - p.10.

<sup>59</sup> Ibid. - pp 53-55.

<sup>60</sup> C.Taylor "Sources of the Self" - op.cit - p.27.

<sup>61</sup> Ibid. - pp.34-35.

<sup>62</sup> Ibid. - p.11.

<sup>63</sup> BB - p.62.

<sup>64</sup> quoted in W. Sharrock *et al* ... op.cit - p.23.

<sup>65</sup> PI, II, iv.

<sup>66</sup> BB - p.63.

<sup>67</sup>"But to say that the ego is mental is like saying that the number 3 is of a mental or an immaterial nature, when we recognize that the numeral "#" isn't used as a sign for a physical object" (BB - p.73.)

<sup>68</sup> quoted in intro. to "The Foucault Reader" - op.cit - p.11.

<sup>69</sup> see R. Monk "Ludwig Wittgenstein" - op.cit - pp.50-52.

<sup>70</sup> J. Coulter "The Social Construction of Mind", MacMillan, (1979) 1987, p.123.

<sup>71</sup> Ibid. - pp.74-75.

<sup>72</sup> OC - §90-92. Wittgenstein equates his mythology with a world picture, one which we do not get from satisfying ourselves of its correctness, but which is an "inherited background" against which I can decide what is good and bad, true and false. (§ 94).

<sup>73</sup>PI - §499

<sup>74</sup>C&V - p.53e.

<sup>75</sup> R. Falthman talks, as a liberal, of the need to recognize how it is "self" and "group" (or what he calls individuality and plurality) are complementary and often synergetic phenomena. By this "complmentarism" he means that individuals' activity are often the basis of gropus and even cultures, and that it is through such social processes that individuality itself is enabled ("Willful Liberalism" - op.cit. - pp.83-89)

<sup>76</sup> See Stanley Cavell "Availability of Wittgenstein's Later Philosophy" in G.Pitcher (ed.) "Wittgenstein - The Philosophical Investigations", University of Notre Dame Press, 1966, pp.170-172.

## ***Part Two***

## **Chapter Four**

### **HUMAN RIGHTS, LIBERALISM AND PRAGMATIC FORMS**

What a moral practice intimates as, in general, proper to be said or done, a moral rule makes more explicit in declaring what it is *right* to do. [...] They are abstractions which derive their authority from the practice itself as a spoken language in which they appear as passages of somewhat exaggerated emphasis. [...] They are not commands to be obeyed but relatively precise considerations to be subscribed to. They are used in conduct, not applied to conduct; and the moral reflection in which they may be brought to bear upon choosing is deliberative, not demonstrative.

*Michael Oakeshott "On Human Conduct, Oxford University Press, 1975, pp.67-68.*

Ethics is a condition of a changing world and not a comment upon it, a world linked through resemblance rather than exactness. By taking human rights as such an aspect of as opposed to a comment on the forms of life we inhabit it is hoped that they will come to express the enduring ethical message of Wittgenstein's philosophy - to recognize distinctions. To look for what is common in or about all *homo sapiens*, a central justificatory image common to all human rights claimants, and to explain such entities in terms of primitive natural laws,<sup>1</sup> is to be shackled by the "mind-forg'd manacles" which give rise to the oppression noted by Blake in having one law for both the lion and the ox. The ways we interact with our environment, with our narrative past and with the harbingers of fate are varied and require a sensitive attunement to the localized conditions of their expression, a sensitivity which sufficiently contrasts with the rationalisation of people as self-interested cores of thought to throw into doubt the possibility of ever finding human traits common enough to warrant the call for universal ethical rules. This awareness of conditions and their influence upon the equality and neutrality between the individual aims and interests of people<sup>2</sup> poses something of a paradox for the less robust amongst liberals who see the necessity of recognising the legitimacy of other local cultures and their peoples and yet in such an affirmation are at risk of rejecting their own maxims through support for distinctly illiberal ways of life.<sup>3</sup> Less apologetic liberals are often willing to openly decry the actions of other, hierarchical cultures whose practices bring offence, yet even they still have to face the almost baffling array of contradictory impulses that are consequent upon trying to voice such disapproval. Do we keep quiet and isolationist? Do we reserve judgement? Do we bring pressure to bear? Do we become actively involved? Do we seek their eradication or damnation? Moreover, in attempting to persuade others of the justice of the liberal cause in which language do we cast our plea? The grammar used is usually that of human rights, and therein lies their importance for liberals, they have provided, at least since

World War Two, a well-spring of certain and expanding ethical language games within which to engage the cultures of the world in issues of common purpose and technique. It is the legitimacy of this fundamental ethical diplomacy that is of concern. How and to what extent these human rights are reliant upon the established, deliberative conduct of the liberal form of life and whether, if any resulting reliance is supposed, such a necessary bed-fellow as a specific cultural past invalidates their supposed use as a universal system of appeal.

The usual way of seeking reconciliation between positions in the human rights debate has been to ask the question "*Why should we have human rights?*" This type of enquiry encourages a way of thinking "which always looks for (and finds) a mental state from which all our acts spring as from a reservoir"<sup>4</sup> Wittgenstein's insights on language have shown that such a way of seeing things, *when used as justifications*, can become a disguised piece of nonsense in that it tries to prove something already apparent in the linguistic activity. Rather than look for a psychological genesis to human rights (be it behaviourist or mentalist) it may well be more productive to try and understand how our "knowledge" of human rights is used as a categorical "ought", an understanding still to be found largely within the liberal tradition, for that is where human rights were first used as a concept and where today they find their most explicit and comfortable expression. They function, especially within Western nations, almost as background conditions of certainty, those ethical precepts within which all other ethical propositions have their life. Though human rights form an aspect of ethical reasoning, being claims to those things it is ethically necessary to secure *to or from an individual perspective* as opposed to articulating the desirability of specific conditions *per se*, there is a sense in which this language of value is commensurate with that of human rights where what is of value becomes what is of value to us as individuals.

Human rights have become, at least at official levels, almost a precondition for the ascription of internationally accepted nation state status.<sup>5</sup> The Western nations have, via the UN and other organisations like the EC, NATO, and NAFTA, sought to export the ethics of human rights as part of trading packages and diplomatic liaisons. They act as more than an appendage, they are seen as integral to the open and free interchange of economic as well as political and social resources. Human rights are part of the way we seek to live, either in preserving not only our personal and political integrity but the immediacy of our material standing through steady development, or in the realisation of aspirations to such wealth through technological transfer, efficient resource use, investment and the freeing up of active, entrepreneurial spirits. To those cultures where such an elevation of individual interests, above those of, say, God, is not only distasteful but somewhat strange the use of human rights as conditions of reasonableness between language games and forms of life can be somewhat resented as a Western imperialism. This was certainly an argument used by many countries in support of their abysmal human rights records.

Lately, however, it is becoming increasingly common to adopt the terms of human rights language, to agree to its rules and either attempt to make human rights abuse extremely covert, or excuse it by emphasising the contingencies of national emergency<sup>6</sup> or inexperience. The danger then becomes not only that human rights are at risk of being miss-used in this process, that they act

as ornamental "hurrah" concepts to which institutional powers pay lip service whilst ignoring the persistent swell of grammatical abuse, but also that the present construction and adoption of human rights language is itself compounding this vapid use. Based as it is on a specific philosophical legacy the justification of human rights is open to question not only from rival legacies but from the standpoint of grammatical confusion. To further explore this it is necessary to look at the narrative tradition informing the birth and growth of human rights' language, at rival and conflicting linguistic narratives from within the Western tradition, and at how Wittgenstein's views of language and the self outlined in Part One can help dissolve some of the points of conflict by revealing them to be points of confusion. This is done by approaching the questions of rights not from the perspective of hypothetical, abstract or somehow rationally cleansed individuals, but from that of ordinary linguistic agents.<sup>7</sup>

## **1. THE ISSUE OUTLINED.**

The dominant pattern to liberal theory is found in the weaving together of two central types of rights-fabric: the open and free use of critical, rational deliberation based on individual choice over what is to constitute a good life (protected and promoted by what are misleadingly referred to as negative rights to forbearance<sup>8</sup>) coupled with the provision of the best possible means available to realize it (ensured through the recognition of economic and social rights, those provisions emerging as necessary claims for the material well being of peoples). This coupling constitutes practices in modern liberal democracies of individual self-understanding in a context of the mutual attribution of respect and an ethical concern equality.<sup>9</sup> At the political level it seeks the establishment of distributional and regulatory infrastructures which ensure both that people can form their own conceptions of the good free from unwanted outside interference and that an equality of interests in the community persists in order that all points of view have the chance of equal public airing.

The assumption made is that people have individual natures, interests, desires and carry these cornerstones of the self to some abstracted institutional negotiating table at which agreement is reached as to what they should relinquish or compromise according to the demands of justice in order that they may find free and equal access to decent institutional living. There is, then, a concern that the individual is always capable of standing back and asking themselves whether their circumstances are ones they accept and that, once having answered this with as full a body of open information as is possible, they are able to translate this scrutiny of their institutional context into effective action.

Such a pattern of life is structured around a number of central threads, axioms from which the remaining liberal theory is developed and to which appeals about deviance from the consequent rules are, ultimately, made. People constitute their own selves. People should be able to determine for themselves how they are to live and without such autonomous consent social practices and

institutions are ethically illegitimate. This consent need not be voluntaristic such as is found in municipal, direct, democracies; instead it is largely premised upon Kantian claims to rational and honourable cores of the self. Institutional control (social duties) is to be exercised entirely on the basis of rules which free and rational agents would agree to under fair and equal conditions.<sup>10</sup> Justice, those ethical rules most concerned with the social well being of people, is articulated through principles which not only can be agreed to (reason) but should be agreed to (honour, good faith) on the basis of individual understanding of what constitutes the will. Linked to this is a qualitative, though often qualified, suspicion of elitist and paternalist planners in favour of the ordinary, the uncircumscribed and potential riven individual. This narrative stems largely from the Enlightenment's urge to instil within people a sense of individual empowerment, to eradicate nonage through critical self-instruction, to "Dare to know!". Only then will social progress be possible. This aversion to meddling and stultifying bureaucracy and the use of individualistic principles of justice to ensure the social planners keep their distance that facilitate, it is supposed, the freedom to explore and criticize from positions of equal opportunity measured largely in quantitative terms like minimum income, years of education or numbers of health care workers.

It is this mythology which the concept of human rights, as presently conceived in the Universal Declaration of Human Rights (1948), encapsulates. They are the claims and duties necessary in order to ensure that all people *qua* individuals are able to attain and maintain their *own* idea of good and status in their *own* surroundings in their *own* time. Rights language does not have the purpose of establishing things as a matter of right, rather "Rights express moral desirability *to or for or from the point of view of* some individual."<sup>11</sup> Human rights, then, are not individualistic in the sense that they fracture institutions and practices; they are a social practice, a language game, like any other, and they make specific reference to the participation of people in political and social life. Nor do they require only passive inaction; the duties we have to uphold rights are forceful and active. They are individualistic in the ontological sense - they take individual interests and purposes as the primary source of ethical expression securing as they do goods for private enjoyment from public resources. They express a positive, normative commitment to what institutions ought to do, namely refrain from imposing conceptions of the good life upon others. This is a matter not of relativism or skepticism but of what it is right to resist, namely the institutional encroachment upon and rationalizing of relationships and language games that had previously been part of civil and not state society. Liberals are not neutral about human rights, they see them as "primary goods" or "trumps" that ensure we are able to stand back from our contexts and assess how we are going, are likely to go and have gone in the light of our own standards. So whilst human rights represent no single theory of the good they do represent a very strong commitment to the idea of impartial justice. Thus, the state, as the enforcer of human rights, is urged to adopt positive stances on issues like the eradication of murder not because life is good without murder but because it infringes rights of people in possession of Kantian souls. Right has priority over good, and the rules of justice pertain to the provision, and not any recommended use, of rights.<sup>12</sup>

Human rights make no explicit appeals to ideologies. Gone are the Lockean theological axioms where rights existed purely as duties to do God's will, and gone are justifications sought from some Platonic realm of ideals; what informs human rights is a thoroughly secular invocation of a universal notion of humans with rights as rational citizens of the world, rights necessary to resist the tyranny consequent upon the abuse<sup>13</sup> of state power agreed to by nation states in the guise of positive international law.<sup>14</sup> The emphasis upon procedural devices maintaining the integrity of individual autonomy replaces God as the philosophical or normative grounding for such rights. The Universal Declaration being, as Michael Freeman points out,<sup>15</sup> largely conceived as a response to the threat of the totalitarian urge to impose ideological forms of life upon often, though not always,<sup>16</sup> reluctant individuals. Instead it concentrates upon allowing free access to decision making controls encouraging, as this does, a realistic response to the questions of resource allocation and individual development. In doing so it focuses upon the inalienable, equal and non-derogable nature of rights, a focus which clearly favours those societies tolerant of diversity, plural in beliefs and cultures, versed in the peaceable and reasonable resolution of conflicts under the rule of law and respectful of the integrity and dignity of their autonomous members.

So there is at minimum a hint of ideological appeal within human rights legislation. It represents what is a characteristically "modern" and "liberal" rejection of any monolithic ethical ought to which one makes appeals; the *telos* is found not in a single normative conception of what constitutes good, but in how that good is constituted through individuals' life plans. It is a world view that believes it embraces the way things are in the present everyday, namely the diversity existing amongst individual conceptions of the good, and it is this heterogeneity which needs to be recognized by asserting the primacy of impartial justice over conceptions of an ideal or preferred end to political and ethical actions. There is no possible appeal to an outside referee, Rousseau's "Supreme Legislator" able to discern the best possible course for our actions, nor to an innate potential which we should be gradually unravelling through the development of "possible intellect"; rather, we, as autonomous people capable of rational choice through critical self-awareness, choose for ourselves in what manner we journey through life.

Part One of this thesis, however, suggests such individualism is suspect, or at the very least requires further elaboration on just how liberalism sees concepts of the self to which human rights are meant to apply. Making appeal to very abstract notions of "conscience of mankind", "inherent dignity" and the "human family"<sup>17</sup> without further exploring whether the consequent appeals to autonomy invoke an abstracted, inviolable sphere of private decision making which extends to the very linguistic tools people use to shape their lives involves assumptions as to the impartiality and separateness of ethical reasoning that are ideologically loaded. How it is people seek to weave together the threads of life could well be as much to do with immersion in communal activity as with the self-realisation of life plans via impartial systems of justice. Just what constitutes a division of the self into public/citizen and private/individual? It is not clear just how human rights, framed as they were to resist filial submission to folk communities, are able to still incorporate a sense of value inherent in voluntarist, local, municipal space within their universal confines whilst still seeing choice

as constitutive of self-development made at the level of *inner* commitment. Human rights posit goals which favour the playing of or participation in no single language game or form of life, no one language game must be distinguished above others, whereas it would seem that much of what we find of value is particularly attached to specific language games and forms of life which we find important, distinct and even unique. What must be addressed is whether human rights, as expressions of impartial justice, should always take precedence over what many people see as integral aspects of their character; the very real and partial reasons for their bothering to exist in the world at all.<sup>18</sup> Whether divesting ourselves of this linguistic garb is desirable, necessary or even ontologically possible for the further effective use of human rights is the central question for Part Two.

## **2. THE LIBERAL AND THE MODERN.**

### **2.1. Representations of the Self.**

The attempt to ground a justification of human rights within the liberal tradition rests mainly with those who isolate an inner sense of worth akin to Haksar's non-reducible self I have already discussed. Stanley Benn articulates well what is a common thread: he envisages people as plan makers in a world of plan makers entitled first and foremost to forbearance.<sup>19</sup> People respect the fact that plans are *unique* because it is through the awareness that my conceptions of my plans are my own, open to choice, amendment and criticism, that the subject is able to perceive their identity over time. Projects become an accompaniment of what is innate in the self, badges of worth. What is ethically important for Benn is not the content of these projects or the character of the person, but the fact that it is a project *belonging to the person*. This is the crux of modern liberal mythology: in response to the counter-intuitive conclusions reached by consequentialist reasoning, which sees subjects solely as mediums through which values such as happiness are manifest and so reduces issues of justice to questions of value aggregation throughout society as a whole, it postulates a dualist vision of the self - that part which chooses actions and that part which chooses what constitutes a choice of action. Projects are open to change, to analysis, to revision because the subject which chooses them is capable of occupying a meta level where they can claim autonomy from the social practices of which their projects form a part. It is as a potentially separable identity that subjects have human rights - rights ensure that respect is owed to people as potential plan makers irrespective of the content of those plans in terms of social choice. No longer can people be used as a means to another's ends because rights have shifted the moral ground to the meta level of asocial selfhood. In the words of Tom Regan:

[People] have a value in their own right, a value that is distinct from, not reducible to, and incommensurate with the value of those experiences, which, as receptacles, they undergo.<sup>20</sup>

Self-expression and self-empowerment are seen as things uniquely individual operating outside of any specific articulation of choice within value laden social contexts. So the inherent value of subjects is seen as logically distinct from the intrinsic value of their experiences: one expresses the value of worth,<sup>21</sup> the other that of experience, and it is only at the level of the former that value ceases to wax and wane, where all people become ethically equal in terms of autonomy and responsibility. Thus, human rights as universal concepts articulate the belief that ethics comes prior to any single institutional articulation of it. Individuals are to be respected by people *qua* people-with-innate-worth *articulated through* social practices.<sup>22</sup> It is hard to determine just what these liberals mean when ascribing worth or value to the human kernel as it were, but it is a feeling I think best expressed by Nozick when he talks of love:

An adult may come to love another because of the others' characteristics, but it is the other person, and not the characteristics, that is loved. The love is not transferable to someone else with the same characteristics. And love endures through the changes of the characteristics that give rise to it. Why love is historical (it depends on what actually occurred and not on some set of end patterns), attaching to persons in this way and not to characteristics, is an interesting and puzzling question.<sup>23</sup>

The person can, in some way, be separated from their characteristics and experiences to the extent that an inner core becomes the focus of attention, both for love and moral worth. Worth stems from the "receptacle" itself, for it is at this level that people are able to use their rationality to choose what is to constitute the good life and what counts as making a rationally meaningful choice as to what actions to commit oneself to.<sup>24</sup> Though the content of our plans varies enormously, as do the effects of their implementation, we are all of us equal as beings who make plans for the good.<sup>25</sup>

As with the private language argument the problem becomes, however, how is it we are able to conceive of plan makers outside of the prior stage building that has gone into establishing the use of "plan" "self" and "prior". As part of the weave of language games, forms of life and practices going to make up our lives it makes no sense to envisage them outside of our narrative background conditions of certainty. We can only choose, an action of preference or doubt, if first we believe.<sup>26</sup> Belief is an aspect of established linguistic rules (be they withered, strong, general, partial, evolving or nascent) and not separate to them.<sup>27</sup> The nonsensical nature of trying to divest ourselves of these linguistic form is manifest in the call for justification from the beyond, to look behind images or appearances of the self for the real core. It merely replicates Zeno's paradox, expressed by William James as the impossibility of being able to take fourteen minutes to do something for first having to

take seven, then three and half and so on. Infinitely divisible periods are a linguistic device which our grammar can confuse us into seeing as real, base substance. Similarly reason is a linguistic aspect which our philosophical grammar can confuse us into seeing as something *sui generis*, a concrete universal against which we set all other standards.<sup>28</sup>

These confusion's are akin to what Pippin, citing Heidegger, identifies as a rationalistic fiction: people being able to freely choose between a multitude of "goods" in accordance with principles justified by the nature of such choosers prior to any choice process. The liberal mythology has a view the self as being concerned with a good or happiness that lies beyond the mere consequences of and intentions for action; that it lies with something prior to actual conditions. We relate to the world by picturing it in ideal forms: "The fundamental event of the modern age is the conquest of the world as a picture.",<sup>29</sup> a correct representation towards which we should aspire. This is the urge of all metaphysics, to persuade us of the legitimacy of a move from appearance to reality, from falsehood to truth, from evil to good, and so to ignore what Wittgenstein urged us to see - that truth is something we embody, not something outside of us which we can reach towards and only touch on occasions of brilliance, luck or divine providence.

It is with such representations that the modern age has lead, in some people's eyes, to a confused view of humanity based upon the dominance of the idea of an *a priori* essence of human nature. The *Tractatus* is itself characteristic of this confused way of looking for an *a priori* order (Wittgenstein saw it as the world of facts (relations between objects) mirrored by propositions (relations between symbols)). The confusion arose because whilst words did describe things, they also did many other things, uses which cannot be reduced to a single theory of strict representation,<sup>30</sup> a single system of logic such as that envisaged by Carnap under the influence of the *Tractatus*. J.S. Mill, for example, imposes a representation upon the world because he views history with a rationalist's eyes, believing that through certain social measures which encourage individuals' critical awareness we can work from partial truth towards definite progressive goals such as truth and equality. Nietzsche recognized this tendency as an ordered imposition upon history. The real condition of history he saw as a fragmented "genealogy" characterized by accident, deviation and error rather than certain progress. We are not governed, said Nietzsche, by an overriding concern to find a rational conception of the good or to realize a fundamental equality between us all, but by our diverse and disparate origins, the variable quality of our conditions and abilities, and the fluid aspects of our rule governed activity. In this way individual freedom and equality becomes much more a product of a culture rather than part of peoples' being, a practice whose meaning has emerged (*entstehung*) as part of the struggle between classes, and of the species as a whole against prevailing conditions.<sup>31</sup> Individuals are not sufficiently stable nor homogenous to serve as the basis of self-recognition or self-discovery alone, truth and knowledge comes from the assertion of the will to overcome the "hegemony of mediocrity", to master the fragmented nature of history by revelling in it. What is happening in the modern condition is a tendency to identify autonomy as that best representation of truth rather than as an expression of the differences between things. Descartes' view that culture suffocated our rational judgement is articulated as a continuing urge to see the

individual as a deliberate, nice, conscious and autonomous plan maker rooted in the *inner compulsion* to think, to be rational, a compulsion which is the sole repository of truth. Our ideas are self-validating. This representation of a secure, rationalist, self-authenticating, self provides the subject of aspiration for liberals, one achievable through the use of human rights tools, knowledge of which must, it seems, somehow be found without any commitment to a prior social system. The content of our cognitive claims thus becomes independent of those claims themselves such that at the level of making claims, as opposed to acting out those claims, all individuals transcend their contextual home and behave in a symmetrically universal manner, upon which a specific type of rights, human rights, are focused. Nietzsche recognized this urge to create means of representation which enabled us to escape from those very means as a masked comedy of self-interest. That the subject "I" is the condition of the predicate "think" is nothing more than a grammatical convention. Thought is never so simple as to have a single cause, the ego. Indeed "cause" is entirely the wrong concept to use for the subject is envisaged by Nietzsche not as the being "I" but as the doing "I".<sup>32</sup> Nietzsche, like Wittgenstein, saw background conditions of certainty as in a constant state of flux within which the subject is ever striving or becoming, and never resting. The self is cultivated through effective becoming in its cultural context, not a being isolate from it.<sup>33</sup> He criticized *representations* of the self not because they established certainty or being, but because in doing so they encouraged, or bewitched, us to see such being as truth, attempts at perfectionism which ignore that as regards the journey of the self to travel hopefully and never arrive is itself the goal.

Such representations of "truth" are wrapped up with the language game of controlling nature, or what Augustine would have termed *libido dominandi*, a game which if it is forgotten is linked with a form of life, can lead us to fetishize intellectual rationality. To represent through rationalistic self-development (*zweckrationalitat*), is an urge beginning, thought Heidegger, in Platonic dualism, imbued as it is with theoretical appeals to sublimity, and culminating in the Nietzschean exhortation to assert the purely active will to power over the world, the total inversion of Plato by making the intelligible sensible. It is an attempt to subdue what Heidegger terms "Being" (an ontological root of the self) to nothing more than a completely mechanized entity totally subject to human will and control. Thus, on Heidegger's reading, Nietzsche's "superman" is the ultimate extension of the modern representation of the human subject as a locus of free will and of reason as rational control and domination. Nietzsche is seen as falling into the same trap as Wittgenstein's "Tractatus..", what it is to "be" at all is to be answered by appeals to the individual will or to "facts" respectively. But Heidegger's Being is more a part of this rationalistic fiction than is the Nietzschean "over-man", for the trap is to see being as having to be this way whereas it does not have to be any way at all. Heidegger saw being not in terms of atomized individuals manifest *through* language but in Being, and this perhaps is, in the light of Wittgenstein's work, another example of dualist representational metaphysics. Heidegger sees Being as separate from being, he establishes a clear division between them,<sup>34</sup> whereas Wittgenstein and Nietzsche, who see grammar as being that which renders us effective, ordinary or supine, envisage the two - say agents and their cultural home - in symbiotic, open relationships which can never be clarified absolutely. With both thinkers the central focus of

what constitutes the self is the ability to speak through self-discipline and the taking of responsibility for what we indeed end up saying. Thus, worth or respect is not a divine inheritance of Being but occasioned by the self in open concert with other selves.<sup>35</sup> We must recognize the intelligibility of others to ourselves and of ourselves to others through a constant and inevitable referral to the conditions of our language use.

