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Wittgenstein, Bentham, Derrida: Ethics, Nonsense, Metaphysics, Rights

The Wittgensteinian approach to ethics that most interests me, apart from Wittgenstein's own, is that of Elizabeth Anscombe. This paper is not directly about Anscombe, but it is motivated partly by a concern with her work. One response to her complaint that the moral 'ought' is incoherent has been to object that words such as 'ought' and 'obligation' have their own legitimate use in the language game (or games) of ethics. Whatever the historical origins of our ways of using these words might be, it is argued, they now have a use and therefore a meaning. So, from a Wittgensteinian perspective, they cannot be nonsensical. If we think of Wittgenstein's view of meaning in this kind of way, though, then it can be hard to see how anything would ever count as nonsense. Ways in which words are never used are of no interest to the philosopher, and ways in which they are used are all right by definition.

In a sense, then, this paper is about the idea that there is something conservative about Wittgenstein's philosophy. So it might not sound very promising, given that Cora Diamond has memorably called this idea "nutty"<sup>1</sup> and that David Cerbone and Alice Crary have recently argued that it rests on a mistake.<sup>2</sup> But I think that I have something new to add to this work. Crary argues against the idea that, according to Wittgenstein, meaning is fixed by use. Similarly,

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<sup>1</sup> Cora Diamond *The Realistic Spirit: Wittgenstein, Philosophy, and the Mind* The MIT Press, Cambridge, MA, 1991, p. 34.

<sup>2</sup> See David R. Cerbone "The Limits of Conservatism: Wittgenstein on "Our Life" and "Our Concepts"" in Cressida J. Heyes (ed.) *The Grammar of Politics: Wittgenstein and Political Philosophy* Cornell University Press, Ithaca and London, 2003, pp. 43-62, and Alice Crary "Wittgenstein's Philosophy in Relation to Political Thought" in Alice Crary and Rupert Read (eds) *The New Wittgenstein* Routledge, London and New York, 2000, pp. 118-145.

Cerbone emphasizes “the *interplay* between facts and the formation of concepts, which precludes any kind of rigid fixity”<sup>3</sup> of a culture or form of life. Both Crary and Cerbone approach the issue from the direction of what Wittgenstein says about meaning. I want to approach it from the direction of what he says about metaphysics. Crary also discusses metaphysics, particularly in connection with Richard Rorty’s somewhat implausible implication that ordinary language is problematically metaphysical even when it does not appear (to people other than Rorty) to be so. Without taking Rorty’s side, I want to explore the boundary between ordinary and metaphysical uses of language. I do not think it is an easy boundary to draw.

I am interested also in the boundary between ethics and metaphysics, which, again, is not a very clear one.<sup>4</sup> The ordinary, the ethical, and the metaphysical come together in the concept of rights, which is what I will be trying to elucidate. Just to be clear, I do not take myself to be arguing against Diamond, Crary, or Cerbone but, I hope, to be supplementing their arguments with additional ones of my own. Against the charge that Wittgenstein is conservative, Crary and Cerbone argue that he is not committed to the idea that meanings are rigidly fixed. But if meanings are not fixed, one might conclude that anything goes. This is roughly Rorty’s later view, on account of which he prefers to assess uses of language on the basis of whether they are helpful or not rather than whether they make sense or not. It seems clear to me that this is not Wittgenstein’s position, which is just as well for anyone who wants to be able to make the kind of criticism that Anscombe makes of such notions as moral obligation.

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<sup>3</sup> Cerbone, p. 58.

<sup>4</sup> Hence, I would suggest, the seeming ambivalence in some of Wittgenstein’s recorded remarks about Kierkegaard and Heidegger, two writers who might be thought to have tried to “express ethics” with, perhaps, mixed success.

My aim in this paper, then, is to make room for nonsense, to show that Wittgenstein steers a course somewhere between liberals like Rorty and conservatives like Jeremy Bentham. In doing so, Wittgenstein lets us adopt any political position we choose. So my paper is mostly about Wittgenstein, but its point will come out at the end, when I directly, albeit briefly, address Bentham and Jacques Derrida on the French Declaration of Rights of Man and Citizen. I will say a little first about ethics, nonsense, and metaphysics.