## **2.2. Autonomy and the Self.**

The liberal mythology takes as its key stone the desire to go beyond what Castoriadis calls "the closure of meaning"<sup>36</sup> created by traditional forms of culture and to seek to criticize representations, yet it must be aware that it is in constant danger of creating ones itself. We should realize, urged Descartes, the Enlightenment *Philosophes*, Kant, Mill, Green and latterly Rawls, that active citizenship can all too often be nothing more than blind adherence to dogmatic and despotic social institutions, and that to guard against this we must conceptualize agency as self-reflective and self-referential thought<sup>37</sup> within social systems whose prime purpose is the provision of critical, evaluative and creative space. Society is not run along cabalistic lines where linguistic practices are soaked in runic interpretation and passive imitation but along ones which sanction the individual pursuit of difference. It would seem that liberalism has much in common with the Wittgensteinian urge to resist dogma, to emphasize the differences between language games and forms of life, yet it also has a tendency to confuse this splintering of meaning with a surface character of universally similar beings. The view of individualism prevalent amongst liberals has a specific *eidos* with specific intentions framed within a specific language which, Wittgenstein shows, is the result of agreement extending beyond the inter-subjective agreement between autonomous actors each articulating their own, specific set of interests. Liberalism has shifted authority from an other worldly guise to a more temporal one, yet one that still remains partially separate from context. As such it is still a mythology informing its claims to correctness. This does not invalidate liberalism, but it is something of which liberals need be aware: that what Castoriadis calls the instituting of socially imaginary significations<sup>38</sup> is itself wrought in what is already socially instituted. The very intention of autonomy presupposes it:

The social is always an already instituted anonymous collective in and through which "subjects" can appear, it goes indefinitely beyond them (they are always replaceable and being replaced) and it contains within itself a creative potential that is irreducible to "co-operation" among subjects as to the effects of "intersubjectivity".<sup>39</sup>

Therefore "what we have to do is analyse specific rationalities rather than always invoke the progress of rationalization in general."<sup>40</sup> Knowledge, power and the like circulate in institutions which themselves are expressions of individual commitment. Autonomy of the self is characterized not by the absence of cultural influence but in how we use our cultural background conditions to articulate

our sense of becoming. It is this creative self-expression which reveals the need for an openness in dealing with language. Though we may not go beyond grammar exploring its limits is how we seek to define our selves.<sup>41</sup>

### **3: AN ARCHETYPAL LIBERAL POSITION?**

John Rawls' two principles of justice epitomize the lexical priorities of the liberal pattern.<sup>42</sup>

As moral persons we are to demand

freedom of thought and liberty of conscience; the political liberties and freedom of association, as well as the freedoms specified by the liberty and integrity of the person; and, finally, the rights and liberties covered by the rule of law." To this scheme, states the first principle, we each have an equal right "compatible with a similar scheme of liberties for all."<sup>43</sup>

The subordinate second principle states that social and economic inequality is justifiable only if through such hierarchies those at the bottom are in a better position than in the absence of stratification, that the hierarchy pertains to the office rather than the holder, and all such offices are equally open to everyone. Basic liberties are primary, they can only be limited on the grounds of their conflicting with each other<sup>44</sup> and never because of the public good or perfectionist values, because they

are generally necessary as social conditions and all purpose means to enable persons to pursue their determinate conceptions of the good and to develop and exercise their two moral powers.<sup>45</sup> The two moral powers Rawls borrows from Kant, equating them to

"the capacity for a sense of right and justice (the capacity to honour fair terms of co-operation and thus be reasonable), and a capacity for the conception of the good (and thus to be rational).<sup>46</sup>

The moral powers represent the necessary and sufficient conditions for being full and equal members of a society; they ensure that people are not only moved by but act from fair and reciprocal terms and that people can form, revise and rationally pursue determinate conceptions of the good life. As such they do not define the good in any way, they are the conditions of the good. We do not want to be told what is right and wrong, but to discover for ourselves by having the self-confidence to fully partake in social activity. This self-respect or worth is encouraged by the basic liberties because through free association and the like we are able to exercise our two moral powers as free and equal

persons, the basic liberties being equally held by all representing not just a formal but a potential access point for political life.

Rawls uses contractarian reasoning to connect the idea of the two moral powers with the idea of social co-operation based upon a mutual respect and the principles of justice. He envisages, in his Original Position (OP), a hypothetical bevy of asocial representative parties, each fully conversant with general social rules yet, through a veil of ignorance, completely unaware of the specific beliefs and social positions of their constituents. These parties represent only the rational aspect of the two moral powers in that their role is to vote on those principles of justice which they believe will best further the conceptions of the good held by their constituents. The reasonable aspect comes from the constraints of ignorance imposed upon the OP, ensuring as they do terms of fair co-operation between conceptions of the good. He has, then, as Dworkin says,<sup>47</sup> a highest-order interest: the independent, equally rational citizen capable of using their own conceptions of the good, something which is best ensured by the equal provision of the primary goods.

Rawls' basic liberties, which provide "the necessary conditions for realizing the moral powers",<sup>48</sup> are essentially the same as the human rights provisions in the Universal Declaration. These moral powers represent the highest good towards which our activity is directed and it is these moral powers which human rights, as Rawlsian basic liberties, articulate through their support for a conception of citizens as free and equal persons.<sup>49</sup> The job of society is to orchestrate systems enabling us to develop as we see fit. It achieves this by culturing conditions in which we all have equal opportunities to choose and realize as our own conceptions.<sup>50</sup> In Rawls' scheme human rights are used not to promote any single, general and comprehensive moral view, but rather, to recognize the essential plurality of values in life, they have no prior commitment to any wider doctrine of the good.<sup>51</sup> Rights themselves are not derived from a meta-theory of the good - they are deontological in that they represent the manifestation of the two moral powers of agents to choose (and remain distinct from) their own ends whilst recognizing a similar ability in others and the duty thereby imposed on all others to recognize such powers and so restrain themselves from imposing upon what Mill called the free interplay of half truths<sup>52</sup> a *comprehensive* moral, religious or ideological notion of the good which seeks to deny us participation in conceiving the good. In a well ordered society people have different conceptions of the good and are left free to determine these conceptions for themselves; a well-ordered society being one which acknowledges and is moved by the principles of justice which set limits to the pursuit of these life plans.<sup>53</sup>

In response to some of the criticisms levelled at OP which accuse it of being too abstracted or rarefied to have any plausible weight in the consciousness of people living in contexts very much dominated by existing forms of life, including orthodox views of the good, Rawls has sought to take a less philosophical approach to the problems of justice.<sup>54</sup> The main change in his theory finds the public affirmation of reasonable principles of justice no longer requiring an appeal to rational choice theory within an abstract OP, but to an OP representative of and relevant to the *political*<sup>55</sup> institutions and intuitions prevalent within a constitutional, modern *democratic* culture.<sup>56</sup> The sights of justice as fairness have become focused on the those societies in which the citizens confine their

agreement to ensuring that no one conception of the good comes to dominate in the political arena,<sup>57</sup> thereby ensuring both that people maintain the autonomy necessary to choose for themselves and that the state remain accountable to the plurality of views. The resultant constitution, that which specifies just political procedure and restrictions necessary to protect the primacy of the basic liberties, is not therefore founded upon principles of justice, but upon a conception of the person (a being with two moral powers) coupled with that social co-operation most congenial to a modern, democratic society.<sup>58</sup> Rawls continues to accept that outside the political sphere, in private or religious groups, comprehensive, moral doctrines can form an integral part of an individual's identity. But what the OP now does is show us that it is only as citizens, as people already part of a narrative tradition, that we can regard ourselves as independent from and prior to conceptions of the good which we can choose between and change through the exercise of reason. This purely political conception of justice, say Mulhall and Swift, reflects Rawls belief that, assuming society is always plural and hence characterized by conflicting comprehensive doctrines partially reconcilable only through the exercise of state power, the only thing people will agree on in a Western democracy is that the state must coerce free and equal people in an entirely transparent manner itself controlled through reason.<sup>59</sup> It is this agreement the OP represents: we can live with the two principles of justice because we are able to use them to ensure no one comprehensive doctrine comes to dominate our lives, which though connected through social institutions, are still characterized by our *individual* highest order interests. Rawls is constructing a kind of Habermasian public space within which people are neither unencumbered nor autonomous but somehow embedded within a culture which enables them to engage in dialogue. Thus, it is because Rawls recognizes that community - formal state power - influences people that the OP reflects the idea latent within constitutional democracies that people are free and equal as *citizens*, for it is only then the major institutions of society are justifiable. People, although committed to comprehensive doctrines on the private level, will recognize the primary value of a politically justifiable state for without the principles of justice private doctrines, be they comprehensive or not, come under attack; the OP articulates the categorical imperative of reasonableness: people, as citizens, can imagine themselves as being the vanquished as well as the victor in the assertion of their comprehensive moral doctrines<sup>60</sup> and in order to prevent such eventualities they choose those principles of justice which ensure the provision of those goods which are primary for the citizen as a free and equal beings.<sup>61</sup>

The OP is relevant only to constitutional democracies. What it does is act heuristically (as opposed to offering justification or being literal) to show us the fundamental ideas prevalent within *our* society. The deep agreement and needs which we see as being part of our make up. Different societies have different expectations and make ups - Mormons expect polygamy, Muslims expect compliance with the Koran, and liberals expect full recognition of the basic liberties. These are neither mutually exclusive nor exhaustive, but are traits or norms the majority is expected to uphold on pain of sanction if they do not. Their preservation being internally linked to the identity of the practitioners. This sounds quite communitarian for Rawls; the principles emerging from the OP are to be cherished because they, in some way, makes us the liberal democrats who we are, they are

part of our tradition. But Rawls is not abandoning his Kantian stance; in his equating of freedom with the idea of citizens being able to conceive of good and recognising such an ability in others, of being creators of value, and of being aware of the responsibility of choice<sup>62</sup> he, as Swift and Mulhall point out, is not appealing to latent intuitions solely on the grounds of expediency and the need for public agreement. Stability is an issue secondary to the political and moral formulation of a society based upon principles of justice which themselves articulate the very liberal values of the justified use of power and respect for people as free and equal citizens.<sup>63</sup> The principles and relations of justice are not based upon considerations of marginal utility but constituted between the wills of rational beings in accordance with the universal laws of freedom (morally right action being that which, if universalized, would leave intact the freedom of other rational beings). He still invokes the Kantian maxim of reflective judgement to think from the standpoint of others, judgements which are placed behind a veil so that we may accept that moral disagreements are confined to a private context in the name of reasonableness. Reasonableness being that which is congruent with our self-understanding as free and equal beings. The theory still uses a specific ethical concept, namely the autonomy of free and equal beings manifest in the internalisation and universalisation of the principles of justice, but its rules of use are changed from a universal form of philosophical truth to a specific one of local motivation, so avoiding the problems of ontological conflict with those cultures whose political institutions are very different from those of liberal democracies.

Rawls, therefore, is not abandoning philosophical reasoning, merely confining it to those spheres within which there is an already existing deep rooted consensus. The Kantian moral powers are not merely conventions for us, we do not see them as merely that which we do, rather they are manifest in our actions as background conditions to our form of life, grammatical criteria which we express not in some anthropological or scientific way but as deep tenets of our being. We cannot look to those societies who do not premise institutional arrangements on the basis of equal respect and concern for human worth with tolerance, even of their local validity, without somehow belittling our own background conditions of certainty. It is impossible to understand the meaning of the Kantian moral powers, or of the primary goods, unless it is acknowledged that they are true and just goods for people everywhere, not just to the shared understandings of a specific group of people. In this sense Rawls can only but acknowledge that whilst justice can no longer be premised on an order antecedent and given to us, that it must relate to established public institutions, it can still be categorical in the sense that from what Waldron calls the internal view,<sup>64</sup> from within a form of life which it is nonsense to seek external justification for, it affirms our being rather than tries to rationalize about the consequences of our being. In talking of justice as fairness we are not talking *about* something from an external vantage point, but expressing our identity. We do not use the community in which we find ourselves as the reason or excuse for how we are, remember when following rules we do not seek appeal to community agreement to prevent the slide into the skeptic's *reductio*, because how we are is internally linked to agreement in judgements, in forms of life.

Language is not based upon rules governed by a social fiat,<sup>65</sup> but rules of which we are constitutive such that if the rules of grammar are followed incorrectly we do not say we are playing

the language game badly but that we are playing a different game; we are not being "wrong", we are doing something else. Unlike in cookery, for example, where incorrectly following a recipe means we *do* cook badly, language games are defined by rules. "Cookery is defined by its end, whereas "speaking" is not".<sup>66</sup> The choosers in Rawls' OP are already married, and they do not choose their partner, they find themselves committed to moral powers by virtue of an embeddedness in comprehensive grammatical rules. They are those people who, as Sandel says, are moral subjects "for whom justice is primary"<sup>67</sup> because their highest good is to express themselves as beings with Kantian moral powers.

### **3.11: The Comprehensive Liberal Form of Life.**

The form of life that is Kantian liberalism, however, need not be so reasonable as is made out when it is recollected that modern democracies are themselves internally very fragmented weaves of intermingling forms of life that ebb and flow with varying degrees of rapidity and clarity. Rawls insists that people should come to realize that although they may be committed on a private level to some fundamental ontology whose *weltanschauung* involves at least the partial subsuming of one's own goals to those of the collective, a hegemonic form of life, on a public level they must recognize that the political aspect of justice as fairness is primary and that when in conflict such non-perfectionist goods as represented by democratic political society should take precedence over any private, comprehensive ones, despite the fact that we may remain strongly committed to the background conditions of a comprehensive form of life.<sup>68</sup> The contractual nature of the OP remains problematic here: principles of just action arise, as I have explained, not as the result of inter-subjective agreement about the reconciliation of private interests but as aspects of grammatical rules and criteria to which are committed. Indeed the OP itself asks contractors not to choose principles but to choose those principles to which they would be committed under all circumstances. We often feel so strongly about things that it becomes impossible not to publicly disagree about them but Rawls' public space at times seems to want to deny these schisms as undesirable pollutants in the alpine-fresh air of reasonable interchange. It becomes very hard to envisage just what sort of organic entity Rawls has in mind when he talks of people being able to one at the same time express themselves as an integral aspect of a vibrant, dynamic and open system of linguistic rules (private people) *and* as citizens able to abstract from their private language games and form a public language game within which all these private language games remain possible. So whilst he recognizes that ethics is expressed in the grammatical criteria of forms of life which we *live* rather than refer to or describe, Rawls still embraces the idea that there lies a common denominator to all this linguistic activity - that beneath it all we (the Western democratic we) are all reasonable enough to agree to basic principles which, irrespective of more personal commitments, we subscribe to. This ignores the fact that we often take our ethics *in toto*; that to be reasonable is itself an expression of a form of life through which we articulate ourselves, and that to posit one form of life over another (as Rawls does when he calls us to swap hats between public and private persons) is to distinguish and

lexically order that which cannot be divided. People combine their ethical armoury with other forms of life and language games such that there may be family resemblances between the varying conceptions, but a conception of a common morality which seeks to go beyond an embrace of the resultant diversity, disagreement and conflict is a betrayal of the liberal heritage itself. Ethical consensus must refer to the nature of flux in ethics itself if it is to mean anything, but this does not imply common ground, that people will be willing to sacrifice their private good for a civic good for such a distinction is, grammatically speaking, meaningless. Antagonism and tension are necessary aspects of a public space within which people as language users evolve not just reasonably at a civic level but erratically, backwardly, transcendently, imaginatively and shockingly.<sup>69</sup> These are the natural facts of communal living. It is forms of life which render our lives coherent and consistent, the bedrock down which the social currents flow, however kaleidoscopically.<sup>70</sup> What Alasdair MacIntyre would call the narrative unity and tradition within which actions gain their meaning,<sup>71</sup> however, are themselves subject to change. We can imagine what it is like for the facts to buck, for a form of life to be otherwise.

Rawls himself is committed to liberalism not because it is expedient or useful but because at a deep level, one which forms the background conditions against which he determines what is right and wrong, he remains a Kantian and does so in the knowledge that there are other forms of life which remain in opposition. Reasonableness is a moral power of persons, not just a prudential method of bargaining, and beyond these moral powers Rawls does not go. He does not reason about which is correct or incorrect, there comes a time when reasoning and justification has an end.<sup>72</sup> Without this certainty there could be no practice of deliberation, no conception of what is a mistake. People must make an irrational commitment to agree on what constitutes rationality.<sup>73</sup>

For everybody always judges and chooses not only within but by means of the particular social-historical institution - the culture, the tradition - which formed him. Indeed, without this he would not be *able* to judge and choose anything.<sup>74</sup>

Castoriadis is expressing here something that Wittgenstein equated with the role of forms of life: we can only ever refer our actions back to the historical specificity of other actions which themselves are only recognized to the extent that other people express them through their engagement with other forms of life. Reasonableness is itself is part of what the agent is committed to.

Rawls, as a committed Kantian, thinks it impossible to move towards what Castoriadis sees as a more "substantive democracy" which recognizes that rather than having highest order interests which are primarily personal people not only formulate their interests through public action, (reasonableness) they live through public space.<sup>75</sup> People are not private individuals able to desist from expressing themselves through certain comprehensively moral forms of life because on occasion they must act as citizens, but individuals *because* they engage in forms of life using the conceptual apparatus of social language users. He is unable to because rather than explicitly accept the need for principles dealing with the qualitative consociational grounds of recognising the need for

conceptual apparatus of social language users. He is unable to because rather than explicitly accept the need for principles dealing with the qualitative consociational grounds of recognising the need for equality between unequals,<sup>76</sup> he prefers to confine such distinctions to the morally irrelevant private sphere for the purposes of politics. If, instead, it were admitted that the expression of identity extends to all forms of life existing in equal relations to each other (in the sense that the political does not pre-empt the religious or social) then we could better justify a sense of human rights as those rules which provide avenues of exploration and discourse. The emphasis upon language use defines a wider, qualitative conception of public space where nothing, including the principles of justice, remains immune from discourse, the grammatical rules (as opposed to the principles of the OP) being regulatory, constitutive and open.<sup>77</sup> Lacking this critical edge, the clashing of forms of life, the development of important aspects of human character, namely "...courage, responsibility and shame" means that, says Castoriadis, "the "public space" becomes an open space for advertising, mystification and pomography."<sup>78</sup>

Rawls is not wrong in his invocation of the two moral powers, they represent a legitimate position, albeit a challengeable one. What I am challenging is his limiting of the idea that language is both constitutive and constituted to the private sphere, preferring to impose the idea of reasonableness as necessary in the public one, when such a division, even on his own terms, is confusing because it conflates the idea of how we are to go about living together as inheritors and creators of differing language games and forms of life, with the idea of necessary principles of action applicable to all language users sought outside of the expression of any one form of life. The latter can, and has, lead to uniformity and claims of ideological supremacy because it claims a birds eye view, an anthropological advantage which seeks to pass judgement upon the practices in which we engage, when really such principles need to be grammatical expressions, internal to how we are. Rawls' idea of reasonableness acts as a constraint in the OP, whereas it can just as well be an enabling good which partially constitutes the autonomy of an individual. Though we cannot each of us have a little parcel of reasonableness as an individual interest to be protected, we can, as participants in a culture that is reasonable, come to enjoy and understand the experience of reasonable living. Reasonableness and tolerance are embodied in a wider us, an aspect of ourselves as having communal interests, and not ourselves with individual interests. Without this distinction between interests we are at risk of suffocating variety through anaesthetisation, the implication of standing outside our context being that such language games as reasonableness are not wholly constitutive of us at all but just games we can drop as communal ones and so remain a self.<sup>79</sup>

#### **4: ETHNOCENTRIC LIBERALISM.**

In addressing the specific question of human rights the new Rawls has seen fit to weaken his commitment to liberalism by linking them not to humans *qua* Kantian moral persons, but human *qua*

members well ordered societies, both liberal *and* hierarchical.<sup>80</sup> Provided such societies are peaceful rather than expansionist, have laws which are sincerely and not unreasonably believed to run in accordance with a common good, acknowledge the right of people as moral players to dissent from and give conscientious replies to orthodoxies, and have a respect for liberty and freedom, then human rights are a necessary minimum standard allowing people to participate in and consult with forms of life. Human rights retain their universality because they are reasonable. This undermines his defence of liberalism because it seeks to negate the influence of grammatical commitment to identity. My interpretation of Rawls in the light of Wittgenstein's views on language goes awry because now it seems Rawls himself is not even prepared to go as far as saying these principles may well not be antecedently true and given to us prior to experience but they still represent those which best express a deep and fundamental commitment to equal respect and concern for the liberty of the human being. This is a direct consequence of his having put the political above not only the philosophical, but also the integrity of the linguistic self, resulting in the attempt to transpose existing ethical principles to a much wider field by diluting their message to the extent that hierarchical societies, by which he means religious ones, can be said to uphold rights provided they behave in the reasonable ways outlined above.

This is taking us in the wrong direction for it ignores the symbiotic connection of agents and their forms of life - the two cannot be separated in any standards of reasonable law. The idea behind using rights is that they provide boundaries enabling us to stand up and be counted as worthy of equal consideration and trust - they allow the claimant to ability to choose what to do in relations with their peers, to desist from hierarchy, to court diversity. Rights as Rawls is seeing them exist as conditions of equalisation when more often than not human rights should be articulating how threatening can be contexts of qualitative inequality - when they have their trust abused and replaced by institutional controls. Elizabeth Wolgast illustrates this point well in her discussion on the position of women in the workplace. Even something like equal rights legislation, which supposedly ensures that no one is discriminated against because of their sex, fails to recognize the influence of distorting factors such as the burden of child-rearing. Instead of attempting to positively respond to this rights assume an equalising role, an attempt to cover over the differences:

Common-sense would say that pregnancy isn't an illness but a strenuous productive period culminating in new responsibilities for a creature whose existence is fragile and who requires care to survive. But the model [of individual equal rights] can't admit this description. The dignity of the rights holder brings no dignity to the condition of pregnancy or to the occasion of childbirth.<sup>81</sup>

Rights-speak assumes we should attempt to iron out distinctions between us by postulating some form of veil of ignorance behind which more and more of us are to sit, when this equalising of interests condition is the very problem human rights should be addressing. If human rights are to

protect the autonomy of people in their exercise of the two moral powers then they cannot escape having to address the interests of those people. These interests are not of the same type, there are distinctions between my having what Waldron calls a "communal interest"<sup>82</sup> in being a member of a tolerant society and a particular interest in my being free from torture or discrimination. This suggests that rights language, if it is legitimate at all, should be emphasising the qualitative differences between things: men/women, doctor/patient, human/animal, parent/child, species/environment and culture/universe. At times it has a tendency to bewitch us into thinking that ethical progress equates with generalisation of condition when in actual fact such a rendering of universality leaves us with little more than an ideal-type into which we try and stuff everyone on the whole planet.

The problem of universalising rights has prompted Richard Rorty to grasp what he sees as the nettle by the hand in not only accepting the inevitability our ethnocentric outlook and the lack of any single notion of the truth, shown to us by philosophers such as Wittgenstein, Heidegger, Dewey and Davidson, but by revelling in this casting off of the universalist, abstract shroud and standing proud in his "fuzzy" philosophical nakedness. He says that the search for independent justifications in atomized selves, for representations of what is true justice, involves asking meaningless questions. The way from the fly bottle is not to ask those questions which require us to stand outside of human needs for the purpose of their assessment. As such true beliefs about justice lie not in accurate representation of external reality but in secure and coherent adaptations to a specific environment manifest in a regular and successful interaction.<sup>83</sup> There is no receptacle to which value is attached, the self

"is a network that is constantly re-weaving itself in the usual Quinean manner - that is to say not by reference to general criteria (for example rules of meaning or moral principles) but in a hit-or-miss way in which cells re-adjust themselves to meet the pressures of the environment."<sup>84</sup>

This suggests that the only way of changing cultures, attitudes and practices is by using existing language in new and surprising ways, rather than through any appeal to external values which taps a common undercurrent to the whole of human action, and this demands an open, tolerant and plural society.

Rorty is moving on from Rawls' later work here; he not only denies the validity of appeals to abstract realms of perfect justice which can be used to arbitrate what constitutes fact, he is denying the relevance of human rights based political theory as a whole. Whereas Rawls stops at an amended version of Kant's practical reasoner Rorty tries to dispense with even that and takes the final leap into the survivalist ethic of pragmatic justice - what is just is what works. This pragmatism seemingly arises from the Wittgensteinian urge to dispense with quests for the true nature of concepts; his philosophy is an attempt to help us resist the constant urge to ask what it is that legitimates our judgements, practices and actions. What Wittgenstein has shown is that truth lies in

language games which themselves are reliant upon beliefs which arise not from the rational application of pre-ordained criteria but from shared practices, natural habits and the learning of public rules; rationality becomes an adaptive rather than truth determining action. It is this recognition which lies behind the pragmatic view of life which places theoretical justifications in the sentimentalist dustbin and which sources certainty in objects of commitment and purposes, in existing practices.

Rorty's challenge to those who accuse pragmatism of relativist leanings bases itself on the Wittgensteinian insight that the issue is not one of establishing the definite truth of anything at all. Whilst there is no single essence to human nature, no self prior to or capable of choosing all their own ends, no individual separate from their language games, this is in no way an argument for hermetically sealed off cultures each determining the consciousness of their individual members. Cultural webs of belief are open, rules of action, as Wittgenstein said, are flexible, and people can and do re-weave their beliefs to understand the practices of others, we can engage "discursively", to use Rorty's term, with other cultures<sup>85</sup> and within our own culture, through the paradigm breaking activities of poets, novelists, activists, in order that what comes to constitute truth is itself a changing phenomena. This does not herald a convergence of belief, but rather a proliferation of varying accounts of truth based upon informed discussion.

Pragmatists, says Rorty, are honest, they justify values such as toleration, autonomy, and openness not on the basis of some objective, universal notion of rationality, but because as values which work well in their established language, from their viewpoint. We justify all aspects of our living on the basis of how they help us organize our activity and anticipate our experiences. This is an admission that we are creatures of history, there is no real essence hiding behind our partial historical selves, rationality is not the ahistorical invariant the *Philosophe* thought it was. It is also an admission, though, of Dostoevski's belief that if god is dead then everything is permitted, that nothing is sacred, everything is up for grabs.<sup>86</sup> Thus, rather than trying to recognize the importance of culture to values and yet hoping that, in giving a community special minority rights, it might aid its assimilation into the dominant liberal paradigm, Rorty sees pragmatic liberalism as encouraging open discussion between cultures which yet remain distinct, though never in any concrete or absolute sense.

Rawls' original conception of justice, which invokes acultural rational parties in language games of choice from all possible social principles and in a neutral position of reflective equilibrium, would seem in direct contradiction to the pragmatist rejection of neutral birds eye views, its affirmation of perfectionism and its affiliation with ethnocentric. But Rorty claims that although Rawls may not accept it, he is a pragmatist in implication if not in intention, and the changes made in his later work represent a shift towards his recognising this. That justice as fairness places such emphasis upon the intuitive basic ideas and levels of development found in modern, liberal, democratic societies is a tacit recognition that the axioms of toleration, autonomy and openness are historically and locally rooted. Justice becomes a first principle, not because it identifies with an extra-political rationality or morality, but because we, as agents in our social context, have grown used to having a society which sees its main motivation as the reconciliation of individual, autonomous actions

through various values such as toleration and social institutions such as the market mechanism and constitutional government.<sup>87</sup> Thus, what constitutes "good" for Rawls, what is just, is not part of an antecedent metaphysical order but the result of inter-subjective agreement between historically contingent local agents about what is reasonable for them. Liberal democracy is, in Wittgensteinian language, the mythology of Rawls which lies beyond justification, it represents the limits of his historical lineage.

## **5: THE CONSEQUENCES OF PRAGMATISM FOR HUMAN RIGHTS.**

The pragmatic outlook rejects the idea that underlying the varied individuality of human beings there lies a single essence, a natural core upon which rights respected in humans *qua* humans are focused. If, then, I accept Rorty's "fuzzy" vision of humans being characterised by webs of beliefs, that "there is no natural order of justification and beliefs, no predestined argument to trace."<sup>88</sup> then there seems to be nothing left upon which human rights can get a grip. Indeed the whole notion of a universal aspect to human nature becomes meaningless because of its lack of a contextual, i.e. non-metaphysical home. The liberal ontological self, as Rorty sees it, is characterized by fluid networks, but ones contained within certain definite edges constituted by such axioms as equating of non-liberals with the "mad". Rorty accepts this perfectionism as necessary, despite his belief that it may lead to irreparable schisms in outlook:

The view that human beings are centre-less networks of beliefs and desires and that their vocabularies and opinions are determined by historical circumstance allows for the possibility that there may not be enough overlap between two such networks to make possible agreement about political topics, or even profitable discussion of such topics.<sup>89</sup>

In other words, Rorty, as a liberal, may come across those, say, with Nietzschean aspirations to assert their will over all others, to rise above the contingency of the everyday, to realize a self-overcoming, or maybe religious fundamentalists who envisage a monolithic, hierarchical universe to which everything and everybody must acquiesce, and he, as a good liberal, will deny the relevance of liberalism to these types; their exponents in no way constitute that body of people to whose rights to autonomy should be respected; they do not belong in the liberal reflective equilibrium, and in that sense can attach no meaning to the notion of human rights and their relevance. There is no connection between us and them, a super-community in which we share the same language, norms and so on. In appealing to the mawkish, universalist sentiments of commonality those invoking human rights are refusing to recognize the post-modern condition which dispenses with appeals to meta-narratives. Liberalism is not to be justified by appeals to metaphysics, it lies beyond

justification and is to be defended on its efficacious historical record at promoting a framework of open rules within which people can develop autonomously and tolerate other cultures so long as they do not impose on others. Rights cease to be the rights of all humans and become practices of a local and ethnocentric though expanding community based upon what we, as liberals, see as necessary to justify ourselves, as what it is good for us to believe.

Rorty's deconstruction of the liberal attempt to provide such a justification, reveals the supposed inevitability of this contingent position and concludes, rather negatively, that in no way can human rights, as universal constructs of theory applicable across all cultures, exist. There is thus a switch in assertion from that stating the impossibility of justification lies in the meaninglessness of such language-independent forays, to that stating the impossibility of the theoretical existence of *sui generis* metaphysical justification because of the contingency of one's narrative position. It is how this narrative condition is viewed which remains at issue.

**Notes:**

<sup>1</sup> BB pp. 17-19.

<sup>2</sup> Human rights are not crudely individualistic, neither the province of egoistic man nor the concept of forbearance make any sense outside of the social, economic and cultural contexts in which they are expressed. They retain a refined individualism, however, even when they articulate claims for an agent's inclusion in the body politic such as the rights to vote or associate, because these claims are made sense of and justified in relation to the importance of individual interests. (see J. Waldron "Liberal Rights" - op.cit - p.344.)

<sup>3</sup> Cornelius Castoriadis - "The Nature and Value of Equality" in "Philosophy, Politics and Autonomy", Oxford University Press, 1991, pp.141-142.

<sup>4</sup> BB - p.143.

<sup>5</sup> The IMF and World Bank use human rights conditions as relevant criteria for loan decisions, as do many governments for the creation and expansion of international organisations (e.g. Turkey's attempts to join the EEC; The U.S.A's linking of most favoured nation trading status with human rights records in China).

<sup>6</sup> The UN Declaration and Covenants are unclear as to what constitutes such an emergency or threat to a nation thus giving rise to the possibility that under certain extremes all rights, even the supposedly non-derogable rights [to life; to be free from torture and degrading treatment; the prohibition of slavery; and the prohibition of retroactive criminal punishment] are at risk. Even the most basic of these, the right to life, is made contingent to certain contexts such as war, age, sex or lawful punishment. This practical admission of the derogable character of human rights allows all signatories of The Declaration the potential for their "legitimate" suppression, thereby undermining somewhat their supposed fundamental and inviolable nature. (A full discussion of the legal ramifications of states of emergency upon rights is found in Joan Fitzpatrick's "Human Rights in Crisis", University of Pennsylvania Press, 1994, pp36-73.)

<sup>7</sup> There need not be anything wrong in envisaging people as in a state of nature, or contractual equilibria, but this need not be the *only* way of seeing the concept. "Language is a labyrinth of paths. You approach from *one* side and you know your way about; you approach the same place from another side and no longer know your way about." (PI - §203).

<sup>8</sup> The concept of negative rights implies that nothing more is required of others in relation to the rights claimant than forbearance, the duty not to interfere, whereas this language game of respect very often requires the use of many resources: police, systems of law, diplomatic treaties, institutional buildings and so on. (See Henry Shue "Basic Rights", Princeton University Press, 1980, pp. 35-64.)

<sup>9</sup> Ronald Dworkin sees such equality of respect and concern as the fundamental tenet of liberal thinking - only through such equality can we recognize liberty. (See "Liberalism" in his "A Matter of Principle", Cambridge, 1985, pp.188-192.)

<sup>10</sup> "For if the law is such that a whole people could not *possibly* agree to it (for example, if it stated that a certain class of *subjects* must be privileged as a hereditary *ruling class*) it is unjust; but if it is at least *possible* that a people could agree to it, it is our duty to

consider the law as just, even if the peoples at present in such a position or attitude of mind that it would probably refuse its consent if it were consulted." (Kant quoted in J. Waldron - op.cit - p.52) Our individuality and reason is given prior to social relationships of power and subordination and so ethical law is independent of existing conceptions of the good, it is based on reason alone, and this secures the primacy of human rights. The individual as rational, as moral, is seen somehow as separate from the individual as experiencing everyday life. (see V. Seidler "Kant, Respect and Injustice", R.K.P., 1990, Ch.8)

<sup>11</sup> J. Waldron - op.cit. - p.345.

<sup>12</sup> see Brian Barry "Manuscript: Vol. II" Ch.8, pp.33-34, forthcoming.

<sup>13</sup> Power relations, as Foucault shows in "The Subject and Power" - op.cit - are necessary to any existing society and presuppose the existence of free choice. Hobbes recognized that for freedom to exist at all there must be some control, though he envisaged such control in physical terms, emphasising the might of Leviathan as opposed to compliance and agreement of its subjects. Foucault recognizes that power is based upon active consent, something previously recognized by William Godwin in "Political Justice": "Men at present live under any particular form [of government] because they conceive it in their interests to do so. One part indeed of a community or empire may be held in subjugation by force; but this cannot be the personal force of their despot; it must be the force of another part of the community, who are of the opinion that it is in their interests to support his authority. Destroy this authority and the fabric which is built upon it falls to the ground. It follows therefore that all men are essentially independent" (quoted in G. Woodcock - "William Godwin" - Porcupine Press, 1946, p.54.) Power relations become rules of choice and commitment. Foucault speaks of power relations which "consist in guiding the possibility of conduct and putting in order the possible outcome." (op.cit - p.427), Power is a way of acting upon subjects who are themselves agents or capable of agency and so requires more than just physical determination, it requires linguistic assent. Language use involves the possibility of choice, of resistance, of meaningful commitment to the differentiation's, objectives, institutions/practices, and instruments which form the "block" of power relations in any one community. Human rights, then, are not solely informed by issues of freedom from tyranny, but also involve commitments to specific power relations or hierarchies which go to make up specific contexts. This reveals the importance of placing the subject within historical conditions and to do this we must not use general abstract concepts like human nature or rationalisation, but look at the context of conceptualisation, look at specific forms of rationality or nature.(see - *ibid.* - pp.418-420) Human rights, then, determine specific fields of possible ethical action in inter-subjective relations which are as much rooted in history, society, culture and economics as they are in biology.

<sup>14</sup> International treaties, conventions, custom, adaptation, accession and ratification all coalesce through negotiation to form modern human rights law adhered to by nation states in consistent and conscientious good faith. Human rights law reflects common standards to be aimed for and adhered to by all nations. These standards are becoming increasingly binding because of the increase in the number of times the Universal Declaration is cited as custom; because of the 1968 Tehran proclamation that the Declaration constituted an obligation on all signatories; and because articles 55 and 56 of the UN Charter say that states must take joint and separate action to strive for universal respect for and observance of human rights and fundamental freedoms. (See Paul Sieghart, "The Lawful Rights of Mankind", Oxford, 1986, Ch.6.)

<sup>15</sup> Michael Freeman "Liberalism, Socialism and Human Rights", Paper delivered to Human Rights conference at Sofia University, 14-15 Nov.1991, p.18.

<sup>16</sup> see, for example, T. Adorno *et al* "The Authoritarian Personality", 2 Vols., Harper Row, 1964. This was a study undertaken to examine why the "authoritarian" personality threatens to replace the "democratic" and "individualist" types and how this "threat" can be contained (taken from Pref. by M. Horkheimer).

<sup>17</sup> Universal Declaration (1948), preamble.

<sup>18</sup> Bernard Williams says this Kantian omission of character is a condition of their calling for the supremacy of impartial, universal justice. To have substance life must have a hold of something, deep attachments which inevitably run the risk of running up against the impartial view. Without these language games there will not be enough substance in character to compel people to live in the first place. We cannot make morality immune from chance, luck or conflict by abstracting from our sensible selves without reducing those selves to mere husks of what it is to be a human being attached to language games. ("Persons, Character and Morality" in his "Moral Luck", Cambridge University Press, 1981, pp. 1-19)

<sup>19</sup> Stanley Benn "A Theory of Freedom", Cambridge University Press, 1988, pp.92-98.

<sup>20</sup> Tom Regan "The Case for Animal Rights", Routledge, (1984) 1988, p.236.

<sup>21</sup> Joel Feinberg "Social Philosophy", Prentice Hall, 1973, Ch.6 where he talks of worth being a non-meritous, non-grading concept attributable to those able to perceive of themselves at a meta-level and so be able to follow the rational precepts of the Golden Rule.

<sup>22</sup> see Stanley Benn "Human Rights: For Whom and for What?" in E. Kamenka and S.Tay (eds.) "Human Rights", p.59.

<sup>23</sup> Robert Nozick "Anarchy, State and Utopia", Basil Blackwell, (1974) 1988, p.168. However, Pascal ("Pensées, trans. J. Warrington, Everyman, 1973,) took a diametrically opposed view to this, believing us capable of "loving no one except for borrowed qualities" (167) which are perishable, contextual and interpretable. That we cannot explain love does not imply the absence of historically favoured attitudes on aesthetic and ethical qualities - indeed Pascal warns us that as selves we tend to be both unjust, because we wish to make our self the centre of all things, and disagreeable, because to do so we wish to enslave others. (141) To do this we attempt to live imaginary lives in others, minds - wishing to be seen as loveable, generous, courageous etc. This search for esteem invokes the use of historically and socially conditioned characteristics which do influence the way we see others. Nozick, in his comments on love, is adopting one of these ways; the one championed by many liberals which has it as laudable to see the subject as essentially and identifiably distinct from their cloak of cultural characteristics.

<sup>24</sup> R. Dworkin - op.cit - p.48. People should be able to give content to their own lives by making their own commitments to act, to take on responsibility based upon critical self reflection and to be morally autonomous, something which involves people, in the Kantian sense of using their practical rationality, in determining for themselves the nature of moral reasons and principles upon which they should act.

<sup>25</sup> The liberal maxim is that for the purposes of justice people should be regarded as equal. The emphasis upon equality is most often linked with Kantian practical reasoning in the categorical imperative that we have a duty to recognize the free and equal status of all intelligible selves. In biological terms the consequent morality persists because it is rational to recognize that human homeostasis (self control) extends itself from each natural person to a concern for an ordered community which itself is dependent upon restraint and respect for the equal position of others. Human life depends upon co-operation, effective communication and information systems and the ability to adapt, all of which relate in some way to a principle of equality. (see J.Z Young "The Philosophy and the Brain", Oxford, 1986, p.191.)

<sup>26</sup> BB - §17, p.88.

<sup>27</sup> PI,ii, ix.

<sup>28</sup> BB - pp.15-19.

<sup>29</sup> Heidegger quoted in R. Pippin "Modernism as a Philosophical Problem", Basil Blackwell, 1991, p.122.

<sup>30</sup> Ordinary language is very rarely used in accordance with a strict calculus - the fact that we cannot clearly circumscribe the use of concepts is not because we do not know their definitions but because there is no "real" definition and "To suppose that there *must* be would be like supposing that whenever children play with a ball they play a game according to strict rules" (BB - p.27.)

<sup>31</sup> see M. Foucault "Nietzsche and the Genealogy of History" in P.Rabinow (ed.) "The Foucault Reader" -op.cit - p.84. Class is not restricted to property qualifications, it refers to all instances of hierarchy be they traditional, ritualistic, family based or economic. There need be no continuity to these classes, they are of a diverse and variant nature.

<sup>32</sup> Amy Baker "The Psychological Underpinnings of Nietzsche's Doctrine of the "Will to Power"", MSc Philosophy Thesis, L.S.E, September 1992, p.6.

<sup>33</sup> Nietzsche calls the capacity the "plastic power" to incorporate in themselves what is past and foreign, the ability to heal wounds, to adapt and, above all, to draw clearly marked horizons, limits to the self. (F.Nietzsche "On the Uses and Disadvantages of History for Life", in "Untimely Meditations", trans. R.J. Hollingdale, Cambridge University Press, 1983, p.62-63)The plastic art is being sensitive to when it is appropriate to act historically and when it is appropriate to act unhistorically. To act out of intense consciousness, according to some intense, divine meaning from within needs to be seen in conjunction with the act of historical awareness, our appreciation of the linguistic and partial struggle of living with a narrative past. The living self with its inner drive to construct and the historical narrative must live in equilibrium.

<sup>34</sup> R. Pippin - op.cit - p.127.

<sup>35</sup> A. Baker - op.cit - p.34.

<sup>36</sup> C. Castoriadis "The Social Historical" - in op.cit - p.38.

<sup>37</sup> Ibid. - p.39.

<sup>38</sup> C. Castoriadis in "Individual, Society, Rationality, History" - in op.cit - pp.62-65.

<sup>39</sup> Ibid. - p.77.

<sup>40</sup> M. Foucault "The Subject and Power" - op.cit - p.419.

<sup>41</sup> in R. Monk's biography of Wittgenstein (- op.cit - p.282.) there is a reference to the sympathetic attitude Wittgenstein took towards "spiritual" thinkers such as Heidegger who found themselves at the edge of language, points where we can go no further, they become engaged in a struggle with language in which they need to recognize "The limit of language is shown by its being impossible to describe the fact which corresponds to (is the translation of) a sentence, without simply repeating the sentence." (CV - p.10e).

<sup>42</sup> John Rawls "A Theory of Justice", Cambridge, 1971, pp.302 - 303.

<sup>43</sup> J. Rawls "The Basic Liberties and Their Priority" in S.M. McMurrin (ed.) "Liberty, Equality and the Law: Selected Tanner Lectures on Moral Philosophy", Utah: Cambridge University Press, 1987.

<sup>44</sup> Rawls equates them to members of a family where no single element is superior but has to adjust to one another in order to guarantee their central range in the protection of the moral powers. (Ibid. - p.72)

<sup>45</sup> Ibid. - p.21.

<sup>46</sup> Ibid. p.14.

<sup>47</sup> R. Dworkin quoted in Will Kymlicka "Liberalism, Community and Culture", Oxford, Clarendon Press, 1991, p.p.10.

<sup>48</sup> J. Rawls - op.cit - p.22.

<sup>49</sup> R. Pippin - op.cit - p.127.

<sup>50</sup> Percy Lehning "Liberalism, Neutrality and the State." MS, p.9.

<sup>51</sup> see Rawls in P. Lehning - op.cit - p.7.

<sup>52</sup> J.S. Mill "Spirit of the Age" in G. Williams (ed.) "J.S. Mill on Politics and Society", Fontana, 1976, pp.170-178.

<sup>53</sup> J. Rawls "A Theory of Justice" - op.cit - pp.447-477.

<sup>54</sup> J. Rawls: "Justice as Fairness: Political not Metaphysical" - *Philosophy and Public Affairs* Vol. 14,3, 1985, pp. 223-251; "The Idea of the Overlapping Consensus" - *Oxford Journal of Legal Studies*, Vol.7,1, 1987, pp. 1-25; "The Priority of Right and Ideas of the Good" - *Philosophy and Public Affairs*, Vol. 17, 4, 1988, pp. 251-276; and most recently his publication of "Political Liberalism", Columbia University Press, 1993.

<sup>55</sup> Stephen Mulhall and Adam Swift - "Liberals and Communitarians", Blackwell, 1992, pp.170-173.

<sup>56</sup> see J. Rawls in "The Idea of an Overlapping Consensus" - op.cit - p.6.

<sup>57</sup> Ibid. - pp.4-6.

<sup>58</sup> Rawls "The Basic Liberties and Their Priority" - op.cit. - p.55. Here Rawls is echoing Thomas Paine's insistence that a constitution is antecedent to a government; that it consists of a body of elements to which the government ought to refer when acting. (see "Rights of Man", Penguin, (1791) 1984, p.71) The OP assumes the character of a convention meeting to decide upon a constitution.; those reasonable strictures which will bind the rational actions of a civil government.

<sup>59</sup> S. Mulhall and A. Swift - op.cit - pp.188-190.

<sup>60</sup> Ibid. - p.193.

<sup>61</sup> Ibid. - p.202. The primary goods are specific to those needs of citizens in a constitutional democracy irrespective of the content of their conceptions of the good. This goes some way to meeting Sen's criticisms that because people are unequal in their attributes, eclectic in their tastes, diverse in their up-bringsings the consequent diversity of ends precludes the applicability of any "objective" equal distribution of goods as fair and equal. (Amaryata Sen "Justice: Means versus Freedom" in *Philosophy and Public Affairs*, Vol.19, 1990, pp.111-121.) Sen criticises Rawls primary goods for failing to account for the heterogeneity of people and he proposes that instead of concentrating upon what is distributed one needs to look at the use of what is distributed, at enabling capabilities.(op.cit) Rawls' ontological rooting of primary goods rests in a single aspect of this heterogeneity, and the only one where people can be said to be equal, in their role as citizen. They are not applicable to people in all their walks of life nor to all societies.

<sup>62</sup> P. Lehning - op.cit - p.9

<sup>63</sup> S. Mulhall and A. Swift - op.cit - p.187.

<sup>64</sup> J. Waldron - op.cit. - p.191.

<sup>65</sup> see G. Robinson "Language and The Society of Others" in *Philosophy*, Vol. 67, 261, 1992, pp.329-441.

<sup>66</sup> Z - §320.

<sup>67</sup> Michael Sandel "Liberalism and the Limits of Justice.", Cambridge University Press, 1982, p.49.

<sup>68</sup> PI - p.226e: "What has to be accepted, the given, is - so one could say - *forms of life*."

<sup>69</sup> Thinkers like Machiavelli and Mill also found the interplay of critical ideas, the antagonism between groups, the open-endedness of purposes and techniques as integral to the promotion of good living. *Virtu*, felt Machiavelli, could only be kept alive through the

vigorous vigilance necessary in the face of opposition, only then are people not taken in by the whims, hostilities, and capricious nature of *Fortuna* it is through struggle that meaning is given to ethical creeds (see Mill "On Liberty", Everyman, 1954, p.99), without the challenge of open discussion they are dead, habit forming. In no longer having to defend the truth it loses its focus. (p.104)

There is almost an alchemical analysis going on here whereby through collision and chaos we get purity and clarity

<sup>70</sup> "Consider the river in spring. It rises until it grows mightier and nourishes more richly the soil on the long stretch of its banks, still maintaining its own course until it reaches the sea ... But after that the river overflows its banks, loses outline and shape, slows down the speed of its current, tries to ignore its destiny by forming little seas in the interior of the land, damages the fields, and yet cannot maintain itself for long in its new expanse, but must run between its banks again, must even dry up wretchedly in the hot season that presently follows - Thus far may you urge your meditations upon the high command." F. Kafka "The Great Wall of China", Penguin, 1986, p.73.

<sup>71</sup> see S. Mulhall and A. Swift - op.cit - pp.86-91.

<sup>72</sup> PI - §326.

<sup>73</sup> W. Heisenberg "The Philosophy of Physics" - op.cit. p.

<sup>74</sup> C. Castoriadis "The Greek Polis and the Creation of Democracy" in - op.cit - p.100.

<sup>75</sup> C. Castoriadis "The Nature and Value of Equality" in - op.cit - pp.121-123.

<sup>76</sup> Murray Bookchin, in "The Ecology of Freedom", Black Rose Books, 1991 (revised edition), distinguishes between justice, which he sees as formal equality before the law and the ethics of intellectual reason, and substantive equality which recognises the subjectivity and heterogeneity of peoples. Contract theorists like Rawls standardize everything to the level of rational egoism - we all display maximin rationality, we all have equal access to social knowledge, we are all in possession of the two moral powers, and so on. Such homogeneity, argues Bookchin, ignores the very real distinctions between people. real justice should recognise the differences, the variety and complexity within the *polis*. Bookchin is making an important point; when the rule of equivalence ceases to be an issue of compensation (because, rather than looking at the differences between people and compensating them it emphasises their similarities) and becomes one of balance inequalities can arise through the fetishisation of needs by envisaging them in purely material terms. ( pp.142-147)

<sup>77</sup> Sylvia Benhabib discusses this widening of the political through the process of the hermeneutic condition in her "Situating the Self", Polity Press, 1992, p.107.

<sup>78</sup> C. Castoriadis - "The Greek Polis and the Creation of Democracy" - op.cit - p.113.

<sup>79</sup> see J. Rawls in "Justice as Fairness: Political not Metaphysical" - op.cit - p.249.

<sup>80</sup> J. Rawls "A Law of Peoples", Oxford Amnesty Lecture, given at The Sheldonian Theatre, Oxford, 12-2-93. Also J. Rawls "The Law of Peoples" in S. Shute and S. Hurley (ed.s) "On Human Rights", Basic Books, 1993, pp41-82.

<sup>81</sup> Elizabeth Wolgast "The Grammar of Justice", Cornell University Press, 1987, p.41.

<sup>82</sup> There are goods which can only be enjoyed as part of group consciousness. Individuals, though they relate ourselves to these goods in a specific way, experience it as an aspect of others' similar experience. The worth of the experience is inseparable from the group. J. Waldron "Communal Goods as Human Right" in op.cit - pp.354-358.

<sup>83</sup> R. Rorty in "Introduction" to "Objectivity, Relativism and Truth" - op.cit - p.10.

<sup>84</sup> R. Rorty in "Postmodernist Bourgeois Liberalism" in Ibid. - p.199.

<sup>85</sup> R. Rorty ""Solidarity and Objectivity" in Ibid. - p.27.

<sup>86</sup> Jane Heal "Fact and Meaning" - op.cit - pp.121-123.

<sup>87</sup> R. Rorty in "The Priority of Democracy to Philosophy" - in op.cit - p.184.

<sup>88</sup> Ibid. - p.193.

<sup>89</sup> Ibid. - p.191.

## Chapter Five

### THE DIGNITY OF ORDINARY LANGUAGE

I tell you I had rather be a swineherd upon the flats of Amager and be understood of swine, than be a poet and be misunderstood of men. *Kierkegaard*

For a certain view of history, it is the prose-writer, the painter, the thinker, who fascinates; in the same way, our gaze is always drawn towards the summit of the mountain, neglecting the fact that it only exists because of the mass and anti-vertical thrust which sustain it. The very possibility of that rich and condensed creation which constitutes new expression is dependent upon that paradoxical and perpetually renewed operation whereby "the successive and simultaneous community of speaking subjects" creates itself by demonstrating its capacity to absorb the new.

*C. Castoriadis "The Sayable and the Unsayable" in "Cross-roads in the Labyrinth" -  
op.cit - p.138.*

#### 1. THE PRAGMATIST POSITION.

The dissolving of Cartesian dualism, the denial of a trans-cultural essence to human nature and the anti-foundationalist emphasis upon meaning as use are positions adopted by Rorty under the assumed sanction of, amongst others, the later Wittgenstein. But in recognising them as legitimate is it the case that we have to end up at the pragmatist's door, willing to dispense with our "metaphysical" baggage of ethically compelling universal concepts in order that we may entertain the comforts of liberal living free from guilt? Is the only exit from the universalist/private dichotomy found in the embrace of inevitably conflicting cultural pluralities? By accepting that pragmatist philosophy which roots meaning, including ethical maxims, in the linguistic regularity established between culturally specific intentions, then appeals to meta-narratives which transcend cultures to ground human rights, such as inherent human dignity, can never escape from the linguistic specificity of the liberal context in which they were first used. As universal concepts human rights do not work. As cultural practices in established or aspiring liberal democracies they do. Ethics is spoken in the vulgar tongue, it is that which accords with the common way of seeing things. Feelings like dignity, honour and a sense of worth arise from group or cultural contact rather than because of some holy ambience surrounding the nature of all human beings. They are linguistic constructs used according to grammatical criteria which are themselves beyond justification, there is nothing outside of their rules of use which can be used to assess their correctness,<sup>1</sup> and only recognisable, indeed only present, amongst the clashing

of cultural paradigms. They are aspects of heterogeneous forms of life and not something running *sui generis* which we can use as a key stone to theories of universal human nature.

This is the pragmatist philosophy. The conscious sense of willing seen by Descartes and Kant as the central subject matter for ethical reasoning is replaced by appeals to actively develop the volitional dimension of human experience manifest in how we communicate with each other - we make judgements concerning beliefs not on the basis of theory or truth but in the light of their perceived efficacy at promoting linguistic contact:

We should restrict ourselves to questions like "Does our use of these words get in the way of our use of those other words?" This is a question about whether our use of tools is inefficient, not a question about whether our beliefs are contradictory.<sup>2</sup>

We can dispense with transcendental appeals not only on a philosophical level, but also on a material one, because since the time of Kant and the Enlightenment we liberals have witnessed a surge in well-being coupled with an expanding technical knowledge such that we no longer need to reach behind non-historical facts for knowledge of our essentialist, asocial nature.<sup>3</sup> It does not matter that we cannot "look behind" the liberal world because, fortunately, everything remains largely hunky dory within it. There are no reasons for using languages in addition to the reasons found within any such language for believing propositions.<sup>4</sup> Rationality becomes synonymous with internal coherence such that people are rational only to the extent that they are recognized as people *in situ*. Respect and concern for inherent equality between people is itself a cultural product and liberalism, to the extent that it is pragmatic and recognizes this clan-riven world, is able to dispense with appeals to reason and substitute them with calls for stability, for the free conditions of life enjoyed in the West, and for sympathy towards the plight of those in other cultural homes who, nevertheless, have friends, mothers, homes and feel pain like ourselves.<sup>5</sup> We decide to stay liberals not because we are committed to an abstract metaphysics of rights discoverable through pure reason which yields synthetic, *a priori* knowledge; such foundationalist vocabularies are in fact "just another set of little human things"<sup>6</sup> which we use as part of a contingent language, but because it promotes a tolerance amongst pluralities, diminishes cruelty, promotes government by consent and, above all, sees truth as the outcome of free and open discussion over time - a process rather than a state.<sup>7</sup> The pragmatic liberal self is one characterized by a centreless web of beliefs and desires woven using strands of common sense and what Rorty sees as our final vocabulary: those language games used for ethical and narrative background conditions of certainty. These conditions are never absolute, rather they are those non-falsifiable beliefs dependent upon common linguistic commitments manifest in the orthodox language games of the time and place in which we find ourselves.

There are those, however, who experience what Rorty can at times imply is the harsh condition of knowing their ultimate contingency. People for whom doubt comprises the very core of their being and who respond to such uncertainties by creating and recreating themselves through private linguistic originality. These people Rorty calls ironists; people being to some degree in a state

of permanent distinction from the processes of socialization whilst still being, in public, committed to those processes. Irony actively recoils from final answers, principles and states of being presupposing as it does the inevitability and desirability of a continual plurality of non-hierarchical conceptions of what is and what is not good. The ironist is resistant to the Kantian urge to demarcate the role of ordinary language into mutually exclusive sub-grammars of ethics, science and art within which it may be possible to refine or condense more truthful ways of speaking. The ironist is a linguistic hero, one who resists the evil forces of metaphysical speculation and champions the use of novel possibilities and metaphor from within the social milieu.

The consequence for Rorty's view of liberalism is that rather than encourage a rational convergence towards subjective or intersubjective institutional power flows, the aim of justice is to maximize those conditions within which people can best come to terms with the inevitability of the given plurality of experience and yet maintain a sense of stability. Liberal institutions should try to ensure that the flux of personal contradiction and incompatible language games continues by refusing to impose any one narrative system upon others. This they do by remaining firmly public in nature, concerning themselves with an appreciation of the pain of humiliation caused by social programmes, especially those seeking to impose either a doctrine of truth or encourage a movement towards the idea of greater truth. Liberalism cannot be proved correct by laying claim to the support of self-evident truths, rather it employs sentimental education aimed at persuading people that our similarities in condition outweigh our differences; such education points to what we *do* and not to what we are or may be. Socialisation along these lines should be encouraged. Should it, however, stray into the private realm it should be resisted at all costs lest it stifle the possibility of poetic self-assertion and encourage the humiliation of being defined by others. As linguistic creatures we define our individuality through commitment to language games none of which should be seen as privileged. Language games vary in terms of perspicuity, efficiency, vision but not in terms of their being able to access outside reality with more or less success.

On this pragmatist account ethical history is accounted for not by the development of an ever closer union with some innate, natural quality or communion with eternal forms but as the outcome of the contextual actions of great poets, revolutionaries, painters etc. who are able, through great imaginative leaps, to manipulate their historically contingent language (formulate conceptual novelties), to shift the focus of language games and so, through the influence of their charisma, institute the beginnings of new practices; norms to which the rest of us become committed to through use. Truth becomes whatever we ultimately believe or find consistent. Philosophy and rational discourse are confined to being mere clarifiers of such imaginative vision. This argument Rorty bases on Wittgenstein's insistence that all languages are human creations.<sup>8</sup> Most people cannot attain such autonomy from the contingencies of their language by being at the vanguard of practice formation and, in any case, thinks Rorty, autonomy is not the sort of thing that can be embodied in social institutions as indicative of freedom,<sup>9</sup> liberty is present in the recognition of one's contingent position and is translated to the *conscience collective* through narrative use. Being caught within the linguistic web of our own form of life is something which for most of us lends stability and coherence to our

lives. For some, however, this stability is stultifying. These are they that Rorty calls "ironists", a person who is "trying to get out from under inherited contingencies and make his own contingencies"<sup>10</sup>. They are ironic about specifics, dispensing with all appeals to metaphysical purity they are concerned solely with changing what institutions they adopt by wrestling with *Fortuna*, or what Rorty calls "time and chance", rather than in trying to avoid or ignore it.<sup>11</sup> It seems that through this ironic progress we embrace the potential for betterment, but we must be eternally on our guard for fear of falling complacent, of becoming too certain and static.<sup>12</sup> For Rorty autonomy is not something we all, or even most of us, possess in the private sphere; but this is not necessarily as a result of institutional power flows, but rather a lack of grammatical sensibility. So long as institutions at the public level concentrate exclusively upon the alleviation of cruelty, then it is possible for ironists to continue to operate at the private level in order to redescribe language games and so provide people with access to the possibility of self-assertion.

The role of ironists as iconoclasts<sup>13</sup> means those institutional planks upon which a society is based are always up for grabs, there are no immutable positions to which they must conform - as long as there are some "planks" remaining upon which to "stand" then change, albeit piecemeal, is always an option. Pragmatism recognizes that we always need some assumptions/concepts which remain firm when deliberating, but holds that such assumptions can be deconstructed, providing that there is always enough and as good left unchallenged, upon which we can keep "afloat", it does not actually matter what that enough is - everything is open to judgement because of the possibility of an ever extending variety of languages. Thus, *contra* empirical realism, Rorty does not see the world as determining one and only one correct set of thoughts/ practices/ institutions, nor does he see humans as able to reach some form of universal, rational or ethical agreement based upon a single notion of the self:

What our future rulers will be like will not be determined by any large, necessary truths about human nature and its relation to truth and justice, but by a lot of small contingent facts.<sup>14</sup>

There is no one correct way of seeing the world, just different views from different assessments of what is useful made in accordance with local environmental conditions. Rather than answer the charge of relativism, then, pragmatism just avoids it by standing back from the quest for meta-meaning. To use a Wittgensteinian analogy: we cannot criticize a tool itself for doing a bad job for a tool does nothing, we can only castigate the way it is used in a context.

This absence of necessary truths precludes the legitimacy of philosophically valid ethical principles like human rights, for these rights themselves presuppose that we all possess something that links us as humans to a non-human reality that lends us dignity, something which ultimately defines who we are. Human rights based upon absolute values of human nature ignore the narrative and historical aspects of self-hood; the self is not primarily biological, ethical or behavioural - but a constellation of these grammatically construed in positions which remain inherently open. The

Cartesian will and the Kantian subject are replaced by the pragmatic volitional will-in-grammatical-context. Though there are no truths about the self we need not despair, for through the active work of strong poets we can maintain a hope in the potential for continued self assertion and reassertion at the private level and the avoidance of pain at the public. This hope is founded upon the continuing presence of redescription which ensures that no one group is forced to accept descriptions from another; a linguistic tyranny which leads to the pain of humiliation.<sup>15</sup> Strong poets ensure tolerance, something manifest not in reason or metaphysics but in the narrative of artistic metaphor where values are neither transcendent or rigorously logical but sporadic and fused through family resemblances which are subsequently unravelled by the grammatical redescriptions of other aesthetic heroes. If anything is good, then it is this sensibility to the contingency and arbitrariness of our condition which encourage us to desist from looking for self grounding principles, coupled with a willingness to challenge established grammatical discipline through imaginative responses that enable us to recreate our private selves and to avoid public instances of pain.

Rorty is not, then, a pessimistic about our condition. He infuses his work with an Enlightenment bravado, challenging as he does not only those who attempt to seek a consensus upon rational, logical and ethical lines by theorizing on the sublime and innate, but those with the post-modern disease of resigning themselves to a passive acceptance of fragmented, relative value spheres. The thing to be championed about liberalism for Rorty is that it can, when seen in its ironic guise, be that system which best avoids appeals to theoretical and ideological refutation and allows individuals to use their own narratives to persuade their grammatical rivals.<sup>16</sup> Liberalism is aesthetic in the sense that its very being courts diversity in values. It is able to develop amongst its practitioners an awareness of the multiplicity of mutually incompatible ways of thinking by concentrating upon the need for freer communication rather than principled truth. In doing this its institutions aim to prevent the imposition of dialogue and the consequent pain ensuing from this grammatical humiliation by sensitizing us to the possibility of this cruelty.

This version of liberalism, however, is not one which would be readily accepted by all liberals. The eschewal of theory in favour of narrative necessitates, says Rorty, a denial of some of the most sacred of liberal cows - human rights and principles of justice become tarnished by narrative contingency and the idea of an inviolable sphere of autonomous will wilts in the harsh light of our ever open modern condition. Rather than dispense with metaphysical appeals and justifications recent work from liberals has tried to reconcile an appreciation of contextual expression with a continued adherence to the idea of an isolate self and principles of justice, and it is this work which has tried to resuscitate a meaningful conception of human rights in the light of comments made not just by pragmatists and post-modernists, but communitarians and neo-marxists.

## **2: GROUP RIGHTS.**

## 2.1. Liberalism and the Consideration of Group Attachments.

Actions, intention formation and commitments to language games are reliant upon a community background of shared practices, traditions and customs; upon the "blind" mythology of certainty rather than endless rational deliberation; upon defeasible achievement rather than "inner" mental processes; and upon a non-representative vision of our place in the world which dispenses with dualist perceptions of human nature as somehow separate from the rest of nature. Much of this is consequent upon what I have said so far and is also the position adopted by Rorty. Ideas like justice and rights are firmly rooted in a context and cannot be universalised. How is it, then, that the existence of principles of justice, including human rights, can ever be certain in the face of changing circumstances? Has the liberal position as adopted by Rawls, namely that which uses a hypothetical contract to demonstrate how people, at least at the political level, are capable of articulating their Kantian moral powers in always preferring reasonable principles of justice to any comprehensive, private morality, any answer against the claims of its inherent ethnocentricity or spinelessness? Will Kymlicka address this question by arguing that rights provide the tethers from which we can explore the variants on conceptions of the good present in our plural culture, conceptions which he agrees can only be developed through cultural language games.<sup>17</sup> Kymlicka's idea of liberalism is one which attaches value to the distinctiveness of people not so much as isolate choosers but as autonomous agents in command of a web of beliefs, intentions and responsibilities, built up through intrinsically valuable social relations and commitments. This idea Kymlicka believes stems from Mill's dictum that we can only reach notions of the good within the context of the interplay of half-truths that abounds as a necessary aspect of healthy social life.<sup>18</sup>

What is central to the liberal view is not that we can *perceive* a self prior to its ends, but that we understand ourselves to be prior to our ends, in the sense that no end or goal is exempt from possible re-examination.<sup>19</sup>

Now this seems very close to aspects of Rorty's pragmatism. There is a recognition both of the importance to liberalism of maintaining the idea of an individual or private sphere and the need to avoid ignoring the context of our beliefs. The crux of this liberalism lies in recognising that, although we must have ends (in terms of good rather than justice), and that such ends can only be provided from within a social language, they need not be any specific ones. They can change on the basis of questioning the meaning and value of social practices or language games; it is possible for us to invoke a plurality of ends, each of which must be equally respected so long as the right to exit from those ends is respected and it is here where it remains liberal rather than pragmatic. It is life plans alone which are seen as good, of value, rather than the content of such plans. The liberal position is still maintaining that a meaningful separation between content and goals and between a subject and their aims is appropriate and explanatory. Such a position, though it acknowledges the influence of cultural context on the use of rational critique, principles of justice and rights ascription, does not see

this as warranting a communitarian embrace of necessary ontological commitments<sup>20</sup> nor an ironic use of language at private levels tempered with pragmatic public attempts, albeit *ad hoc* ones, to reduce instances of cruelty.

For liberalism the fact of plurality in conceptions of how to live the good life translates into being able to meaningfully engage in a variety of forms of life, and this is perfectly possible and desirable in terms of experiencing a varied lifestyle. There is a commitment to secure this pluralism through active redistribution not only in existing roles such that all people have an equal chance (Sen's equal capability argument), but also, from other liberals like Kymlicka, in lessening the influence of those who traditionally define such roles; for example changing the ways in which capitalists are able to define the roles of the workers or the way that women are seen as having given functions whereas those of men are often seen as created via chosen interests.<sup>21</sup> The equality of opportunity envisaged here extends beyond ensuring the absence of arbitrary differentiation and towards advocating positive interference in society to alleviate patterns of discrimination.

Kymlicka sees such equality as being best brought about through the ascription of a specific conception of rights. There is an acknowledged move away from those formalist, absolutist and individualist aspects of rights emphasized in the entitlement Clauses of Versailles where "The purpose of all political association is the conservation of the natural and imprescriptable rights of Man" and towards an emphasis of the participatory clauses encouraging active and responsible citizenship. It is on this level that Kymlicka seems to take issue with Taylor's belief that the liberal conception of each person's dignity as defined by the loci of rights and equal respect he or she is able to command emphasizes the acquisition of rights as adversarial power tools promoting atomized living and a refusal to recognize that sense of common purpose which enables us as to live in societies. According to Taylor's communitarian critique rights promote a zealous individualism founded upon the dubious philosophical premise of uncovered unique, atomized subjective wills that results in either the entrepreneurial dismissal of the social weal or the perennial claimants passive dependence upon it. Instead of political constructs like rights what fosters a sense of communion are the multifarious civil and social groups and organizations through which most of us articulate our sense of identity. Communitarian thinking sees civility as being fostered amongst this fecund network of associations policed not by legitimate violence and impersonal statute but the sanctions of guilt and peer opprobrium.

Kymlicka responds by restoring the duty side of the rights equation to a state of parity. Rights can no longer afford to be a mere list of entitlements; for effective citizenship between mutually responsible and personally reliant people rights have to actively encourage civic virtue, self-restraint and positive compromise. Taking as a focus the maintenance of co-operation and individual choice as opposed to mechanisms of coercion the new liberal attachment to rights seeks the promotion of free discussion and a respect for the process of argument and persuasion based upon reasons which we can all understand as free and equal people. A central component of the shifting focus of rights language is the increasing awareness given to those groups who still feel unable to commit their identity to that of the common weal. Ascribing group rights recognizes the often precarious state of

minority language games when faced with the insensitive orthodoxies of dominant and privileged ethnic practices. By promoting an educated awareness of the variety of cultural language games liberals are protecting what enables informed choices about patterns of life to take place, in ignoring cultural frameworks liberals ignore what is an essential component of autonomy, the opportunity for effective changes in and preservations of lifestyles.<sup>22</sup>

In addition to traditional human rights commonly attached to individuals, then, there is a further set needed to protect the group identity as that through which individuals gain and maintain self-esteem and mutual respect. But this is not offering *carte blanche* to all group activity. Kymlicka is more willing than Rawls' Law of Peoples to recognize the articulation of embodied commitments in his position which are attentive to the considerations of minority group identity *because of* their value to the liberal form of life.

A liberal theory can accept special rights for a minority culture against the larger community so as to ensure equality of circumstances between them. But it will not justify (except under extreme circumstances) special rights for a culture against its own members. The former protect the autonomy of individuals, the latter restrict it.<sup>23</sup>

Rights are attached to components of systems rather than the defining pattern of any one system - so they belong to individuals *within* a culture, or to a smaller culture *within* a larger one, and where these two conflict the former has priority. It is people, and not communities, who follow rules and to whom rules are addressed, something which Haksar also points out in his discussion of identity, "There is nothing it is like to be a group or a bundle"<sup>24</sup>. A group cannot experience anything, rather its membership do, and in ascribing rights to a culture one is recognising that it is only within such a context that the real ethical units, individuals, can persist. There is, then, a belief in the priority of the political over the philosophical - we are not to value dominant cultures as inherent repositories of value but as mediums through which the value of individual integrity, which itself may be manifest in certain ethically comprehensive doctrines, is made paramount. Kymlicka is treating cultures like Rawls treats political frameworks - as a functional and creative nexus of meaningful individual autonomy. Human rights are on this view honest attempts to integrate marginalized groups such as ethnic minorities, women, and gays,<sup>25</sup> into the *agora* where they can engage in discourse and effective, autonomous action. Human rights state that discrimination occurs when the purpose of differentiation is to deny their equal enjoyment,<sup>26</sup> rights show us that we have dignity as ends in ourselves rather than just as social means. Communitarianism, it is said, offers no such specifics as to what values should be reached, nor do they tell us what constitutes positive action,<sup>27</sup> largely out of an inability to escape the relativist skepticism explicit in acknowledging that the myriad of differing cultural systems precludes the possibility of universal ethics and meaningful criticism.

Kymlicka's liberalism recognizes the importance of diversity and collective sentiment, that in promoting an equality franchise on the ontological primacy of the self-directing individual and in generalising rights, including human rights, liberal theory must qualify its stringency in order to protect

cultural institutions (his example are the aboriginal Indians of North America who seek to maintain their cultures through strict controls over property rights, rights to movement etc.). This, says Kymlicka, is not recognising groups above people but treating people as having linguistic and historical ties which are important to the preservation of their own identity.<sup>28</sup>

The reason why liberalism has to address this issue seems to be the fact that equality between interests alone does not guarantee autonomy, in order to resist the osmotic pressure of dominant cultural narratives special provisions have to be made to protect the heritage of specific groups precisely because the language use necessary for autonomy is reliant upon agreement at the level of forms of life. Just what constitutes autonomy is far from clear amongst liberal thinkers. Rawls identifies it with parties, via representatives, making a hypothetical choice of principles of justice based solely on the higher order interests of their moral powers and a concern to advance their determinate but unknown ends,<sup>29</sup> a conception which relies heavily on the Kantian notion of autonomy as the affirmation of an ethical agent's will. Ethics, rather than being imposed/revealed, should be chosen/constructed by self-conscious, rational agents in critical and reflective equilibrium. Kymlicka rightly questions such a rarefied version of autonomy, which seems to ignore the importance of participation to the creation and use of values like autonomy, and leans towards that levelling preferred by Gerald Dworkin and Jurgen Habermass: autonomy as a language game involving effective intersubjective communion as to what it is reasonable to use as rules. Whilst language games like loyalty, commitment, and love can all narrow options for procedural or substantive independence that of autonomy do make appeal to ideas of what it is to be able to define the contours of our lives for ourselves.<sup>30</sup> Kymlicka's view of autonomy becomes the valuing not of choice for its own sake but because of the impetus it gives to our life projects, our relationships and commitments.<sup>31</sup> This move from a noumenal to a more socialized self is encapsulated by Dworkin's definition of autonomy:

The idea of autonomy is not merely an evaluative or reflective notion, but includes as well as some ability both to alter one's preferences and *to make them effective in one's actions* and, indeed, to make them effective because one has reflected upon them and adopted them as one's own.<sup>32</sup> (my italics)

There is, then, a move from a consideration of formal social inclusion to an emphasis upon ordinary participation; meaning is linked to effective use. It still resists, however, the communitarian urge to define us through our ends seating as it does the individual or self on a pedestal from which they survey possible ends or goals to be chosen or rejected.<sup>33</sup> There should be a rational convergence towards liberal institutions like human rights, then, because as individuals we all have a reasonable motive to promote a structure which permits the equal enjoyment of language games<sup>34</sup> to the extent that those groups are themselves proponents of autonomy rather than cultural hierarchy/homogeneity.

Kymlicka's theory goes beyond group forms to envisage a reasonable self prior to the constitutive attachments of social practices, and it is to this choosing receptacle itself that value and hence rights are attached. It does so by linking rights to active citizens embroiled in that group activity which permits open and equal access to institutional control. This is because the value of groups lies in their allowing autonomy to flourish. It is the value of independent, individual choice rather than that of cultural activity *per se* that is important. Kymlicka explicitly acknowledges what was only implicit in Rawls, that liberalism is a form of life worth defending not simply because it is system of grammatical rules, but because it is our one to which we are committed. Human rights *embody* the rationality of tolerance. It is through the consequent reasonableness that we are able to stand back from ourselves and know that any appeal to "truth" is in actual fact an appeal to belief. These beliefs are worthy of respect, but not the epithet truth. Kymlicka and Rawls are expressing what Nagel calls the impartially justifiable liberal framework which provides even the most devout with a reason for tolerance.<sup>35</sup> Liberalism enables us to hold ethically substantial beliefs but encourages us to see them as just that, rather than as beliefs which we think are true, which is itself an ethical position.

Kymlicka says the essence of liberalism is to recognize that although we must have ends they need not be of any specific form. This is merely a semantic re-organisation of the commitment to impartiality: the issue is nothing to do with what it is one can choose from, but what it is to choose in the first place, and to acquire the technique of choice. Indeed Kymlicka himself implicitly recognises this in response to recent criticisms from Kukathas.<sup>36</sup> The main gist of Kukathas' argument is that Kymlicka's justification of cultural rights, as practices which promote stability within which individual autonomy flourishes, leaves him open to having to advocate interference in those cultures which actively desist from promoting free choice; group rights have instrumental value alone and so cannot be regarded in any way as fundamental. The criticism is reminiscent of that used by Winch (see Chapter Three): using one's own standards to judge those of another form of life is a case of misbegotten epistemology. The implication of Kymlicka's stance is that cultures only have the right to persist if they agree to promote autonomy as liberals define it, and if they do not then they should be encouraged to do so through assimilation. Rights take on a social hue.

In his defence Kymlicka says he was identifying a defensible theory of liberal rights and values, and not a justification for the imposition of those values upon other cultures.<sup>37</sup> The question of imposition involves many further questions of comparison between cultures, analysis of physical and legal exigencies, the effectiveness of persuasion over force, and the establishing of a *modus vivendi* and so on, questions which he was not addressing. Nevertheless, such a compromise must surely not be desirable to liberals, they would wish to rid themselves of cultures who transgress fundamental liberal values such as human rights and so try to assimilate them through persuasion, silence and force into the liberal nexus. So Kymlicka admits that it is not cultural practices *per se* that are valuable to the flourishing of individual autonomy, but only those who do not deny free expression by maintaining a firm distinction between the public and private spheres. He recognizes, along with Rorty's pragmatism and, it seems, a Wittgensteinian view point, that liberals have to accept the contingency of their linguistic positions, that this as opposed to the Kantian split between specific

culture and a generalized, formal view of the self is the essence of autonomy, and that the most appropriate response to such a contingency is the fight for a public consensus on the need to avoid pain and the promotion of individual self-assertion at private levels providing such assertions never attempt to impose definitions of self upon others. This leads Kymlicka to a defence of group rights insofar as they promote the liberal order by sustaining the possibility of dialogue at this private level and an acceptance that liberals cannot out-gun other cultures philosophically but by virtue of its efficacy at avoiding cruelty. The liberal view is necessarily historically and narratively contextual imbued as it is with the Kantian and Cartesian assumptions that people have definable and distinguishable private and public natures within which they contain their identity. This being so the problem still remains, even for Kymlicka, that very often the substantively divergent grammars in which identity is expressed cannot be reduced to an amalgam of politically, or publicly, irrelevant aspects. Groups using minority grammars will still feel alienated from the linguistic turns of institutional power play because all that rights do is offer them a formal equality at the level of individual choice. To be accorded public respect, and this is clearly something Kymlicka at least feels many groups should be, involves the de-bunking of rights language altogether and their replacement with what he seems to be tacitly admitting anyway, the development of some kind of Rortyan system of sympathetic public education which encourages us to understand the contextual traditions of other identities coupled with an active resistance to those who are mad enough to challenge the development of such open, reasonable and diverse channels of engagement between grammatical positions.

## 2.2. A Pragmatic Universe?

Whilst it is perfectly possible to envisage people having unique, personal narratives such identity is wrought through a language which is at one and the same time both instituted and that through which we institute, there is no sense in trying to envisage these processes as separate. So to envisage a field of vision which extends beyond the confines of oneself as a language user, to stand outside oneself to see one's beliefs as such, is an abstraction which paradoxically remains intimately attached to the liberal beliefs at which it is "looking". The conceptualisation of forms of life precludes the possibility of essentialism, or foundationalism. The value of actions results *as much from* the adoption of forms of life which are revealed through a process of self-discovery within a community *as from* the instituting of choice between those forms. Choice involves learning, familiarisation, and the adaptation of normative techniques for engaging in rule governed activity or language games.

Language, imbued with classificatory and instituting procedures, is something manifest in our being. It is nonsense to see ourselves in any way separate from it. In order that we may choose what constitutes sufficient justifications we must first understand that we are committed to something beyond justification and rational proof, but a something which it is possible for a few heroes to actively resist, at least at a private level of grammatical redescription. Language games such as those envisaged by Rawls and Kymlicka which invoke the idea of choosing selves are only possible if those

agents have trust in what they are doing, an inherited background of certainty: "My *life* consists in being content to accept many things."<sup>38</sup> As such ideas of autonomy themselves are reliant upon prior commitments which lie beyond choice, upon ends which are adopted as part of living within and reacting against an historical and narrative community, not ones which are consciously philosophized over.

This is Rorty's picture of a pragmatic, liberal and ironic universe. Despite the absence of definitive principles of ethical behaviour we are able to get along without metaphysical succour because at the public level we crave decency and at the private level are more often than not safely ensconced within well established final vocabularies. The few that are not, the strong poets who see socialisation and contingency as seeping all the way through are vocabulary, are still committed to the liberal system because they realize that it is only through their grammatical manoeuvrings that the rest of us are going to be able to redescribe for ourselves and hence avoid the humiliation of being grammatically circumscribed by language games over which we have no control; we assert ourselves by rhetorical proxy as it were. Is it the case, though, that Rorty's repudiation of philosophical inquiry into ontological commitments is the inevitable conclusion of Wittgenstein's insistence that at a certain level choosing must stop and blind acceptance begin?

Rorty is not saying that what is accepted by most of us is immutable, but that it forms no part of a meta-narrative and so is only subject to change from either the imaginative insights of poetic ironists or environmental shifts. From the outset, however, it seems suspicious to claim that even if such cultural shifts are wrought only by these aesthetic smithies and tempered by the accidental absorption into orthodoxy there will ever be a sense of communal commitment and camaraderie extending to everyone. Rorty says at the public level the poetic champions will not only compose but be actively moved by a feeling of solidarity in the drive to avoid the pain of humiliation. But this movement is made by these connoisseurs of narrative diversity alone, whilst the rest of us linguistic epsilons, those content to wallow in their final vocabularies, merely follow, eventually arriving at a narratively accommodated version of a specific strong poet's version of self-assertion. The struggling and prevailing grammatical hero is central for Rorty; Wittgenstein, on the other hand, placed no such faith in the manoeuvrings of poetic "genius", preferring instead to see self-assertion as an amalgam of intellectual responses to restraining forces which act upon us independently of our belief system,<sup>39</sup> and creative responses to existing narratives or vocabularies of *all language users*, be they poetic heroes or not. There is no necessity for "over-men" to displace language-games through genius, all language users can do it merely by following and hence embodying different rules. Forms of life and language games become far less oppressive when seen *neither as cultural nor heroic constructs*, but as symbiotically tense systems of internal connections between peoples' understanding and the grammatical rules they follow. The individual does not merge into the culture via heroic language and become increasingly tolerant, free from pain or whatever. The likelihood is that once ensconced in the guise of grammatical reputation the hero becomes overtly self-conscious and manipulative, attempting to re-enchant the world with their own vision. Although Rorty chooses poetic, ironic heroes precisely because of this worry there is still no attempt to overcome the dangers

inherent in *any* appeal to the heroic, that the rhetoric of their language will stultify rather than encourage self-assertion. Although there is no project, conception of the good or life plan without a language in which to express them and languages are undoubtedly influenced by grammatical interchanges of gifted exponents of language, there is likewise no such interchange without the active participation of others in the language games. In taking language as a largely omnipresent force defined within a culture, recognized as such by only a few struggling heroes, Rorty fails to give enough weight to its partiality and ordinariness. Forced redescription of the self is a source of humiliation and oppression, it involves the binding of personalities and of groups, one which it is possible to undo through active redescription using language games. But why do we have to wait for a strong poet to turn up before we make the attempt at novel, emotional, ethical and even common sense responses? Surely any language user has the potential to become acutely sensitive to their narrative condition by continually questioning the legitimacy of moves in language games whilst retaining a sense of responsibility for any moves that they may wish to make of their own accord. History has a tendency to encapsulate the attempts of people to throw off the grammatical yoke in the exploits of a single person, but, for example, Watt Tyler was as much just another peasant revolting as he was the catalyst of the Peasant's revolt.

Rorty seems willing, with his eulogy of the "strong poet" and the "ironist", to contain conceptual schemes within specific narrative boxes generated by heroes, whereas it is often the case that our contingent condition is more mundane than this, stemming not only from narrative norms, but also from the instituted, subjective nature of the agent as well as the *extra*-linguistic environment itself. A language, though it imposes systems of classification upon a natural, perceptual world, does so only because of the being in that world. Though it is important to recognize society is what it is because of the actions of poets and heroes; it is of equal importance to recognize that poets and heroes are what they are because of their grammatical context; and that seeing the world anew is not limited to those whose shape become definite enough to become an identifiable part of or challenge to orthodox narrative. In addition to the influence of all ordinary language users on language games there is also the influence of non-linguistic elements. To go back to the example of colour used in Chapter One, and one used by Castoriadis to explain the same point,<sup>40</sup> though different languages divide up the colour spectrum in different and non-congruent ways, the possibility of such division is dependent upon the "extra-linguistic unity" of the continuous, visible spectrum. Such an invisible continuity exists amongst people as much as other things and it is this to which Wittgenstein alludes in his basic facts of nature. However, these too can change are never isolate, they exist in conjunction with the historicising forces of language.

We have a colour system as we have a number system. Do the systems reside in *our* nature or in the nature of things? How are we to put it? - *Not* in the nature of things.<sup>41</sup>

There is always a perspective of some kind; it is up to us to see what counts as determinate reality. In a sense these are not constraints at all, for determined subjects are infinitely redeterminable through the creative use of language, and not only through the superhuman efforts of an "over-man" from within a specific culture. Language is inexhaustible. This is a central insight on Wittgenstein's part. Constraints are imposed by expressions of the speaker and are not determinable outside of those expressions, they embody identity.

### 3. WITTGENSTEIN AND RORTY.

It is strange to hear Rorty talking of irreconcilable cultural differences in his collected papers as for the large part of his pragmatic philosophy he is not so pessimistic as to preclude the possibility of interaction between all agents. Using Davidson's charity principle he says that all languages, to the extent that we recognize them as such, are translatable in that it is unreasonable to assume that the majority of users are wrong in their practice, in the way they relate to their environment. As both Wittgenstein and Davidson say, such translation is not based solely upon any correspondence theory between sentences and a bit of reality but, rather, upon a coherent interaction within a specific contextual practice.<sup>42</sup> This relates to the idea developed by Wittgenstein that words no longer named things, nor do they refer to thoughts about things, but have meaning through their contrast with other words grouped in conceptual relation. Speech is not the externalisation of the inner mind but an aspect of subjectivity itself. A radically situated translator or Wittgenstein's explorer<sup>43</sup> translates languages if and only if they are able to establish regular connections between what people intend and how they act. Thus regularity is the logic of any language and is a product of agreement in forms of life rather than of any synthetic order. (See above) Liberals can, then, from within their own culture, seek to translate the languages of other cultures and so widen their sphere of toleration; indeed this is one of the very fence-posts of liberalism, it actively seeks to promote a pluralistic outlook.<sup>44</sup> The increasing sensitization of humanity to ethical principles, for example, can be seen not as the result of invoking universal dictums more perfectly than before but of the inclusion of ever more human groupings into the consociational egalitarian club through an extension of the principles of justice, one made possible by the increased efficacy of liberal institutions.

We are able to recognize diversity because of the translatability of languages, languages are learnable because they are regular and can be taught through example, indeed it makes little sense to recognize something as a language and then pronounce it as unlearnable because there must be some form of common attachment by people to each other in order that it be recognized as a language in the first place. But languages are not based upon any meta-language; as Wittgenstein would say, there are no meta-rules determining the formation of all languages, a rule is normative, whether it be of sub or meta status.<sup>45</sup>

There are times, however, says Rorty, when the normative principles of liberalism cannot accommodate certain pronouncements; although we can understand others we do not have to take their ideas seriously, positive in our own liberal minds that they are just wrong and we are right. Once a certain threshold level is reached, when making appeals to the common stock of truth conditionals present within our own language in order to translate the language of another no longer makes sense, the charity principle reaches an inevitable impasse. Rational argument is no longer possible; we cannot be said, believes Rorty, to be playing a language game with them.

We heirs of the enlightenment think of enemies of liberal democracy like Nietzsche or Loyola as, to use Rawls' word, "mad". We do so because there is no way of seeing them as fellow citizens of our constitutional democracy, people whose life plans might, given ingenuity and good will, be fitted in with those of other citizens. They are not crazy because they have mistaken the ahistorical nature of human beings. They are crazy because the limits of sanity are set by what we can take seriously. This, in turn, is determined by our upbringing, our historical situation.<sup>46</sup>

The traditional view of the insane is that they are no-persons, we can recognize them as physical kin but deny them that linguistic, narrative unity which constitutes their uniqueness as a person - without this thread we can safely see them as not-like-us. There is then, by implication, an attempt at encouraging us not to take them seriously; we are not of the attitude that they have a soul.<sup>47</sup> Criticism of people can only be mounted from within a language and understanding of their actions can proceed only insofar as we can recognize common truth conditionals. When our historical situation is sufficiently confounded by others as to throw up "fundamental challenges" to such established truth conditionals we respond not with counter-criticism but in a much more brutal manner, we just back away, refusing "the attack" on our values any offer of a critical grip. But sending people to cultural Coventry is certainly not an option which Wittgenstein would see as an inevitable consequence of incommensurability in values - what is involved in translation is not the accommodation of cultural forms but the identification of regularity in behaviour, something which cannot be separated from the natural, pre-linguistic states we all share and the very real non-human realities we come into contact with everyday, states and realities which Rorty himself admits to existing.<sup>48</sup> Rorty is conflating this natural species behaviour with reasonable intersubjective agreement between people arbitrarily deciding to put an end to the ordinary conversations between language games and forms of life..

Rorty needs to be tackled on two broad fronts. The first concerns how we use a language and its relation to our culture, with how the certainty of linguistic rules are established and how we respond to different forms of life and will conclude that the linguistic context is much more fluid and "democratic" than Rorty portrays. The second concerns that area of Wittgenstein's philosophy which looks at natural facts and will provide an anchor for possible re-embodying of human rights whilst still recognising the contingency of all our lives as lead within forms.

### 3.1 Commitment, Certainty and Agency in Forms of Life.

#### 3.11 Commitment.

Rorty sees the invocation of terms like inherent dignity or universal worth used in support of the existence of species-wide *ethical* constraints such as innate rights of the species as at best mystical abstractions and at worse mawkish gush, yet his own defence of liberalism as that most efficacious of institutional systems, the product of open and free discussion as to what we can create through our social imagining can at times seem no less romanticized. Because we are here, he says, with this mythology which we must accept as part of our narrative history, then not only should we recognize its precepts, but somehow attempt to engage people in debate as to its virtue by seeking common ground. Such commonality is not found in philosophical foundations, Kantian righteousness or rational knowledge but in the narrative overlapping of peoples' lives as members of cultures and other "sentimental" attachments.<sup>49</sup> Though this is exactly the position that Kymlicka and Rawls are left in the light of their systems being the grammatical expression rather than an outside description of the liberal urge, what is in question is just how Rorty sees this sentimental education as working. It seems not only a rather resigned way of treating social problems but one potentially insidious in its myopia for it amounts to advocating that we should almost forget that it is we as *individuals* consciously committed to social institutions who ensure the stability of any sentimentality. It tends to weaken liberalism by seeing it as something better than but irrelevant for "outsiders". Rorty is taking cultural identification as a monolithic attachment, whereas the Wittgensteinian notion of language as *expressive* recognizes the fragmented and evolving character of such commitments. Rorty seems to be painting a scenario of conflicting "concrete" forms of life based upon *intra*-cultural public consensus. Each culture is dominated by a single ontological position, a type of discourse which governs the ascription of rational and ethical behaviour, and as soon as a dissenter arises then after the requisite attempt at accommodation they are either expunged from the group as someone lacking the essential characteristics of a social being, or they sew the seeds of a new paradigm. This ethical narcissism sees modern, Western, liberal democrats as wanting to create a tolerant society of mankind, who, through persuasion rather than force, will realize an ever more inclusive society which "constantly changes to accommodate the lessons learnt from new experiences"<sup>50</sup> Such an organic unity is not recognising plurality between cultures, it is asserting itself against those who seek to deny the orthodoxy of a moral and political system based on tolerance. For those that fail to be persuaded about the values of equality and tolerance it is tough luck that they remain outsiders.<sup>51</sup> The atomized individual reminiscent of Rawls' early OP and the hubristic rational excesses of eighteenth century men of letters is replaced with an equally atomized conception of a liberal culture characterized by total closure of meaning.

It is *the* culture which Rorty enthusiastically embraces because it was that type of linguistic tradition he has inherited. But not only this, for in addition to being a member through proximity, Rorty also feels able to justify his support for the liberal narrative because of its efficacy. Because it offers no rival conception of the good to those which may be held by its members it accepts conflicting

conceptions of the good and so accommodates rather than attempts to quash rivals. It is the best type of social life-boat.<sup>52</sup> Though on the individual level liberal pragmatists may wish for an open, tolerant society on a communal level, then, they are still committed to a specific, localized way of life; they advocate inhabiting a moral *cul-de-sac* of regular happenings, and life in the one that liberals inhabit is, fortunately, more pleasant, if slightly anaesthetized and bureaucratic, than others. There is a sense then that the orthodoxies from other *cul-de-sacs* which seek to place claims of knowledge above facts of power, to put meta-ethics before sentimentality, to put truth before hope, and to put essences before cultures are out-moded, empty husks that have had their day and wait only to wither in the heat generated by the efficacious production of wealth in the liberal furnace.

In such a eulogy of sentimentality and the liberal attachment to it Rorty seems to be undermining his own precepts. Every evaluative judgement upon the attitudes of another form of life has to be taken using an historically embedded language which is itself part of specific forms of life, there being no meta-narrative with which we can evaluate others' practices. The drawing upon one's own *weltanschauung*, the use of a background against which we distinguish between truth and falsity, however, is not, as Rorty seems to think it is, a question of pure reliance. It displays a commitment to a certain way of life, an identity with certain institutions which we see as manifesting our individual identities, the acceptance of certain differentiations. This implies, says Sabina Lovibond, that ethics, as commitments to established rules and practices of a form of life, is not solely social in nature, but equally reliant upon individual human agency and commitment.<sup>53</sup> Wittgenstein shows how ethics is grammatically bound by rules which though they act as background conditions, are not always so clear as to provide an indication of appropriate agency in every instance, indeed many have their life in being open to challenge.

When we talk of language as a symbolism used in an exact calculus that which is in our mind can be found in the sciences and in mathematics. Our ordinary use of language conforms to this standard of exactness only in rare cases.<sup>54</sup>

Language is characterized as a game by Wittgenstein for the *very reason* that people are not subject to a complete and coherent system of rules which can be theorized about, be they sentimental or otherwise.<sup>55</sup> Games cannot be explained just by listing rules, not do they have an essence linked as they are through family resemblances. Games, like language games, have a technique and purpose which are inculcated and developed through processes of initiation and *reaction against* initiation. Because the ultimate barrier lies not with rules but with forms of life, forms which are based upon a common sense of fraternity, anxiety, wrong and right, humour, outrage and so on, then if individuals fail to be persuaded they can and very often do opt out of forms of life and institute new ones and they do not need to be strong poets to do it.

Just as the absolute authority of Hobbes' Sovereign is dependent not only upon the sword but on a general commitment to his authority, so the ethical authority of institutions depends upon what Lovibond calls the *sittlich*<sup>56</sup> identification of individuals<sup>57</sup> to their social institutions. Wittgenstein's

scenario is of people playing the game according to the rules, technique and purpose, or, alternatively, of opting not to play, because of a feeling of discomfort they fail to grasp or assimilate the rules and try resist and invent new ones. These cleavages can occur, especially in political and moral language games, because the practice lacks an overriding, single, intellectual authority able to bestow definite, coherent and single purpose on it. If the unwillingness to play or desire to invent new rules occurs in a non-threatening way then the cleavage persists as an anomaly about which we care little. If, however, the failure to agree on rules occurs in more severe forms, for example the clashes between U.S. Congressional wives forcing the use of warning stickers on "offensive" records and certain Californian Rap musicians there is entrenchment, the dominant practice seeks not the compliance of those threatening it but its neutering. There is a threshold beyond which the players do not acquiesce if their form of life is to be preserved. The players, who could well attempt to explain the rules through demonstration, or to stop playing altogether, or to try and adapt new rules to help dissenters find their feet, at certain times they just expel dissenters from the game altogether. Such an expulsion, says Lovibond, is not an inevitable outcome of the necessity of cultural commitment to individual identity, but of agent's actions for which they are responsible. Cultural agents collectively assert themselves against alien practices because at certain levels they feel threatened, and invoke intolerant criteria of ethical rationality to counter the perceived threat. But all this goes on within the forms of life of liberalism. Violent grammatical clashes exist within as well as between forms.

As well as conflicts and flux in grammatical authority this clashing of tongues also shows how the players or pseekers themselves, in spite of their "socialisation", are able to develop reflective self discovery experience. The definition of culture itself is a highly charged, historically laden process of identification influenced not only by the traditions of that culture itself, but economic and social factors too. Culture and its grammatical positions are inherently political and, in the words of Amelie Rorty:

Differentiating one culture from another is - in every sense of the term -contested territory. ... Cultural descriptions are poetically and ideologically laden. Even an individual's claim to recognition as *a person* or as *a human being* carries a political agenda implicitly contrasted with those marked by other dignifications, landowners, woman, Inuit, Bosnian, Muslim or African American.

Active self-assertion involves a constant evaluation of identity in a critical as opposed to passive manner: we are not to wallow in the passive remembrance of things past<sup>58</sup> but constantly make efforts to define and redefine grammatical positions.

So Rorty is wrong in saying we do not take the views of other forms which contradict our own seriously; indeed it is because we feel responsible for our values as aspects of our identity and have respect for our own ability to engage in creative language games that we *do* treat threats to such expressive potential seriously. As a result, rather than attempt to fully understand and try to accommodate them by adapting some of our own practices we recoil from them, try to argue with

them, and often meet them with force. But it is in the very nature of such rebuffs that overlaps between forms occur.

In avoiding the contest cultures as a whole can be unsentimental, they become mystified into thinking themselves possessed of a coherent, single outlook, free from contradiction, something epitomized by parts of Kymlicka's and Rorty's work. Kymlicka says of the sub-state cultural groups found within liberal spheres that to the extent their practices infringed liberal ideals they, as cultural units, should be assimilated until such time as they became at one with the homogenized liberal blob, whilst in those practices which did not harm such ideals, they should be protected in pursuing under the ascription of group rights. They can keep their war paint but not their right to wage war. What this ignores is that practices cannot be isolated and judged in such a way - when divorced from its purpose war painting becomes more a tourist attraction than reaction to ancient taboos of identity. The Indian form of life, if protected by group rights justified as protecting those practices constitutive of members' identity, must be able to avoid, but not necessarily contravene, liberal principles if it is to avoid become anaesthetized.

Similarly with Rorty's view of those who fundamentally challenge liberal language games; to see them as crazy is to deny what sentimentality should have us accept, that though they are human beings whose identity involves the negation of tolerance at a political level, it also involves being in a family, feeling pain and so on. Moreover, it is never made clear just how much discourse should be engaged in before we label such adherents of the abhorrent "loonies". Even the most devout of liberals will feel aggrieved with aspects of their own system from time to time. The commitment to liberal values may well be a very good viewpoint for those of us able to divorce ourselves from the impact of western economic and social expansion manifest in crippling third world debts, the growth of cash crops and the rise of monoculture, environmental damage, weapons technology, population expansion, market-based underclasses, hunger, economic hype, group discrimination, information manipulation and a general communal malaise, but this does not mean that we cannot put our ontological commitments on the line, exposing them to the arguments of others and understand why it is such others see toleration, reasonableness and autonomy as a sham. They are still articulating themselves and their advocacy for alternative language games according to rules of regularity we can recognize. After all, they are reacting to the values of a cultural context just as much as anyone else. Rorty seems to be willing to ignore that forms of life and the rules therein can be detrimental to even us liberals if in following them we are at risk of being persuaded to articulate needs which they themselves influence; forgetting that like everyone, including the "mad", we are in positions of constant grammatical evaluation. Rorty fails, for example, to criticize those economic conditions of modern liberal states which can manipulate peoples' views of their selves to the extent that they link self-assertion with the acquisition of wealth to a far greater extent than the nurturing of aesthetic sensibility. Whilst it may be wrong to theorize about this conditioning using structuralists or Marxist terminology because of the consequent risk this poses for individual freedom, it still seems justifiable to question whether the impossibility of ever rationalising the social order necessitates a blanket ban

on ordinary, fundamental critical activity and thought from those who do not feel that liberal forms of life and flows of institutional power are as settled as Rorty presupposes.

There is then a general reluctance to embrace the view that people can come to play language games in which they are not prepared to relinquish their adherence to non-liberal doctrines by submitting to the process of conversational agreement. They take their position seriously enough not to prostitute its meanings on the pragmatic altar and it is this action which prevents the slide of liberal tolerance to filial respect for the mainstream.

With Rorty there is a welcome move from questions of what constitutes human nature to ones of what is it we can do for ourselves, given our narrative position. The resistance to looking for knowledge of a rational essence is achieved not by accepting the meaningless nature of essences but by transplanting them from individuals to rules. Rather than recognize that rules are linked like games, through family resemblances which are built up through use and which are described rather than theorised about, Rorty, in advocating cultural commitment to the extent he does, is craving for the very generality which he seeks to avoid. He thinks it is only poets, painters and the like who resist the orthodox tide and criticize, through radical situationing, what they see as the bigoted, bland or insensitive aspects of communities. But we all must do this as language users; for society to persist we must all, as agents in possession of the freedom to resist power relations, commit ourselves to practices/language games and so actively participate in what comes and ceases to be the norm. We occupy different levels of engagement as individuals depending upon what level we are at:

For instance, at my level the Pauline doctrine of predestination is ugly, nonsense, and irreligious. Hence it is not suitable for me, since the only use I could make of the picture I am offered would be a wrong one. If it is a good and godly picture, then it is so for someone at quite a different level, who must use it in his life in a way completely different from anything that would be possible for me.<sup>59</sup>

We stand in relation to the gospels not as historical revelations nor rational truths but believingly. This is not a question of following where others lead. In no way did Wittgenstein see rule following as a passive activity where we just sit back and let the tide of cultural practice wash over us, following without thinking. We follow a rule blindly, but out of habit, tradition, feeling and education, not necessity. Wittgenstein wanted to show us the differences, the manner in which we could generate infinite sentences from finite grammatical rules is something based on the ever present possibility of re description, the seeing of new aspects, whilst never attempting total autonomy. He himself believed self-scrutiny, the dismantling of pride, as a necessary precondition to promoting the good<sup>60</sup>. This urge to first get ones' own house in order is hardly reminiscent of someone who invoked the usual dominance of cultural rules over individual initiative and responsibility.

### 3.12 Certainty.

It is not necessarily the case that those within the liberal system do accept its rules as part of a certain heritage which must be continued with a Burkean fervour because of its undisputed practical usefulness; surely a pragmatic recognition of one's contingency can involve the very opposite of Rorty's confident avowal of liberal values. It may be that events in the future will necessitate a complete change of constitutional mythology. Such change is beyond individual control, yet relies upon the creative attachment of individual commitments for momentum. How is it, for example, asks Lovibond<sup>61</sup>, that feminists are able to challenge existing inequalities without challenging the fundamental norms and institutions which determine the very nature of those inequalities - without turning the world upside down. Wittgenstein said certainty is found in a trust, in an absence of doubt, which is not based upon agreement in opinion or values but in action:

We should sometimes like to call certainty and belief tones, colourings of thought, and it is true that they receive expression in the *tone* of voice. But do not think of them as feelings which we have in speaking or thinking

Ask not: "What goes on in us when we are certain that...?" but: How is "the certainty that this is the case" manifested in human action?<sup>62</sup>

We follow rules according to public practices, and these rules are framed through the unobtrusive presence of a form of life, without which we could not act at all. People issue the despotic demand that their thoughts and intentions must follow from their state of intending, people know that they are following a rule and are certain as to the contents of that rule, not because they are able to look inside themselves and check but because they *naturally* express themselves in a way that others understand, in a manner where there is a regular connection of the type: "p" - p - p which is open to interpretation. We are already agents with a propensity to act in a logical manner, something *embodied* by our commitment to forms of life. Thus, it is not as participants in language games that regularity is established but in the spontaneous behaviour of agents using any language in any form of life. It is at this primal level that we just *are* creatures of certitude and it is at this level, as well as those of other natural features, that all humans as language users can be spoken about as a common species. We are certain of things like time and space (without which identity, distance and distinction would not exist) and of our living space, yet we still think about these things and in doing so recognize in them institutional aspects which are open to change through imagination. In doing this, though, we do not create another level of being or recreate the language of doubt because we still require contextual rooting. Castoriadis explains this point in terms of creative roots, the creation always being in a relation with that which is always already is, a relation which depends upon *what* is created in terms of historical practice/institution/object.<sup>63</sup>

Cultural commitment does not involve homogenized values hermetically sealed off from other cultures and practices; practices themselves, as parts of forms of life, need not be bound by cultures. They are aspects of cultures whose significance can be revealed through the description (as opposed to explanation or justification) of how they connect with other aspects, which need not

necessarily be of the same type. Thus the communitarian need not claim, as Barry says of Sandel, that in being defined by ends we are "nothing more than passive bearers of roles given to them by history."<sup>64</sup> We do not stand around like empty buckets waiting our requisite fill of historical narrative which, once received, we spend the rest of our lives carting around with us. We can tip the contents out, change its colour, let it stagnate and so on, choice is possible because the language games we enter, our activity, is run according to flexible and open rules; the meaning of actions is tied up not with strict definitions but with family resemblances which define no precise choice set but which are defined through use. But what is certain is that in order to possess a sense of individuality at all, in order to have any narrative, we need community attachment, the private language argument shows it as an ontological requirement; this is, if you like, the bucket itself. Nor is it the case that the bucket itself cannot change shape, mythologies change, but not by virtue of rational self-evaluation separate from social living but through grammatical rule following. We often, as individuals, invoke rules belonging to many different language games: for example, the rules of prayer, finger crossing, scientific explanation, family relations or riding a bike. This fluidity between forms means mythological backup to language games is not culturally limited, many language games rely on similar backup, for example the functions of basic biological functioning, the need to feel self-respect, the need to react against the contingency of material living through the use of metaphysical appeals, appeals to fate; and many similar language games use divergent mythologies, for example fundamentalist religious beliefs, nationalism, a belief in animal rights, a belief in the primacy of no-growth economic policies over the continuation of market-based economic development, and so on. This suggests that whilst mythologies are undeniably present, and whilst, as Wittgenstein said, we cannot ignore them, they are not necessarily confined in such a way as to dominate any one cultural outlook nor do they lay down tracks along which the individual must travel.<sup>65</sup>

### 3.13 Agency

Wittgenstein saw language as a framework for creative agency, one where the concepts of certainty and commitment are fluid. A Thai prostitute, for example, agonizing over the fate of her exploited position and wishing for an end to the oppressive male behaviour she encounters is appealing to values which may be outside of the mainstream of her culture but values which nevertheless are used and understood by her, that are manifest in her action and about which she feels certain, despite the apparent lack of cultural support. As well as reasons for practices having cross-cultural appeal, ethical language games can also have the same purpose but for divergent reasons: appeals to environmentalist concerns, for example, are very much cross-cultural ones, be they invoked as a mark of respect for Allah, as a commitment to deep ecology, or as an aspect of the "not in my back yard" syndrome.

Rorty has a too rigid idea of what constitutes rational agency, believing that the limits of language preclude the use of reason and so to change forms is to change the whole language through visionary imagination alone. This, says Wellmar, is establishing too great a distinction between imagination and rationality, forgetting that to criticize the old ways we use language which is built

upon them.<sup>66</sup> To overcome problems and confusion we do not construct totally new languages, new theories, but adapt language so as to view the problem from a different aspect, and such adaptation is not confined to the visionary alone, for agency itself presupposes subjective commitment.

Although a space of meaning and truth is only opened up by language, which is basically intersubjective, the notion of truth cannot be separated from those of belief and judgement, which always belong to individual speakers. And although only *together* can we make sure that we understand each other .. we can never make sure that new problems or objections may not come up in the future.<sup>67</sup>

Individual creativity is something which can only be *recognised* and *used* within a form of life, but that form is not necessarily cultural, and if it is then it need not be hermetic, and further, is itself reliant upon the self-instituting aspects of creative individuals who themselves are characterised by their attachment to basic facts of nature as well as to their more apparent social garb of a specific, historic type.<sup>68</sup>

All three concepts of agency, commitment and certainty in the Wittgensteinian scheme are conceptualised as being descriptive of a symbiotic process between agents and their contexts - neither taking precedence over the other and both requiring the existence of the other for survival. This is best expressed by Wittgenstein in his discussion of aspects of objects. The optical picture of an object remains the same in terms of dimension, persistence, space and so on, yet it can be seen through the filter of various interpretations made by through will of the perceiver. These interpretations, however, are limited by empirical, or natural conditions, such that, to use the same example, I can see this as a collapsed triangle, a hole or a cross section of a "Toblerone" but I cannot see it as a rectangle. To see an aspect, then, is also to see a state of affairs.<sup>69</sup> To see an agent, then, is to see a form of life -but it does not have to be any specific one, save for that natural aspect common to all forms of life, namely basic facts of nature.

### 3.2: Basic Natural Facts..

Just as Wittgenstein's philosophy reveals the confusion consequent upon the distinction between science and society, reason and imagination, fact and value, object and name, so it also attempts to show that grammar cannot be isolated from a pre-linguistic "depth". It does not provide an additional set of rules of use to those of the language game: "...language is not something that is first given a structure and then fitted on to reality",<sup>70</sup> but it emerges from natural facts.<sup>71</sup> Wittgenstein did not, as Rorty seems to think he did, equate forms of life with cultures alone, but with pre-linguistic natural facts coupled with individual narratives: "Don't take the example of others as your guide, but nature!"<sup>72</sup>. This suggests that if forms, value commitments, embeddedness, do function as tools of differentiation in carving out an identity they work for the whole of the human race, rather than for any one part of it. That we must recognize the social and public embeddedness of people does not mean

that they are culturally sealed off from each other to the extent that there are no actions or values which they share, as humans, and to which the practice of human rights can make appeal. Wittgenstein asked us to imagine the obverse of the statement "I know I am a human being.", not "I know I am a liberal", "I know I am an Azandi.", nor even "I know I am a cultural being"<sup>73</sup> It is impossible to recognize that one thing called the culture in which we are embedded; just as an individual is characterised by a web of beliefs so what we refer to as a culture is constituted by a myriad of social and sentimental practices. We are committed as creative human beings to language which we share with others, we are not committed public beings because of the presence of a creative language.

Rorty seems to recognize that we do have common actions, for example wanting to achieve a basic subsistence,<sup>74</sup> but says such common practices are not in themselves enough create a commonality between people. We can, however, translate other languages because of these shared practices, we can understand others; language, is, after all, not a monolithic system of restrictive rules, the application of concepts in language games is a technique, a skill we acquire over time. Wittgenstein noted these common practices as manifestations of facts of nature, what exists at an animal, pre-linguistic level, facts which are obscured by their generality.<sup>75</sup> We are, as humans, in possession of biological and psychical aspects common to us all. These include, amongst others, the ability to use reason and imagination and the need for food and shelter; they act not as historical, narrative or cultural limits to the horizon of our actions, but, as Lovibond points out, natural limits.<sup>76</sup> In recognising an action or a language we are implicitly acknowledging a sub-linguistic consensus which extends to all those determined by the natural, not cultural, limits of their natural condition. This is what Lovibond terms "transcendental parochialism"<sup>77</sup>. Wittgensteinian certainty rests not on explicit commitments to ethics and their institutional manifestations but on what enables us to moralize, rationalize and so on in the first place. Another aspect of these basic, natural facts is what Castoriadis refers to as the ensedic logic of a societies - those practices such as the possession of a basic geometry, the ability to distinguish mistakes and produce correction, the need for a modicum of mutual trust. Such logic is necessary for any society to maintain itself, irrespective of its truth conditionals.

In recognising action or language then, we are compelled to take it as a serious act with an ethical aspect irrespective of cultural distinctions. It is in this way that different cultures interact, the passing of the building slabs of society from one to another. Culture alone does not enable us to rationalize or moralize, that ability is also rooted in our natural embeddedness in grammatical forms of life. That natural ecosystems and human societies interact is something implicitly recognised by Wittgenstein's discussion of aspects in Part II of *Philosophical Investigations*: nature is a precondition of both the emergence and continuation of social living. It was with this symbiotic embeddedness in mind that Wittgenstein speaks of language games as distinct from natural facts and forms of life. A language game emphasises that aspect of reality which is specifically human - the relations between human agents - but at a primal level subjectivity becomes connected to natural forms, for it is nature which provides people with the ability to form and be formed by forms of life, defining them as conscious and complex beings.

Murray Bookchin articulates these connections between people and nature more explicitly: the two aspects of reality are linked through complex and ever evolving narrative histories and grammatical rules, aspects which Bookchin terms first and second nature. The former represents non-human nature and the latter human society distinguished by mutable, cultural and historically rooted institutions most often based upon, in Bookchin's view, rules of hierarchy and domination through guilt and fear. Bookchin says that rather than trying to repress this first nature through anthropomorphic control we should develop greater synchronicity with it by recognising our mutuality and promoting non-hierarchical principles of complementarity which seek to recognize the diversity of groups, of people and of their relations with first nature.<sup>78</sup>

Bookchin's work on human nature raises serious implications for those like Rorty wishing to deconstruct the world into hermetically sealed units called cultures.<sup>79</sup> Wittgenstein was no post-modernist, anxious as he was to promote individual creativity through language games limited not by cultures as such but by the confines of language as developed by our relation with others in open systems of conceptual relations and with a complex, fecund and diverse nature which itself participates in the reproduction of diverse forms of life<sup>80</sup>. Languages have no essence, just as humans have no single human nature, but they are connected by family resemblances. In the same way, then, it is possible to envisage a conception of universal human rights not as resting on any metaphysical assumptions about the innate structure of human nature but as a practice rooted in agent responses to a first nature whose presence in the form of family resemblances is open to us all. Such responses are manifest in the projects to which people are committed, projects which lend coherence to our identity over time, projects manifest in a commitment to language games. So it as humans *qua* language users that we ascribe human rights.

Rorty seems to recognize that through persistence, luck, errors and repeated attempts<sup>81</sup>, we can come to understand the actions of all humans yet still he denies the applicability of a universalist notion of rights which recognises the potential of us all to develop our potential, our *felos*, to get along with the speakers in different language games, to act, at certain times, with the feeling that we as humans realize ourselves according to certain traits we all share as natural as well as social beings. This is not an empirical claim based upon cause/effect relations. As has been explained causal explanation relies upon a metaphysics which sees nature as passive and causes purely as the interaction of kinetic forces manifest in the *momenta* and position of particles (be they atoms or super strings). Our natural contingency is not so apparent and is inseparable from our grammatical contingency; projects are qualitative as well as quantitative at the level of basic facts of life - normativity arises, as it were, out of language use.

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Notes:

<sup>1</sup> Richard Rorty "Contingency, Irony and Solidarity", Cambridge, 1991 (1986), p.6.

<sup>2</sup> *Ibid.* - p.12.

<sup>3</sup> R. Rorty in a speech given at "The Oxford Amnesty Lectures", Sheldonian Theatre, 26-2-93.

<sup>4</sup> R. Rorty - "Contingency, Irony and Solidarity" - op.cit - p.48.

<sup>5</sup> R. Rorty in Amnesty speech - op.cit.

<sup>6</sup> R. Rorty "Contingency, Irony and Solidarity" - op.cit - p.93.

<sup>7</sup> Ibid. - pp.67-68.

<sup>8</sup> Ibid. - p.53.

<sup>9</sup> "Autonomy is not something which all human beings have within them and which society can release by ceasing to repress them. It is something which certain particular human beings hope to attain by self-creation, and which few actually do." - Ibid. - p.65.

<sup>10</sup> Ibid - p.97.

<sup>11</sup> Ibid. - p.99.

<sup>12</sup> Rorty is echoing Mill's fear here (citing De Tocqueville), that "As democracy advances, the opinions of mankind on most subjects of general interest will become, he believes, as compared with any former period, more rooted and more difficult to change; and mankind more and more in danger of losing the moral courage and pride of independence which make them deviate from the beaten path either in speculation or in conduct.", thereby allowing government more and more control in order "to relieve mankind from the care of their own interests, and keep them under a type of tutelage[.]" ( "M.de.Tocqueville on Democracy in America" in G. Williams (ed.) "Mill on Politics and Society" - op.cit. - p.231. Rather than rely on rights to allay this trend Rorty believes we have to look outside of political or ethical concepts altogether, and towards poetry and art. In a curious echo of Wittgenstein's early views he asks us to acknowledge that creative value lies, if anywhere, with these people able to walk at and often change the boundaries of forms of life.

<sup>13</sup> Rorty sees irony as a compilation of gravity and frivolity which enables the few strong poets amongst us to continually bring into question processes of socialisation and equilibrium through continual redescription at a private level. This redescription is possible because Rorty no longer takes a Tractarian view of language as being confined to a technical role, as something which cannot express value. Indeed, it is the very poetic qualities of language that precipitate such iconoclastic and novel language games. Language is not so much value free as value sodden with poetic metaphor, totally aesthetic as opposed to mechanical - and with this language of irony we realize that there is nothing out there that makes our grammatical positions right, just or rational. Claims to certainty are not stable, as Wittgenstein said, sometimes the "facts" buck and we are left unseated, but like the thrill of riding the bronco, the ironist revels in this erratic and sometimes furious movement. (See an expanded discussion of Rorty's views on irony in David Hall "Richard Rorty", State University of New York Press, 1994, pp.129-168)

<sup>14</sup> Ibid. - p.188.

<sup>15</sup> see D. Hall - op.cit - p.180.

<sup>16</sup> Rorty's appreciation of grammatical embeddedness is not a communitarian commitment to the need for communal succour. Communitarians like MacIntyre find something intrinsically loathsome and isolationist in the liberal character which they see as making tacit overtures to essentialist metaphysics. Rorty, however, is prepared to accept the liberal self without appealing to any theory of human nature; believing the priority of democracy to philosophy to be sufficient for most people to get on with their lives free from intolerance and communal suffocation. (see D.Hall - op.cit - pp 101-103)

<sup>17</sup> W. Kymlicka "Liberalism, Community and Culture" - op.cit - p.13

<sup>18</sup> Ibid. - p.18. Mill, especially in "Utilitarianism", talks of how, though not fully developed, there is "A deeply rooted conception which every individual even now has of himself as a social being, [which] tends to make him feel it one of his natural wants that there should be harmony between his feelings and aims and those of his fellow creatures" (- op.cit. - p.31)

<sup>19</sup> Ibid. - p.52.

<sup>20</sup> M. Sandel's view that we discover forms of the good by blending ourselves with established practices, a view which Kymlicka sees as "pretty facile" (Ibid. - p.54), describes what C. Taylor sees as a necessary ontological position: without an established basic solidarity, an orientation towards the good, then there is no possibility of recognising or judging our commitments in the first place. ("Cross-Purposes: The Liberal Communitarian Debate" in N. Rosenblum (ed.) "Liberalism and the Moral Life", Cambridge (Mass.), 1989, pp.159-182.)

<sup>21</sup> see W. Kymlicka - op.cit - pp.86-90.

<sup>22</sup> A position most recently described in W. Kymlicka and W. Norman "Return of the Citizen: A Survey of Recent Work on Citizenship Theory" in *Ethics* Vol.104, No.2, Jan. 1994, pp. 352-381.

<sup>23</sup> Will Kymlicka "The Rights of Minority Cultures" in *Political Theory*, Vol.20 No.1, Feb. 1992, p.142.

<sup>24</sup> V. Haksar "Indivisible Selves and Moral Practices" - op.cit - p.177.

- <sup>25</sup> That human rights are used to attempt cultural integration is supported by Vernon Van Dyke who cites the use of "strict scrutiny" by the US Supreme Court to determine whether suspect (race, religion, national origin) or quasi-suspect (gender, disability) criteria have been used to justify discrimination. Suspect classification goes contrary to the rights of the persecuted minority because it threatens the liberties and opportunities of its members. in "Equality and Public Policy", Nelson Hall, 1990, pp.14-15.
- <sup>26</sup> see V. Van Dyke - op.cit - p.22.
- <sup>27</sup> W. Kymlicka - "Liberalism, Community and Culture" - op.cit - p.85.
- <sup>28</sup> Ibid. - p.211.
- <sup>29</sup> J. Rawls "Kantian Constructivism in Moral Theory" in *Journal of Philosophy*, 77, 1980, p.525.
- <sup>30</sup> Gerald Dworkin "The Theory and Practice of Autonomy", Cambridge University Press, 1988, Ch.2, pp.25-29.
- <sup>31</sup> W. Kymlicka - "Liberalism, Community and Culture" - op.cit - pp.48-50.
- <sup>32</sup> G. Dworkin - op.cit - p.17.
- <sup>33</sup> W. Kymlicka - "Liberalism, Community and Culture" - op.cit - p.53.
- <sup>34</sup> see T. Nagel "Moral Conflict and Political Legitimacy" in L. Hertzberg and J. Pietannan (eds.) "Perspectives on Human Conduct", E.J Brill, 1968, pp.112-113.
- <sup>35</sup> Ibid. - pp.122-127.
- <sup>36</sup> C. Kukathas "Are There Any Cultural Rights" in *Political Theory* - Vol20, No.1, Feb. 1992, - pp.118-129.
- <sup>37</sup> W. Kymlicka "The Rights of Minority Cultures" - op.cit - p.145.
- <sup>38</sup> OC - §344.
- <sup>39</sup> Jane Heal - op.cit - pp.123-134.
- <sup>40</sup> C. Castoriadis "The Sayable and the Unsayable" in "Cross-roads in the Labyrinth" - op.cit - p.125.
- <sup>41</sup> Z - §357
- <sup>42</sup> see R. Rorty in "Contingency, Irony and Solidarity" - op.cit - pp.135-140.
- <sup>43</sup> PI - §s206-208.
- <sup>44</sup> By this I refer to democratic rather than consociational pluralism; although liberalism is tolerant it seeks to assimilate people into an ideological melting pot rather than establish mechanisms whereby cleavage is openly recognized and accommodated at the political level. It allows all to join in the game providing they keep to the rules, it does not so readily change those rules if people feel unable to co-operate.
- <sup>45</sup> see discussion on AI in Ch.3 where I outline the crux of Shanker's argument against Turing: the rules of language is not something capable of representation by sub, or meta-rules, because language is no one thing, but, like a game, is characterized by a series of family resemblances.
- <sup>46</sup> R. Rorty in "Objectivity, Relativism and Truth" - op.cit - pp.187-188.
- <sup>47</sup> see Wittgenstein (PI, section ii, part iv.) where he talks of what distinguishes our recognition of people as beings with worth; it is when our attitude towards them is an attitude towards a soul. Such an attitude is not based on opinion, on reasoned conjecture, but is an assertion beyond explanation, it lies in a form of life.
- <sup>48</sup> Rorty envisages humans as fundamentally connected through an ability to feel pain (non-linguistic) and humiliation (linguistic) as things potentially experienced by everyone and that it is this which prevents us from being indifferent to the plight of others at the public (common sense) level. (see D.Hall - op.cit - pp.198-200)
- <sup>49</sup> R. Rorty in speech made at Oxford Amnesty Lectures, Sheldonian Theatre, 26-2-93.
- <sup>50</sup> R. Rorty in "Objectivity, Relativism and Truth" - op.cit - p.219.
- <sup>51</sup> Ibid. - pp.207-208.
- <sup>52</sup> Ibid. - p.209.
- <sup>53</sup> S. Lovibond "Realism and Imagination in Ethics" - op.cit - §40-41.
- <sup>54</sup> Wittgenstein quoted in R. Harris "Language, Saussure and Wittgenstein", RKP, 1990, p.41.
- <sup>55</sup> see Stanley Cavell "Must We Mean What We Say?", Charles Scribner, 1969, pp.49-50.
- <sup>56</sup> Here Lovibond is using the Hegelian system of "concrete ethics" where social practices are maintained/re-created in order that we can express our own identities through them. See op.cit - §16.
- <sup>57</sup> Ibid. - §40.
- <sup>58</sup> The grammatical context does not necessarily involve the Proustian engagement with the past; "for ever squatting in the tepid bath of his remembered past. And all the stale soapsuds of countless previous washings floated around him, all the accumulated dirt of

years lay crusty on the sides of the tub or hung in dark suspension in the water. And there he sat, a pale repellent invalid, taking up spongefuls of his own thick soup and squeezing it over his face ..." (Aldous Huxley "Eyeless in Gaza, Chatto and Windus, 1936, p.9). Traditions and memories are open components of individual self-assertion which resists the passive soaking in a cultural heritage but an embrace of the potential for instituting as well as the instituted.

<sup>59</sup> C&V - p.32e.

<sup>60</sup> see R. Monk - op.cit - pp366, 410.

<sup>61</sup> Sabina Lovibond "Feminism and Pragmatism" in *New Left Review*, No.178, 1989, p.22.

<sup>62</sup> PI,iii, p.225e

<sup>63</sup> C. Castoriadis in preface to "Cross-roads in the Labyrinth" - op.cit - pp xxiii-xxix.

<sup>64</sup> B. Barry - op.cit - p.42.

<sup>65</sup> The rejection of the dominance of a single, scientist outlook was something Wittgenstein felt should be countered not only because of its bias towards generalisation but also because it saw most things in terms of causal relations or as facts rather than as grammatically related as manners of expression and this promoted too rigid a picture: "In Fact nothing is more *conservative* than science. Science lays down railway tracks. And for scientists it is important that their work should move along these tracks" quoted in R. Monk "Wittgenstein" - op.cit p.486.

<sup>66</sup> A. Wellmer "Inter subjectivity and Reason" in L. Hertzberg and J. Pietarinen (eds.) "Perspectives on Human Conduct", E.J. Brill, 1988, pp.154-155. The point is made by Wittgenstein: "I once said, perhaps rightly: The earlier culture will become a heap of rubble and finally a heap of ashes, but spirits will hover over the ashes." C&V - p.3e.

<sup>67</sup> A. Wellmer - op.cit - p.158.

<sup>68</sup> see C. Castoriadis "The Nature and Value of Equality" in - op.cit - p.134.

<sup>69</sup> for a fuller discussion see M. Budd - op.cit - pp93-99.

<sup>70</sup> Wittgenstein quoted in R. Harris - op.cit - p.68. Also - "Grammar describes the use of the words in the language.

So it has somewhat the same relation to the language as the description of a game, the rules of a game, have to the game."

<sup>71</sup> as R. Harris illustrates this point is contentious because Wittgenstein was never clear as to how autonomous he envisaged grammar as being. On a weak interpretation grammar could be that which permits language games and forms of life, each differing from each other as to what is to count as truth, regularity and so on. The stronger interpretation is that grammar is the system of rules which determines what is to count as meaning and so has already taken into account external reality. - op.cit - pp.80-84.

<sup>72</sup> C&V - p.41e.

<sup>73</sup> OC - §'s 1-6.

<sup>74</sup> R. Rorty "Cosmopolitanism without Emancipation" in "Objectivity, Relativism and Truth" - op.cit - p.215.

<sup>75</sup> PI, ii, xii.

<sup>76</sup> S. Lovibond - "Realism in Imagination and Ethics" - op.cit - §47.

<sup>77</sup> Ibid. - p.243.

<sup>78</sup> Murray Bookchin "Twenty years Later..." in "The Ecology of Freedom" - op.cit - pp xxii-xxiii.

<sup>79</sup> Hermetic implies the chemical sealing of cultures which whilst they may vary as to how many windows they have which look out onto other cultures they are all inextricably attached to a single narrative history.

<sup>80</sup> see M. Bookchin - "The Ecology of Freedom" - op.cit - p.276.

<sup>81</sup> Ibid. - p.216.

## Chapter Six

### THE ARTICULATION OF HUMAN RIGHTS.

On some other world, possibly it is different. Better. There are clear good and evil alternatives. Not these obscure admixtures, these blends, with no proper tool by which to untangle the components.

We do not have the ideal world, such as we would like, where morality is easy because cognition is easy. Where one can do right with no effort because he can detect the obvious.

*Philip K Dick "The Man in the High Castle", Penguin, (1962) 1988, p.236*

#### 1. THE LIMITED VIEW OF FORMS OF LIFE AND HUMAN RIGHTS

To be able "to slam the door upon the world" and yet re-open another, to shift our ontological commitments, to constitute an evolving, conservative or revolutionary self without denying the historical and narrative roots of that self, requires action. It is only through grammar that this is possible, meaningful and sensible. But why should we be bothered about ensuring the conditions of this use for all potential, purposive, language users out of a recognition and general concern for other language users?<sup>1</sup> The conditions of effective language use would include human rights to expression and association within language games, rights to actively attach or devolve oneself from such games and the wider forms of life, the need for a basic level of security, subsistence, information and consistency so that people are able to consider options from positions of relative calm and are not asked to violate one social imperative for the sake of another whilst still assuming a position of apparent coherency, a respect and concern for the lives of other language users, and an awareness of contextual involvement. These conditions present us with a focal point to which we as language users are able to refer when we feel our creative, expressive self is rubbing against the boundaries of forms of life. This movement is the *locus* of the self which though it has no essence is unique in the way it engages in linguistic patterns;<sup>2</sup> it is language which lends narrative to our lives, it is through language games that we are able to identify feelings, experiences and actions as our own, and it is grammatical criteria which provide the coherence and continuity to such identity.<sup>3</sup> Human rights concern themselves with instituting or attaining aspects of human nature as much as they are concerned with protecting what is already instituted; they articulate the internal links between ordinary language use and self-identity as an embodiment of such use.

These conditions may be what is required for effective language use, articulating as they do

the inherently open, flexible nature of how we weave our identity from the threads of grammatical family resemblance, but it is still not clear whether they should be accorded priority by social institutions as a matter of ethical right. How is it that human rights as an *ethical* form of life can come to incorporate all human beings as creatures deserving equal respect and concern when the only source of such commonality so far put forward as extending beyond the boundaries of the liberal form of life are the general *facts* of nature? The problem is an articulation of the confusion thrown up by a supposed move from an "is" to an "ought": in this case from showing people as expressive, creative language users in symbiotic webs of ordinary language use, historical narratives and basic facts of nature, to justifying the articulation and protection of an individual agent's commitment to and responsibility for linguistic expression by using the ethical and some would say largely liberal institution of human rights. How is the "despotic demand" that *all* people should recognize human rights made when the whole tenor of Wittgenstein's view of language concerned its expressive and liberating role in allowing agents the responsibility to decide for themselves which forms of life and language games they were going to commit themselves to, including, presumably, those using human rights? For human rights to be truly universal they must be recognized as binding by all language users, yet ethical imperatives surely remain manifest and contingent upon localized, second order natures characterized by difference and distinction rather than similarity in direction.

Whilst it is still a legitimate claim to say that from within the liberal perspective human rights are better seen as expressions of the creative and expressive use of language by agents hewn from and hewing themselves from the Western, democratic rock as it were, it need not be the case that such a rendering of rights make them any more attractive as ethical precepts to those people who actively resist the apparent individualism inherent in rights use. We can dispense with human rights as metaphysical companions to the self as it journeys toward the good, the just and the truth; indeed we need not look at them in eschatological or diachronic terms at all. Instead, they express the inherent openness and diversity in language use, enabling people to articulate an awareness that other ethical systems exist and do so rightly, provided such systems recognize the limits<sup>4</sup> of what can be done to individuals for the sake of forms of life or language games. The reason for this is that it is part of our heritage to address questions of ethics in a critical and reflective manner and language use embodies such a practice, involving as it does the active commitment of selves to established or newly created language games. Ethics remains a trait of our culture, however, because it concerns offences against the ideology, practical identity and harmony of a recognized community to which stigmatic sanctions such as guilt, repentance and retribution are attached. This communality seems to limit the applicability of human rights theorising to those liberal societies where core identity, or at least its ideological aspect, is cast in inorganic, essentialist terms. This *milieu* of ethical reasoning cannot itself, it seems, be transcended in order to criticize or praise other less critical ethical systems, not least because it is one of the central maxims of much recent liberal reasoning to be tolerant of other views. Though a realm to which all language users remain connected can be identified within the Wittgensteinian scheme as being necessary for the articulation of life plans, intentions, action, purposes and beliefs, it still is not apparent why such

general *facts* translate into *duties* on behalf of *all* others to respect such a necessity. Thus, reasoning on human rights becomes limited to articulating and promoting their use from within a limited, cultural landscape in the hope that others may witness their efficacy and seek to follow suit.

Though it is a basic fact of nature that we do behave in accordance with linguistic rules it is not a basic fact that such species wide behaviour includes the use of human rights. Environmentalists, transcendentalists, anarchists, conservatives, fundamentalists ..... all in some way or form renounce the idea of human rights as presently conceived within the confines of the liberal democratic hegemony in the UN.. They refuse to accept the validity of the human rights language games, they react differently to ethical questions, saying, for example, that nature has as much intrinsic value as humans, that the autonomous soul is a barrier to be transcended on the eight fold path to Nirvana, that autonomy under governments is a sham, that freedom is only possible through immersion in a constitutional tradition or through complete obedience to divine interdicts. People seem to be committed to a plurality of goods - a good life is not solely the product of stability and habit but of imagination, temperament and will, of reflection upon unrealized possibilities,<sup>5</sup> of personal values, and this is exactly how Wittgenstein envisages language use as moving. This being so, no one good can be identified to which we are all committed - what is good, in conjunction with what is right, is determined at least in part within the contextual narrative of a form of life. Though translation is always possible and individuals can commit themselves to more than one form of life, goods inevitably clash. The only source for universal agreement, then, are the basic facts themselves. But in invoking such facts human rights become Hobbesian maxims of prudence: procedural means by which humans have the motive to abide by complex normative rules in order to better survive in modern life as sure as they once needed flints and fire. The seemingly inevitable fact of plurality ensures that connotations of the good can only be reconciled through fairness in negotiation and the swapping of concessions in order that people may live together whilst still holding ideas of the good at variance with one another. This urge to go by established normative practices such as "Peace Talks", "UN. Resolutions" and so on is natural one: to avoid the dominance of violence, to prevent an ethical vacuum through the persistent presence of diplomatic dialogue, no matter how much it resembles the shed skin of a life now moved on in new garb. It is, though, an urge of expediency rather than one of *ethical imperative*.

Ethical duties, it would seem, are always wrapped up in a sense of narrative belonging tinged with a weak skepticism as to the possibility of their ever establishing universally valid requirements of behaviour. Human rights, as ethical rules which establish limits to action, remain relative to the form of life which uses them as an articulation of the good of autonomy to the interests of all individuals as language users. They are therefore, *contra* their ontological assumptions, limited to the branches of ethics which view individual interests as their essential focus. To say that human rights are claims consequent upon the inherent dignity of our invariant, inner selves, or upon the fact that we all are promising creatures, presupposes the existence of an established practice of promising or the use of a concept of dignity, a practice characterized by rules which themselves require contextual expression.<sup>6</sup>

Normative rule following is a universal trait amongst language users, but this can only ever be translated into limited ethical rules, those rules by which we accord weight primarily to the interests of others rather than our own prudential interests, as ones we can only discern and follow from the limited, social context within which we commit ourselves to those interests. People can be influenced by their natural environment in that given certain conditions people will act in a certain way but they do not *have* to act in that way, they can be shown an alternative.<sup>7</sup> Though experience reveals matters ethical it does not do so through the sense impressions of nature or factual, causal explanation. The ethical sense comes from use and refers to something supernatural, what Wittgenstein called divine.<sup>8</sup> What is good is somehow "outside the space of facts", including natural ones. Rather than being something correct, absolute and necessary it is part of a social and historical narrative which lends it effect and support:

My own thinking about art and values is far more disillusioned than would have been *possible* for someone 100 years ago. That does not mean, though, that it's more correct on that account. It only means that I have examples of degeneration in the forefront of my mind which were not in the *forefront* of men's minds then.<sup>9</sup>

Which interests are of ethical value varies across and between cultures and eras; modern liberal democracies are plagued by those interests which isolate us from each other and our organic unity, by those which are amenable to scientific detection and lexical ordering, the primary one being the inherent value given to the autonomous pursuit of privately chosen ends.

The argument in support of human rights as manifest in the language use of liberals and others who already presuppose the importance of using critical and open discussion is a "limited" application of Wittgenstein in the sense that it remains firmly within the already established normative system of the liberal mind but prefers to examine the way we use human rights as attached to language users than to seek items of rational proof for their grounding or justification. There is a commitment to those normative rules which promote no specific goals of their own but facilitate the multitude of ethical goals preferred by individuals governed through the ascription of human rights. From these beginnings it is better to see such rights as concepts which are necessary for the creative, individual use of language, for it is only within a language that conceptions of the good and life projects can be formed. There are a number of interrelated reasons as to why this is so.

## 1.1. The Value of Human Rights Grammar.

### 1.11. Human Rights and Ordinary Language.

To accept the ethical force of human rights we do not have to use some analytic, rational but metaphysical order which we can ostensibly define, either inside of us or in some transcendental realm in comparison to which the world of objects becomes "sensible", or meaningful. This means

they are not attached to individuals weirdly conceived as noumenal selves, as receptacles in isolation, nor to beings imperfect in their relation to an ideal, but to language users who are able to express their autonomy through their ability to choose between grammatical conceptions of the good from within existing language games. It is through language use that people are able to formulate projects about the good life and communicate them to others; "It is in language that an expectation and its fulfilment make contact."<sup>10</sup> Attaching rights to language users also better highlights the conceptual link between rights and concomitant duties. Language persists within a complex *milieu* of social relations between potential claimants and recipients, and not because of an agent's mind, inner soul or isolate integrity. Autonomy becomes a social product, something which is publicly demonstrable and requiring of positive action on behalf of others yet which remains beyond any specific parameters of instituted rule following. Language requires commitment of the self as well as the consent of others in recognising the legitimacy of this commitment. There must be an aspect of free thought and dissent in the language user's life. Human rights only have meaning when used as part of a language and are only used when others not only recognize the validity of the claim but act on it, on the basis that they themselves, *ceteris paribus*, expect like treatment. In dispensing with an atomized view of the world Wittgenstein's work enables us to see more clearly the presence of duties upon others to recognize *and* respond to the linguistic presence of their fellow language users, for it is through language and its institutionalised arena, the *agora*, that we are able to shake off what Mill calls the complacency of towing the orthodox line for which we require only the ape-like quality of imitation.<sup>11</sup>

Emphasis upon use will also reveal the problems inherent in attaching any lexical priority either amongst rights themselves or between rights and other ethical considerations. Language as an open and dynamic process precludes invariant, universal rules and as a result human rights, as limits to effective action, reflect this shifting situation in their emphasis upon how duties may conflict. The right to basic standards of health<sup>12</sup>, for example, has to be placed not only in the context of *extra-rights* conflict such as the need for some consideration of utilitarian trade-offs, the political influence on resource use and duties to avoid rights-based bureaucracy; but the context of *inter-rights* conflict such as the rights of people to education,<sup>13</sup> the right to control one's own resources<sup>14</sup>, and the similar rights of those falling outside of the provision area; and the context of *intra-rights* conflict such as the presence of competing claims on limited health care resources, the right to refuse certain treatment on the basis of inherent dignity and the rights of long-term ill against those ill in the short term. All of these three areas involve conflicts which concentrating upon language use helps clarify, if not resolve. We can see, for example, that the right to emergency treatment is of greater import than the removal of gall stones in the sense that the former removes one from language games to a much greater extent than the latter. That although the rights and duties can create bureaucratic problems, rival ethical theories such as utilitarianism fare no better when trying, for example, to aggregate qualitative feelings like happiness. Concentrating upon language also shows how opaque the whole sense of rights use is; of how conflicts can always arise when practically applied at the level of ordinary day to day life and that what is necessary is flexibility to

deal with each occasion rather than the application of hard and fast rules. We might feel for example that it is legitimate to look after your own in preference to those of other nations, but to what level will we be prepared to let others' problems sink before we intervene, and are problems really so mutually exclusive?

Conservative readings of Wittgenstein may well espouse an identity of the self which languishes under the direction of social institutions and practices, but a more radical one sees commitment not as the unquestioned and inevitable signing-up to stultifying narrative traditions but a feeling of temporary certainty manifest in the effective participation in or even rejection of social institutions. Asserting the efficacy of one's culture can be just as much about realising one's individuality in the face of majority tyranny as it can be about defending practices to which one is committed as a member. In being committed to social rules I need not be affirming already existing rules, I can be calling for the establishing of rules which my commitments lead me to believe should be used if people are to flourish.<sup>15</sup> Thus, to be autonomous I must concern myself with the collective, established mythologies or social narratives, but never be subsumed by them or regarded as necessarily complacent participants in them. The well-being of the self is concerned not with the persistence of inner self *per se*,<sup>16</sup> but with an attaining, evolving self manifest in commitments to and aversions from grammatical patterns of action. The logic of such grammar is inherently normative and so cannot be broken down into algorithms, people are not constituted by social or natural experiences or stimuli alone, their grammatical criteria reflects their status of certainty as players in language games which they institute as much as they are instituted by. Human rights gain a fluid sense of self when linked to language use, one which can accommodate emotion as well as reason, partiality as well as certainty, and a sense of evolution as well as of the static.

#### 1.12. Human rights as logical, normative and moral musts.

The liberal commitment to autonomy forms a background condition of certainty, an axiom which is used to justify the existence of human rights. What Wittgenstein shows in *On Certainty*, though, is that such axioms act not as justificatory search lights but are indicative of overlapping practices, or creative endeavours to which people actively commit themselves to greater or lesser extents. The strength of commitment is itself dependent upon the extent of intellectual authority present within the language games (what Foucault would see as the circulation of knowledge), the methods of teaching, and the importance of it, as a game, to the identity of each participant. These factors vary according to context. Liberalism has a need of human rights language because it is that form of life which asserts our commitments to the value of the individual as a creative and expressive being and the ability to display such commitments in the public arena. Thus they offer a sense of minimal and mutual self respect surrounding this core value of linguistic autonomy.

These background conditions of certainty against which we distinguish right and wrong can only work if they are coherent, the rules of language games apply to all equally on the basis of established tradition and technique rather than on the basis of whim. The rule of law, for example, must then be consistent, in order for basic communication amongst the players of the language

games of law to be achieved. Thus, ascribing human rights *qua* language users gives them a cultural base, a context from which they derive meaning and within which the ethical *must* to recognize human rights is very clear. Without any explicit recognition of such a background human rights remain vapid, concepts to be used as a matter of convenience rather than ethical necessity. At least in articulating their particularity in linguistic context their rightful force as primary considerations cannot be so easily ignored by more than 160 nations who do claim to recognize their precepts as signatories to the UN Charter.

These points, coupled with those made in the last section, have very wide implications for the grammar of human rights. Not only do they show the imperative nature of eliminating human rights abuse from within those systems who are signatories to the UN Charter, they also impart the necessity of realising the human rights of all language users. We, as liberals, basing human rights on a grammatical continuum, see all people who use language as potentially valuing the creative and expressive use of language and as such worthy of respect because it is recognized that we all share an agreement in forms of life which is necessary to the proper functioning of language users as expressive and creative beings. Linguistic certainty is not rooted in cultures alone, but in forms of life themselves infused with general facts of nature. Those committed to human rights must respect our common biological heritage and needs, our ability as agents/language users to be imaginative as well as rational in choosing which institutions and values to commit ourselves to, our capacity for memory, adaptation, learning, abstraction and so on, and our ability to question our ontological commitments, to engage in rapid ethical conversion without denying our past. These basic facts form aspects of the background conditions against which we *all* determine truth and falsity. Though human rights may be buried in the narrative heritage of modern, constitutional democracies, they are also connected to basic facts of nature and through such intimacy we can recognize the need for basic conceptions of fairness and stability running *sui generis* to any specific conceptions of the good. This is the liberal way.

This being said, every effort should be made by us to treat all people, no matter where their cultural home, with dignity. This would preclude, for example, preferring the well being of liberal democratic citizens to that of any other so that, even though say Muslims or Hindus may not agree with the ontological foundations of certain human rights, they must still be recognized by liberals as being due equal respect in terms of rights to forbearance and well being, so long as they did not threaten the background conditions of language use. This implies that the liberal West should not interfere with these culture's ways of life in ways that undermine their ability to act free from the enclosure of specific language games and forms of life,<sup>17</sup> should do everything possible to help feed them should they suffer from hunger, should not exploit their natural resources in order to support a "letter" standard of living elsewhere or use their inadequate safety and pollution standards as excuses for the irresponsible and life-threatening dumping of waste or exploitation of sweatshop labour conditions. Human rights do not lose their universal ramifications on the limited view, they just lose their universal ethical appeal.

Concentrating on language use also focuses attention upon language games of the everyday and the benefits accruing to participants in preserving their variety. Human rights are a manifestation of the vigilance necessary to preserve such diversity, they are not passive, merely protecting individuals in their private actions through the enforcement of duties of forbearance, but pro-active, a force which requires control, direction, defence and vision. We cannot leave each other just to get on with it because this will create conditions of confusion and repression as some language games come to dominate others - what we need is a sense of co-operation at face to face level as much as at central level. Forms of life may differ, not in the private predilections of their members but in their language games, and a respect for commonality is based not on reasonableness, but a grammatical continuity to the rules or limits within which these forms move. Indigenous groups and their grammars ought to be respected as collective ways of formulating conceptions of the good no less valid than liberal ones and every effort to avoid forced redescription should be made.

On the limited view, then, human rights come to form an aspect or expression of the use of language thereby avoiding the problems of connecting them with practical reason, innate minds, platonic truths or other factors exogenous to the ordinary experience of the "sensible" world. It encourages us to value human rights as inherent limits to the techniques and aims employed by language users preserving as they do the integrity and coherency of the concept of autonomous self-identity. The question now becomes whether such an identification of human rights and human traits is ontologically valid outside of the liberal tradition.

## **2. GEWIRTH AND ACTION BASED HUMAN RIGHTS.**

Recognising human rights as fundamental aspects of the way we do things is something which Alan Gewirth has already attempted, though he uses the rationality of action rather than the logic of language. Agency, like language use, is practised by all human beings and so could constitute a possible reason as to why we are all due a basic level of respect as people who value our ability to act - not because of any ulterior aim but because it is only through agency that purposive life plans are possible. But what, asks Gewirth, makes us move from a recognition of the logical needs of agents to the insistence that such needs be satisfied by other agents through the institution of human rights? Gewirth sets out to try and cross this fact/value gap in his books "Reason and Morality" and "Human Rights" in which he insists that moving from action to rights ascription is universally and ethically justified because of a necessary rational logic inherent within human agency. Human rights are concerned with relations between objects and needs, objects and justification, and subjects and respondents. Such relations are of a first order nature in that they concern the basic needs and claims of all prospective, purposive agents. They are also, believes Gewirth, of an ethical nature in that they are conceptually obligatory; in other words they are categorical and so must be recognized out of normative necessity, and they are determinate in that

they admit no mutually opposed requirements for action.<sup>18</sup> Rather than concern himself with the interests of all agents *per se* Gewirth works from the first person perspective upwards in a move from the consideration of the interests of individual agents to those of all agents. The central problem in justifying the normative (they are concerned with relations) and ethical (and the interests of others) priority of human rights lies in justifying this move from the fact of logical prudence of a single agent recognising and valuing what conditions are necessary for him to act, to the logical insistence that he must recognize and act upon those conditions as being necessary for everyone, irrespective of their specific relations to him.

In trying to justify human rights as supreme moral principles it would be question begging for the criteria of justification to already involve the principles themselves, therefore there cannot be moral justifications without engaging in circular argument, and yet if it is non moral then how is it that the "is", the event of agency, can lead to the "ought" of moral rules governing that action? Gewirth proceeds from the first person perspective of agency and using logic (dialectic necessity) tries to show how the is/ought gap is bridged. Thus, in the first place, his argument is neither asertoric in that it proceeds from no general, objective truths, (like the language based theory of human rights it rejects the idea of Cartesian (privileged access to mental states) and Kantian (universal rational subjective wills) languages), nor is it contingent, in that it imposes no artificial conditions upon the agents, (again, like the language based theory which rejects the idea that rights can be justified through hypothetical contractual constructs of rationality such as found in Rawls' OP. The language based theory emphasises the open, grammatical limits of *ordinary* language: Wittgenstein was bringing words back from their metaphysical to their everyday use.).<sup>19</sup> Gewirth's argument runs as follows:

1. Essential features of action are voluntariness, which presupposes non-coercion, desirability and awareness of alternatives, and purposiveness, which assumes that voluntary action is performed for a reason or end and so lends agency its inherently normative structure. These he calls the generic features of action.<sup>20</sup> These are similar to those features essential to speaking a language. Language use does not commit a user to a single ontology but is characterized by games played by people who find themselves and their world in constant touch with those of others. Their selves are both instituted and instituting, they resonate with purpose and possibility. This resonance is no less nor more constitutive of being in any single person but the being of any specific resonance is determined by its specific relation with other resonances so each is able to resonate like no other. Language users are responsible for the commitment they make in language games because they can and do value their ability to override their ontological commitments.

2. Agents are rational in that they recognize inductive and deductive logic and avoid self-contradiction. They are also purposive, conative beings with an interest in life over time. Again this is also the case with language users - they follow rules of grammar in terms of technique, and this is the natural fact of regular rule following behaviour.

3. Agents positively value their actions, regarding them as good and in line with their desires. Such recognition therefore extends to the generic features of action because without these there would be no action at all. Similarly with language, without the creative aspect and natural regularity language is sapped of all meaning.<sup>21</sup> Therefore, the agent values the freedom of action and its purpose. The fact/value gap, from the perspective of the individual alone, is bridged because the generic features constitute part of the agents well being.<sup>22</sup> The core value in language use is also its expressive and creative nature, to follow linguistic rules which embody a sense of self.

4. Since the agent regards freedom and well being as essential to successful action he assumes that he has a claim to generic rights to have such generic features respected. This is because in order for an agent to have freedom and well being they need rights to such goods, for without rights the agent would have to deny the fact that all other agents ought to refrain from interfering with her freedom and well being and so tacitly accept that such interference is permissible and therefore that she may potentially not have freedom and well being, and this contradicts her status as a purposive being.<sup>23</sup>

These rights are generic because they are primary, they are constitutive and they are human.<sup>24</sup> The same is the case with rights based on language use, language games being those arenas of activity within which we constantly define and re-define our selves. The agent claims that all other agents ought to respect her rights to non-interference and well being as her prudential due. This is a prescriptive, not a descriptive, because agents see their actions as good. The "ought" is not as yet an ethical one because it is still limited to the interests of the purposive agent herself.

5. All agents require generic rights because on prudential grounds without them action would not take place, generic rights are not favours but basic conditions of action. Thus, even though rights are commonly regarded as a modern, Western concept, these basic generic rights are not so historically and culturally contingent. All societies recognize the need for duties, entitlements and basic conditions of action and very often express them in terms of right-like concepts.<sup>25</sup> The bridge between "is" and "ought", feels Gewirth, is made here. Generic rights do not presuppose a rule because their objects happen to be the conditions necessary for rule following itself; they are rights necessarily connected with being human. In Wittgenstein's sense, however, there is no gap to bridge for it just is the case that all language users share the common natural heritage of being able to know that they are following a rule and of what this following consists in. It is not something to be proven through reason, access to inner mental states, or the Fregean distinction between sense and proposition,<sup>26</sup> but something that lies beyond justification.<sup>27</sup> It is agreement in forms of life and is manifest in natural species behaviour.

6. There is no variability as to the relevant qualities sufficient to be a generic rights holder, all purposive, prospective agents *qua* agents have rights to freedom and well being. Similarly, all language users *qua* language users are equally able to behave in a regular manner and that such

natural ability, necessary for the creative expression of individual desires, beliefs and intentions, ought to be recognized through the instituting of basic human rights which acknowledge our mutual attachments to a form of life.

7. Because the recipients of agent's actions are also prospective, purposive agents the agent must logically acknowledge the universalization of generic goods. No agent ought to be coerced or have their well being threatened. It is a condition of rational self rule that generic rights be recognized in all purposive agents. This is the point at which the prudential "ought" swaps to the moral "ought" because the criterion of judgement concerns not the agent's self interest but the interests of others. Without recognising the ought in respecting the rights of others the agent would have to deny that being a prospective, purposive agent is a sufficient justification for having rights to freedom and well being<sup>28</sup> and so deny their own rights. On the pain of logical self contradiction (2-4), then, people must act in accord with the rights of others as well as themselves.

As I have tried to indicate throughout this outline of Gewirth's position, ascribing human rights to language users can be seen to proceed along a similar line of argument to the ascription of human rights justified through the logic of action until number 5. Gewirth begins with the logic apparent to an individual agent who acts solely out of what are prudential motives (they value their action and its purposes and so wish to preserve those components essential to its operation through the recognition of human rights) which subsequently turn into moral oughts due to the internal dialectic reasoning employed by Gewirth (rights are not assertoric, they are not imposed, but part of the logic of agent interaction). Human rights ascription on the basis of language use, though it makes appeal to individuals as creative and expressive language users able to debunk established social practices, does so not on the grounds of an individual's internal, prudential interests, but on the grounds of the logic of the natural and spontaneous urge to act in accordance with normative rules, the urge to be other than the "other". The pain of grammatical as opposed to rational self-contradiction is found not in internal inconsistency (and why can we not be inconsistent?) but in the denial of a dialogue of identity through forced redescription.

The problem in Gewirth's system is that, like Rawls' OP, it invokes the concept of agency within an already established practice or network of assumptions without acknowledging it as such. Agent rationality can well proceed along the uni-linear loci transcribed by Gewirth's logic, but only on the assumption that such an agent *recognizes* that purposiveness and voluntariness are indeed generic, or necessary and universal, features of action, and that such a recognition is indeed something essentially relevant to the culturally specific practice of human rights use. The principle of generic consistency (PGC), then, is a supreme moral principle ("the ultimate justifying criterion for specific moral rules and judgements" based upon a recognition that you should "act in accord with the generic rights of your recipients as well as yourself", the generic rights being rights to well being and freedom)<sup>29</sup> only to those who subscribe to the "ultimate rationale" on the basis of their established social narrative.<sup>30</sup> Though no agent can *rationaly* deny the PGC this rationality only

makes sense *in conjunction with* assumptions about the human condition which Gewirth smuggles in, for example that humans require stability and security, that their own projects rather than those of others accord with what is good and most certain. An agent, when considering her position, is not rational *a priori*, because rationality is a concept which is used in specific contexts to mean one system of thought, and another in others: "Consideration is a part of a language game, not the point of its origin."<sup>31</sup> There is no reason why, *contra* the move from 5 and 6 to 7, an agent can consider that voluntariness and purposiveness are necessary conditions of action and yet still deny the right of others to such conditions, preferring instead to adopt a maximal risk policy and see how they fare in a Hobbesian "State of Warre". In addition to this, it is still not clear that agents need accept voluntariness and purposiveness to be necessary conditions of action at all - the consequent individualism of adopting a commitment to the concept of freedom may well, in the eyes of those who would still be agents, be in direct conflict with well being. Gewirth is assuming that there is no potential conflict between the two aspects of the rights consequent upon the PGC, namely those to freedom and well being, whereas such ethical determinacy is far from clear when one looks at potential dialectical (as opposed to assertoric) reasoning which holds that because of the necessity of one the other must be compromised not only as a possibility but also as a matter of logic. Moreover, we can also identify language games where the invocation of rights as impartial standards of value applying to all equally conflicts with an individuals' personal projects to the extent that their identity is threatened; an *extra* rights conflict. Though people may recognize that to understand our own reasons for action, to give them motivational force, we have to recognize the reasons of others for acting as they do, this does not entail a universal respect for others' reasons. Loran Lomasky shows that if our own reasons are strong enough then we are prepared to ignore others' reasons for not wanting us to act in the way that we do, conscious that to maintain our own integrity we *have* to perform such and such an action, even if it conflicts with the interests of others to whom *in another context* we would be happy to accord moral weight.<sup>32</sup> It is hard to envisage why, if the rights-protected autonomy of people is so central to the human identity, they should possibly give up their control over questions of justice to the contractual manoeuvrings of an OP or other such contractually based power system.<sup>33</sup> Thus, the ranking of reasons for action from the first person perspective would seem at times to preclude their being used as a justification for respect owed to others as a matter of their right.

Gewirth has to seek recourse in the axiom of inherent dignity<sup>34</sup> to cement the move from the logic of agency to human rights, and so returns to something akin to the limited view. Not only must we respect rights because not to do so involves rational contradiction, but because agency itself rests upon a rationally prior, innate, permanent and purposive quality in all people. Life projects are manifest in the logic of demonstrable agency but are intimately linked to a sense of an agent's own worth which in itself lies beyond justification. Rights are to be ascribed to agents not only because they act, but also because they have dignity by virtue of their being potential agents. In order to establish the legitimacy of human rights as repositories of ethical duties rather than just logical tools we go back to the view that people have such rights *because of* the two moral powers: namely the

ability to frame moral judgements, act in accordance with them and recognize similar abilities in all other rational agents.

Maybe the problem is not one of justification for human rights at all. Instead of trying to point to an identifiable universally persuasive grounding for the use of rights in fact it might be more perspicuous to clarify just what position we find ourselves in as agents, or language users, and how human rights fit in to such a pattern. Describing the generic features of action and language presupposes that language and action are purposeful, imbued with a sense of worth that requires acknowledgement as a norm. These norms become ethical musts because they do not tell us how to become ethical, but, rather, what it is we *do* when we *are* ethical.<sup>35</sup> Though scientific methodology encourages us to, looking for general justifications for ethical patterns like human rights is not something we actually can do. We must rely on a basic level of *trust* from which background conditions emerge. Without this trust rules have no purpose and hence will not be the rules seen by Wittgenstein as necessary to language use.

### 3. THE EXTENDED VIEW OF FORMS OF LIFE AND HUMAN RIGHTS.

#### 3.1. Description and Normativity.

In order to address the confusions thrown up by the supposed intractability of fact/value distinctions it is helpful to see just how it is the concepts of fact and value are used. To describe an object or a practice is to engage in evaluative judgements as to the usefulness of that practice/object, description presupposes the existence of normative practices for what constitutes description, it is not a neutral process. If a person is not speaking well, they mumble, hesitate, turn away, guffaw and so on, then not only are they not speaking well, they are not speaking at all - at least not in accordance with the regularities we have come to accept as the background conditions against which we decide such things. In language games we use concepts such as scruffy, good, ugly, inarticulate to convey how we perceive the world - experience cannot be reduced to the perception of objects with names - we experience the world in an imaginative, expressive way. How we perform in any given context is dependent upon how we do in relation to established norms and, so, description, rather than being in conflict with norms, presupposes them. In doing philosophy itself we are engaged in activity which investigates clarity, rule structures, fluidity and the like. This is not just a rendering of blank facts but the recognition of new, fertile points of view which incorporate both ourselves as subjects or language users and as potential avenues of development for all that is other to our selves.<sup>36</sup> Philosophy is akin to poetry here, it is always partial and never definitive.<sup>37</sup> Its purpose is to illuminate what already exists in use through description:

It seems paradoxical to us that we should make such a medley mixing

physical states and states of consciousness up together in a *single* report: "He suffered great torments and tossed about restlessly". It is quite usual; so why do we find it paradoxical? Because we want to say that the sentence deals with both tangibles and intangibles at once. - But does it worry you if I say: "These three struts give the building stability"? Are three and stability tangible? - Look at the sentence as an instrument, and at its sense as its employment.<sup>38</sup>

Language games are played as medleys. Facts and values are not facts and values in isolation but in experience and the empirical nature of any theory is always imbued with conceptual relations.<sup>39</sup> The Humean fact/value distinction tends to drop out *in this context* because factual and value recognition is dependent upon the linguistic weave of grammatical criteria. We have a tendency to see object/subject, fact/value, nature/human, community/individual, necessity/freedom, and body/mind in perpetual, dualistic conflict, as one being the source of control over the other. Philosophy should make clear that in the realm of ethics this distinction is problematical because it ignores the reciprocity. As Cavell sees it:

A statement of what we *must* do (or say) has point only in the context (against the background) of knowledge that we are in fact doing (or saying) a thing, but doing (saying) it - or running a definite risk of doing or saying it - badly, inappropriately, thoughtlessly, tactlessly, self-defeatingly etc.; or against the background of knowledge that we are in a certain position or occupy a certain office or station, and are *behaving* or *conducting ourselves* inappropriately, thoughtlessly, self-defeatingly.<sup>40</sup>

Such a background is not static, it allows individuals to open up what Bookchin calls "new evolutionary pathways"<sup>41</sup> whilst itself undergoes evolution because of the pathways being "taken" by language users active in their own evolution.<sup>42</sup>

### 3.2. Describing Identity.

Agreement in forms of life is rooted not in opinion or belief but in action and judgements. It is therefore not an agreement *about* anything and so is not empirical, prudential or *a priori*. To be about something would imply that we already occupy positions which require assessment and reconciliation, ones which themselves would have to be rooted in something (as indeed Gewirth's dialectical reasoning *about* individual action must be). This takes the idea of a dialogue of identity away from the Habermasian notion of a conversational public space within which principles of justice are based upon a discourse yielding inter-subjective agreement, and towards one more akin with a struggle against social stagnation. Instead of agreeing upon fixing principles of conduct there is a resistance to ultimate panaceas and ideological facades behind which the ordinary failures of our

lives are often hidden. Stanley Cavell sees this as an evocation to be constantly re-discovering oneself not by avoiding the vagaries of living but by facing them square in the face, by integrating oneself through consent with a society for which you yourself take responsibility for. The dialogue is an engagement with what is persistently next to us, a finding of one's position rather than a discovery of absolute solutions or justifications:

.. this absence of a victor is to help articulate the fact that in a democracy embodying good enough justice, the conversation over how good its justice is, must take place and also must not have a victor, that this is not because agreement can or should always be reached, but because disagreement, and separateness of position, is to be allowed its satisfactions, reached and expressed in particular ways.<sup>43</sup>

To be ever responsive is something Wittgenstein found of great importance, in doing philosophy one must always be willing to change sides.<sup>44</sup> The self resonates because it is able, through clarification, to engage with itself via its ever changing partial and sometimes miserable position with other selves, not because it has come to rest on some paradigmatic truth. We are able to so institute and be instituted because of our natural species behaviour.

“What an intelligent man knows is hard to know”. Does Goethe's contempt for laboratory experiment and his exhortation to us to go out and learn from untrammelled nature have anything to do with the idea that a hypothesis (interpreted in the wrong way) already falsifies the truth? And is it connected with the way I am now thinking of starting my book - with a description of nature?<sup>45</sup>

The ability to use grammar is a natural endowment of the whole species<sup>46</sup> and it is because of this that we can always attempt to place ourselves in the position of a radical translator able to describe any other language on the assumption that there always exists enough regularity in a *speaker's* behaviour. This universal natural behaviour to follow normative rules correctly is something we can *show* we do as a matter of confidence in our selves, but not as a matter of *fact*. There is no justification possible here, no question of us being absolutely right in every circumstance.<sup>47</sup> The use of grammatical rules does not ensure we know every application of those rules, but we can still be sure of our selves and what we mean in use.<sup>48</sup>

The dialogue of identity involves people in a creative use of language. They commit themselves to, and yet never find *full* satisfaction in, the language games of institutional living. Such an identity does not require principles *per se* but a *mutual* receptiveness to the natural order of spontaneous species behaviour whereby to acknowledge humanity is to acknowledge a prospective, purposive rule-following member of an evolving community of language users. Language use is not limited to the moment but takes account of the link between the contextual “past and now” and the

future “we” that may develop.<sup>49</sup> Because we all follow rules when speaking a language in order to formulate and promote expressive and creative conceptions of the good we must all recognize our common attachment to basic facts of nature. As Winch says

What Wittgenstein shows [in “On Certainty”] is that, so far from it being the case that all recognition of authority derives from the exercise of practical reason on the part of the recognizer, the notion of practical reason itself requires at many points a recognition of the authority of others that is *primitive*.<sup>50</sup>

Primitive because in order to be autonomous we first require a pre-rational attachment to those institutions within which concepts like “rational”, “ethical” and “power” are formed.

Such recognition is mutual: we see ourselves as subjects *and* as repositories of what is other than ourselves. We have interests as *members of a species* in the goods we formulate as users of a collective language. These goods are nothing hard and definite, nor do they conflict as absolutes. Rather, they are fluid, dialectic artefacts interrelated in that they focus the direction of language games. We spontaneously agree as a natural species to follow normative rules, the content of which is determined through a narrative past, present contexts and future expectations of what was, what is and what-*should-be*. Through this spontaneous agreement we derive the uniqueness of the instituting and instituted self - our identity is found in linguistic relief against the narrative identity of others with whom we come into contact. This is why it is an *ethical* acknowledgement. In the words of Murray Bookchin:

Let me emphasize that dialectical naturalism not only grasps reality as an existentially unfolding continuum; it also forms an *objective* framework for moral judgements. The “what-should-be” can be seen as an ethical criterion for the truth or validity of an objective “what-is.” Ethics is not merely a matter of personal taste and values; it is factually anchored in the world itself as an objective standard of self-realisation. [...] Potentialities that are themselves actualisations of a dialectical continuum present in the challenge of ethical self-fulfilment - not simply in the privacy of the mind but in the reality of the processual world.<sup>51</sup>

Grammar, then, ensures that we are self-governing creatures, and its most common aspect is that of the natural spontaneous species behaviour to act normatively. That this action is universal is embodied in how we speak with others - as though they have a soul; not as though we have satisfied ourselves with the available evidence that they have a soul.<sup>52</sup> This is best shown by what happens when people are excluded from the linguistic community,<sup>53</sup> when they are refused the status of language use they are refused the capacity to address others by being confined to the status of what Lyotard refers to as the “other”.<sup>54</sup> By this is meant the ordeal of being forgotten, the imposition of silence upon the language user - as happens in cases of genocide, racism, sexism or other human

rights abuse. Being confined exclusively to the "other" is that which for those so confined is most unforgettable. There is no greater torment than being lost outside of the swell of grammatical relations. In order to understand this people should always be prepared to acknowledge that the dynamic of language of all languages, including their own, always allows for the facts to "buck", that the dialectic always contains within it as part of its dynamic the potential of an alien grammatical logic taking hold of us and enabling us to understand what we do not know by envisaging a change in natural facts.<sup>55</sup> This incorporates the move from the *possibility* of translation to the *responsibility* of translation. To attend to the "other" is not to acknowledge a fact in static state or to act according to a definite principle but a dynamic anticipation of communion with other perspectives. "Attention consists in preparedness to follow each smallest movement that may appear".<sup>56</sup> We should not try to cut ourselves off for fear of others looking inside of us. We can be ashamed of what we are, but not ashamed of yourself amongst others.<sup>57</sup> Thus, language must always reveal the potential of the "other", including showing those other than ourselves as subjects.

In recognising another human being as a human, then, one is not just acknowledging their factual existence in terms of extension, form and position but engaging in a grammatical dignification which is ethical, because one cannot correctly isolate that human as a factual being or invariant entity, but only as one which has both presence and *interests* as an evolving subject set against past traditions and customs, existing aims and emerging new ones, and a fecund natural environment. To be excluded from this is to be enslaved to the "other" and represents a betrayal not only of those excluded but also ignores the inherent otherness or openness that is present in all language use.

Understanding identity of the self cannot take place without the whole environment of such an event.<sup>58</sup> There is no one characteristic constituting understanding but a whole multitude of circumstances within which we see ours and others' selves. There is no one essence to this description of identity, just the recognition of many different aspects of what it is to be a self. People do not first choose their interests, expressive use of language, and then seek to find the best means possible, such as human rights, to actualize them, because their interests are wrapped up in already instituted means and are never fully determinable (in the sense that they are fully coherent from the very moment of their conception). This is the mistake made in Gewirth's agency based theory of human rights which, though it refers to discernibly separate stages in reasoning, from the recognition of generic action to individual and thence to general interests and value, is itself only able to function as something which is infinitely open and partial because the organising form always, in part, is derived in nature from what it is organising. In the case of human rights it is people, and it must as a conceptual framework remain inextricably linked with them. These people are not limited to an immutable, ghostly aspect, nor can they be seen in isolation as rational agents recognising their own generic conditions for potential and expressive future action for they are not in a dialectic with themselves but with themselves through their environmental and social relations. People are reactive as well as prophetic plan makers. Much human rights reasoning emphasises those interests we have in trying to forge identities in accordance with some ideal type, possible future selves that

are better and towards which we attempt to steer. The grammar of human rights, on the other hand, emphasizes the reactive aspects of identity as well; the condition of human response to tragedy, fear, paranoia and other threats to the available space for linguistic acknowledgement.

If this was otherwise, as Castoriadis points out, we would be free to impose any arbitrary system of organisation we choose,<sup>59</sup> and this indeed is how the Gewirthian system can end up, because, even in recognising the necessary conditions of action an agent does not have to universalize such recognition in the guise of human rights. They could just as well choose an all out war of "dog eat dog", or recognize the rights of their kin, or their countrymen, or of men, rather than of humans. All they have to do is to follow their future plans. In beginning from the first person perspective it ignores the constitutive attachments of that specific agent to basic natural facts and to those other selves surrounding them and to the often confusing and occasionally explosive events in which they are embroiled. Human rights are much more about making sense of our position than about the realisation of dreams.

## 5. HUMAN RIGHTS AND IDENTITY.

Inviolable individuality is no longer the *sine non qua* of human rights. Creative endeavour, choosing a conception of the good, articulating one's viewpoint, are all activities of language and so infused with spirit, mythology and natural backgrounds. Individual imagination in isolation is not sufficient to be alive to aspects of a self-identity because language games are aspects of narrative aspirations.<sup>60</sup> Imagination is necessary to see aspects at all: "To see this aspect of the triangle [one which envisages it as having fallen over, or as a mountain, or a wedge..] demands imagination."<sup>61</sup> but it is not sufficient because identity is imagination seen in relief whereas the self identity of human rights requires demands not only for perspective, but for the playing of language games. We get, here, a picture similar to what Foucault has termed the circulation of power techniques where people not only struggle to underline what it is that makes them as individuals truly individual, but, almost paradoxically, in doing so, tend to attack those things which separate them from community life. In using human rights people are involved in overcoming the mystifying effects of privileged knowledge, secrecy, deformation and the manner in which knowledge circulates; such struggles says Foucault, invoke the question

Who are we? They are a refusal of these abstractions of economic and ideological state violence which ignore who we are individually, and also a refusal of a scientific or administrative inquisition which determines who one is.<sup>62</sup>

Thus, though one requires protection from the social practice of power one also needs access to it, it is not enough just to provide abstract mechanisms because access is defined through use as well as

title. Human rights articulate the cry of the subject for inclusion - an entreaty to be amongst the linguistic community, to be delivered from silence.

Despite very real attempts to respond to critics Rawls' liberal view of persons still takes as primary the idea that reasonableness means a willingness to adapt the citizen aspect of the self or identity, as opposed to their inner, or private moral selves, in the light of inevitable pluralistic conflict, thereby creating Jeckyl and Hyde characters, reasonable on the outside but potentially boiling from within. This division of the personality is something it is very hard to understand, requiring as it does an upper lip of extreme stiffness in order that one's personal predilections be ignored as politically irrelevant when coming to make decisions. The OP becomes like some turn of the century British boarding school whose austere and harsh conditions set reverentially in gothic stone were meant to instil and inspire a sense of self-reliance through self denial; the British empire required such schools to populate a bureaucracy with people willing to dispense with feeling, emotion, ideas. The liberal espousal of neutrality and personal primacy has a tendency to do something similar. Ignoring as it does ethical conditions devoid of opacity and fluidity, it tries to reach inside of us for some immutable, fundamental part of our being to which it can anchor impartial institutional mechanisms like rights through philosophical justificatory procedures. The outcome is an idealistic demand for conformity to a single form of life. There is very little no grip for explaining how human rights might well extend beyond the confines of liberal democratic language games and encompass those of us from many varied back grounds.

In resisting liberal attempts to provide justifications for the principles of justice we need not take the road travelled by Rorty which replaces the inalienability of the individual identity with that of a culture. Such a reliance upon culture leaves any question of human rights to the vagaries of "weak politics", justifiable only to the extent of their efficacy, a judgement which is left to the interplay of interests within institutional power structures. Everything becomes culturally directed, and to appeal to the fact of our epistemological contingency to support this seems misguided - for every Nietzsche there are thousands of prisoners of conscience and for every Proust millions who suffer and yet still wish to commit themselves to some form of institutional living. What this thesis has attempted to provide is a perspective not for viewing human rights as tools of separation or as an ethnocentric gauze, but as concepts used by us to more effectively evolve and dissolve identities in conjunction with rather than opposition to that with which we relate through language. Rather than take *principles* as primary, it suggests that linguistic responsibilities<sup>63</sup> be a better focal point from which to radiate a sense of active and evolutionary commitment. This is not a case of re-enchanting<sup>64</sup> the ontological condition of people, they develop through an imagination which, as Castoriadis says, can institute as well as be sublimated by, social institutions. The extended view, then, displaces the ideas of individual sovereignty on the one hand and cultural or narrative sovereignty on the other with one of mutuality between selves. Some cultural members may have more linguistic power than others, in that they make larger contributions to the enterprise of the culture and its chosen course, but the power of expression remains, in a way, in us all. An agent who feels outside language games, or who is refused entry to them, tends to, in Wittgenstein's words, use their resources "in overcoming

opposing forces and frictional resistance's" and so their use "does not show in the distance he travels but perhaps only in the heat he generates in overcoming friction."<sup>65</sup> Thus, the presence of effort, of determination to involve oneself with varying ontological positions can remain hidden but it is never not present, and it is this effort, and not the resultant social edifice, which is the seat of human value (as opposed to its articulation).

There seems a general reluctance to embrace fear, guilt and blame amongst the liberals who clamour for certain principles of justice. Their ethics emphasize control an unrepachable action whereas the grammar of human rights emphasizes the need for space in which we can deal with the inevitable feelings of loss, remorse, hope etc. we experience. The human condition is one of reproachment and challenge - not certainty and abstraction, and human rights work as embodiments of this substance. Wittgenstein certainly did not advocate human rights as any panacea, in fact they are a subject upon which he was silent. This thesis, then, in no way attempts to say that human rights reasoning is an inevitable outcome of Wittgensteinian views on language; but that there are within the private language arguments and more, ways of seeing with greater clarity how ethical concepts work and to whom they refer. It is this level of insight that provides a less arrogant way of working with ethical principles like rights and one which, when described, can be seen as emerging from current climates of thought and activity. This thesis makes no commentary upon this trend, but aspires to be part of it.

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Notes:

<sup>1</sup> Something akin to what Milne calls a principle of fellowship and Bookchin the principle of complementarity (A. Milne "Human Rights and Human Diversity", MacMillan, 1986, Ch.2.)

<sup>2</sup> Identity is something Wittgenstein saw as the complex and symbiotic interplay of behaviour and states of mind, it makes no sense to reduce it to anything simple.(PI, II, v, p.179e-180e.). This is why he uses the concept of pattern to talk about feelings, something which recurs in the weave of our life, but with potential variations.(PI, II, i, p.174e; Z - §568-§569.) Feelings are felt, but nowhere specific - we may feel convinced of something, and there are expressions of this certainty (tones, facial movements and so on)- but they are never static, a person's face permits inferences (Z - §514). The type of inference being made varies according to circumstances - though the good Samaritan inferred from observation of the man's evident distress that he needed help, it is not an inference he makes about his own pain behaviour. ""Putting the cart before the horse" may be said of an explanation like the following: we tend to someone else because by analogy with our own case we believe that he is experiencing pain too. - Instead of saying: Get to know a new aspect from this special chapter of human behaviour - from this use of language" (Z - §542.)

<sup>3</sup> Such practices or projects need not be conscious or have an overt goal; they can as Lorán Lomasky says in "Persons, Rights and the Moral Community" (Oxford University Press, 1987), be either reflective or non-reflective and still maintain their motivational and volitional character. (p.44) Similarly, Wittgenstein urged us to resist looking for a reservoir from which actions are always to spring (BB - p.143.) or for assuming that to use a word, or follow a project, we must necessarily be *accompanied* by a feeling of understanding (BB - pp.155-158.) What is reflective and non-reflective, voluntary or involuntary, is in many cases characterized by the circumstances under which action takes place.

<sup>4</sup> This is assuming that human rights are more than Nozick's "side constraints", to which are owed merely negative duties of forbearance. Saying that human rights are an expression of creative language use involves recognising that selves generate

ongoing "waves" of duties for others to positively protect others from being stifled. Rights do not simply link up with specific duties on a strictly monogamous terms; the value manifest in language use is varied and complex such that, for example, my valuing the ability to desist from activity threatening my health involves others in duties to prevent forced labour, provide health and safety standards, encourage education in safety and health, provide health care and so on. When used human rights generate much more messy outcomes than theory might suggest. (see J. Waldron "Liberal Rights" op.cit. - p.212)

<sup>5</sup> Principles of the good life have a history centred about fundamental disputes at the level of narrative myth, disputes which are central to the being of individual language users. This position is recognized by Stuart Hampshire - "Innocence and Experience", Penguin, 1989, pp. 54-57 - who subsequently goes on to talk about the possibility of agreed co-operation based on a common need for stability. It is precisely the motive for this agreement, however, that is in question.

<sup>6</sup> The fighting of duels in eighteenth century Europe; a wife of a deceased Indian throwing herself on her husband's funeral pyre; the Parson's children's condemnation of their "traitorous" father in Orwell's "1984"; the Buddhist's search of Brahman, can all be considered dignified or respectful acts.

<sup>7</sup> C&V - p.84e.

<sup>8</sup> C&V - p.3e.

<sup>9</sup> C&V - p.79e.

<sup>10</sup> PI - §445.

<sup>11</sup> J.S. Mill "On Liberty" op.cit. - pp.111-113. Language use involves the constant use of techniques and practices to weave one's identity, a process which has no definite end, but encourages the interplay of ideas. Freedom of opinion and the expression of opinion is important because it, according to Mill, encourages the emergence of truth through the collision of "Vigorously and earnestly contested" positions rather than reliance upon received opinion. What is important is not just that the correct or beneficial language game is played, but that integral to such playing is the vital effect of learning for yourself on the basis of personal involvement how the aims and techniques have come about.

<sup>12</sup> Universal Declaration art.25; ESCR Covenant art.12.

<sup>13</sup> Universal Declaration art.26; ESCR Covenant art.13.

<sup>14</sup> Universal Declaration art.17; ESCR Covenant art.6.

<sup>15</sup> see Michael Freeman "Human Rights: For A unity of Theory and Practice.", ms., Nov.1991, p.18.

<sup>16</sup> V. Haksar believes that selves can be split between inner knowledge of oneself and outside knowledge of others' selves. ("Indivisible Selves and Moral Practice" - op.cit - pp.161-168.) But it is the case, as Chapter's One and Three made out, that such dualism is a confusing way to view people. We are *of the attitude* to others that they have a soul, as we have to ourselves - this is how we use the idea of self in language.

<sup>17</sup> This implies, for example, that the encouragement of cash crop production tied into the servicing of international debt, and the stultifying effect this can have on indigenous peoples of the South who are forced through land enclosure to adopt alien and non-sustainable practices of production, infringes the human rights of these peoples to act in ways they find locally sympathetic. The international food order has created the problem of starvation by exporting its surplus food thereby eroding self-sufficient local communities, replacing them with large disenfranchised labour forces paid low rates. (see Kai Nielsen "Global Justice, Capitalism, and the third World" in R Atfield and B. Wilkins "International Justice and the Third World", Routledge, 1992, pp.28-30) Half of the exports of "poor" countries are primary cash crops like cocoa, coffee and tin and the average price they fetch has halved between 1980 and 1992 due to oversupply (encouraged by world bank debt repayment schemes). This put millions onto starvation diets. The west can help by lifting trade restrictions on manufactured goods such as the Multi-fibre Agreement meant to protect domestic jobs, allowing countries of the South to compete at what they are good at, making textiles. It can also pay a fair price for cash crops allowing producers to rise above their abject poverty and provide surplus for investment in health and education (as Caf  Direct has done by buying coffee directly from coffee co-operatives) (Source: "The Independent", 30-11-93, pp.14-15.) Long term there is an onus upon the West to stop dominating global markets and consumption patterns and establish partnerships with the South, encouraging self-sufficiency. Trade allows countries to defer responsibility for a region living beyond its regenerative and absorbing capacities (The West dumps excess produce, finds cheap labour, encourages new markets and pollutes on a large scale in the South. The South exports cash crops and imports technology for industrialisation and defence and the risk of huge debt. In both cases there is a displacement of effect which allows countries to carry along potentially ruinous courses of development.) Economies of scale necessitate that eventually the global economy will reach Pareto optimality, if it has not already, and that continued pollution and exploitation of a finite natural resource will create diminishing marginal returns and eventual decay. This

Pareto Optimal state need not be miserable, but it must encompass an awareness that human beings' needs as regards the provision of sustainable lives involve not quantity (an accretion or assimilation of materials) but considerations of quality such that resources are more efficiently used, institutions are made less bureaucratic and ethical principles are both clearer and more practical. (See discussion "Does Free Trade Harm the Environment" in "Scientific American", Nov. 1993, pp.17-29.)

<sup>18</sup> A. Gewirth "Replies to my Critics" in E. Regis (ed.) "Gewirth's Ethical Rationalism", University of Chicago Press, 1984, p.193.

<sup>19</sup> A. Gewirth "Human Rights" in Paul, Miller, Paul (eds.) "Human Rights", 1984.

<sup>20</sup> A Gewirth "Reason and Morality", University of Chicago Press, 1978, pp.28-39.

<sup>21</sup> Such was the object of Orwell's "Newspeak"; to reduce the spontaneity and creativity inherent within the language. Only with the destruction of the possibility of infinite creation from finite phonemes can the subject as an agent be eradicated. "Newspeak" achieved this by functionalising words, bleeding them of ethical and emotional content so that "dialogue" becomes interchange, "freedom" absence from, and language merely formally efficient communication. In this way grammar was to be characterized by conformity rather than experimentation. The object of this grammatical engineering was to deprive people of their narrative past and thereby neuter the threat of dissent. Language was being purged of its ironic, imaginative and poetic elements.

<sup>22</sup> A. Gewirth - op.cit - p.57.

<sup>23</sup> A. Gewirth in "Replies to my Critics" p.206., and "Reason and Morality" - op.cit - pp.108-112.

<sup>24</sup> Ibid. - p.63.

<sup>25</sup> Janet Coleman in "Medieval Discussions of Human Rights", unpublished manuscript, takes the concepts *ius* and *potestas* as used by Ockham, John of Paris as evidence of an *echium* with the idea of individual rights to make laws, institute rulers, use property and so on. Though people may very well have used rights-like concepts in the past what must be remembered is that these instances of ethical grammar are contextual - the right to work means little to those who do not distinguish between work and leisure; the integrity of the group means the dignity of the self for some whilst others see them as distinct public and private realms. The idea of selfhood itself is part of the historical conversation of humanity and the specific problems sections of that humanity try to face and overcome over time.

<sup>26</sup> PG - §65. What breathes life into language cannot be answered by reference to inner states, thought, or the supposed separate sense of propositions, because all these answers merely replicate the problem at another level: how, then, is thought, mind or sense, as opposed to the proposition, correct?. The only way we can explain how we know the sense of things is to see that it is part of our natural, spontaneous make up to behave in a regular way. Life is breathed into signs not through the meshing of sense and sentence (see PI - §138) but through our agreement in forms of life - it is this which gives them value.

<sup>27</sup> see end of Ch.1 A radical translator may look at any language and, in principle, come to understand it purely on the basis that all language are in possession of a grammar, regularity found through form of life.

<sup>28</sup> A. Gewirth "Reason and Morality" - op.cit - pp146-147.

<sup>29</sup> A. Gewirth in "Replies to my Critics" - op.cit - p.196.

<sup>30</sup> see A. McIntyre "After Virtue", Duckworth, pp.65-70.

<sup>31</sup> Z - §391.

<sup>32</sup> L. Lomasky - op.cit - pp62-65.

<sup>33</sup> E. Volgast - op.cit - p.72.

<sup>34</sup> see Alan Gewirth "Human Rights", Chicago, 1982, pp.24-30.

<sup>35</sup> See this argument put forward by S. Cavell in relation to the Kantian moral imperative. Within the context of rationality itself the categorical becomes a description of what it is to act morally, and not a maxim of what one must do. ("Must We Mean What We Say?" - op.cit - p.25.)

<sup>36</sup> "The queer resemblance between a philosophical investigation (perhaps especially in mathematics) and an aesthetic one (E.g. what is bad about this garment, how it should be, etc.) (C&V - op.cit - p.25e).

<sup>37</sup> C&V - p.24e.

<sup>38</sup> PI - §421.

<sup>39</sup> C. Castoriadis - "Modern Science and Philosophical Interrogation" in "Cross-roads in the Labyrinth" -op.cit - p.176.

<sup>40</sup> S. Cavell - "Must We Mean What We Say?" - op.cit - p.27. He, like Wittgenstein, eradicates the fact/value distinction by making it clear that normativity pervades all languages, whereas other attempts such as Stuart Hampshire's, seem to keep fact and value as separate concepts (with separate referents) and seek to connect them in some way:

The grounds for calling things which are X's good X's are logically dependent, for many types of X, on the grounds for classifying things as X's. This is a conspicuous *bridge* on which we can pass from fact to value and back again: from identification to evaluation and back again. (*my emphasis*)

<sup>41</sup> Murray Bookchin "Freedom and Necessity" in "The Philosophy of Social Ecology", Black Rose Books, 1990, p.106.

<sup>42</sup> Ibid. - p.11.

<sup>43</sup> S. Cavell "Conditions Handsome and Unhandsome" - op.cit - p.25.

<sup>44</sup> see remark made by Wittgenstein's Russian teacher, Fania Pascal, to whom he was critical about those joining political parties in which sides had to be taken and party lines followed ( F. Pascal "A Personal Memoir" - in R. Rhees (ed.) "Recollections of Wittgenstein" - op.cit - p.21.).

<sup>45</sup> C&V - op.cit - p.11e.

<sup>46</sup> "The origin and the primitive form of the language game is a reaction; only from this can more complicated forms develop.

Language - I want to say - is a refinement, "In the beginning was the deed" (C&V - op.cit - p.31e).

<sup>47</sup> see S. Cavell - op.cit - pp.90-97.

<sup>48</sup> PI - §80, §84, §99.

<sup>49</sup> Taken from talk given by J.F. Lyotard at the "Oxford Amnesty Lectures", Sheldonian Theatre, 19-2-93.

<sup>50</sup> Peter Winch "Certainty and Authority" in "Wittgenstein: Centenary Essays" - op.cit - p.236.

<sup>51</sup> Murray Bookchin "The Philosophy of Social Ecology" - op.cit - p.35.

<sup>52</sup> There is great danger is asking for evidential justification for human rights, because it always leaves the proponent open to the possibility of exclusion. The use of factual evidence has been used by many supporters of apartheid in South Africa saying, as they often did, that blacks were not human *because* of their smell, or their colour. The general facts of nature are not evidence in this sense, they are not something we can ostensibly define, they are embodied in our grammar to the extent that it is up to us how we treat them. It is in this sense that Wittgenstein tries to get us to change direction completely in the realism/anti-realism debate. Absolutes are possible, but at the ordinary, not metaphysical level.

<sup>53</sup> see Murray Bookchin "The Ecology of Freedom" - op.cit - p.5 where he talks of hierarchy as a complex system of control and obedience where elites enjoy varying degrees of command over subjects whom they do not necessarily exploit. Such elites need not be materially wealthy (therefore they are distinct from, though can encompass, Marx's economic classes). Hierarchy is something involving psychological sensibilities towards phenomena at every level of experience. see also M. Foucault in the subject and power where he talks of power relations being much more than just institutionalised systems.

<sup>54</sup> J.F. Lyotard - op.cit.

<sup>55</sup> Wittgenstein PI, ii, xii.

<sup>56</sup> Z - §674.

<sup>57</sup> C&V p46e.

<sup>58</sup> BB - p.157.

<sup>59</sup> C. Castoriadis - "Modern Science and Philosophical Interrogation" - in op.cit - p.218.

<sup>60</sup> " Tradition is not something a man can learn; not a thread he can pick up when he feels like it; any more than a man can choose his own ancestors.

Someone lacking a tradition who would like to have one is like a man unhappily in love." C&V - op.cit -p.76.

Though being unhappily in love is possible, (being outside of a social tradition, then, is something Wittgenstein envisages as a distinct possibility) it is hard to bear oneself, one needs the support of a climate to which one is happily committed.

<sup>61</sup> PI, ii, xi, p207e [200e].

<sup>62</sup> M. Foucault "The Subject and Power" - in B. Willis (ed.) "Art After Modernism" - op.cit - p.420.

<sup>63</sup> see Sabina Lovibond's point regarding the issue of responsibility where she conjoins commitment and language games - op.cit - §20.

<sup>64</sup> see R. Rorty in "Objectivity, Relativism and Truth" - op.cit - p.194.

<sup>65</sup> C&V - op.cit - p.6e.