## I. Ethics

In Wittgenstein's early work he appears to think that all attempts to speak or write ethics result in nonsense. In the *Tractatus* he writes that "there can be no ethical propositions" (6.42) and "ethics cannot be expressed" (6.421). In his 1929 "Lecture on Ethics", too, he implies that attempts to express ethics are essentially nonsensical. Attempts to speak about ultimate meaning or absolute value (rather than merely relative, instrumental value) are attempts to go beyond the world and hence beyond significant language, he says. They cannot "add to our knowledge in any sense."<sup>5</sup> It is a document of a human mental tendency that Wittgenstein says he respects deeply, but it is also quite hopeless.

According to Rush Rhees, although *Tractatus* 6.42 says "there can be no ethical propositions," Wittgenstein nevertheless thinks that speaking of good and evil means something. "And it is because of what judgments of good and evil do mean that it is pointless to look for

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<sup>5</sup> Ludwig Wittgenstein "Lecture on Ethics" in James Klagge and Alfred Nordmann (eds) *Philosophical Occasions 1912-1951* Hackett, Indianapolis, IN, 1993, pp. 36-44 (hereafter PO), p. 44.

their meaning in any events or facts that might be found by science,” Rhees thinks.<sup>6</sup> This goes against the apparent message of *Tractatus* 6.53, which identifies meaningful propositions with propositions of natural science, but then Rhees does not regard the *Tractatus* as wholly consistent. Views implied by the *Tractatus*, such as that judgments of value are expressed only in circumstances in which it makes sense to make them, could hardly be worked out within the views about language and sense presented in that book, according to Rhees.<sup>7</sup>

This problem, as Rhees sees it, is gone by November 1929, when Wittgenstein gave his “Lecture on Ethics.” Rhees points out that, according to Wittgenstein in this lecture, saying “Ah, then that’s all right” would make no sense as a response to someone who said he behaved like a beast simply because he did not want to behave any better. It is all right to play tennis badly because one does not care about playing well, but the same does not go for living ethically. What Wittgenstein says is this:

Supposing that I could play tennis and one of you saw me playing and said “Well, you play pretty badly” and suppose I answered “I know, I’m playing badly but I don’t want to play any better,” all the other man could say would be “Ah, then that’s all right.” But suppose I had told one of you a preposterous lie and he came up to me and said “You’re behaving like a beast” and then I were to say “I know I behave badly, but then I don’t want to behave any better,” could he then say “Ah, then that’s all right”? Certainly not; he would say “Well, you *ought* to want to behave better.” Here you have an absolute

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<sup>6</sup> Rush Rhees, “Some Developments in Wittgenstein’s View of Ethics,” in *The Philosophical Review*, Vol. 74, No. 1 (Jan. 1965), pp. 17-26, p.17.

<sup>7</sup> See Rhees p. 19.

judgment of value, whereas the first instance was one of a relative judgment. The essence of this difference seems to be obviously this: Every judgment of relative value is a mere statement of facts and can therefore be put in such a way that it loses all the appearance of a judgment of value...<sup>8</sup>

Rhees says that the question here concerns what is “intelligible in this game of ethical judgments,” not something “to do with what would be intelligible in a description of facts.”<sup>9</sup> The reply “Ah, then that’s all right” to the liar “would make no sense,” whereas the reply “Well, you *ought* to want to behave better” is not “a distortion or misuse of language.”

I am not sure that this is quite right. Wittgenstein *does* appear to be linking what we can say with what is a description of facts—although he is not saying that what we can say simply is identical with statements of facts. We cannot say “Ah, then that’s all right” to the complacent liar *because* “I don’t want to behave any better” is not a mere statement of fact in the way that “I don’t want to play tennis any better” is a mere statement about my psychology. “I don’t want to behave any better” could be a mere statement (to a therapist, say), but in the circumstances described it involves a rejection of conventional standards of behavior. It involves, in other words, a judgment of value (a seemingly rather psychopathic one). This is why “Ah, then that’s all right” does not work—except as a joke—in response. I would like to say that it is the word “then” that is the problem, because it implies some sort of foundation or justification. “It is OK for me to lie because I reject conventional moral standards” is nonsense (or a joke) because what

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<sup>8</sup> PO, pp. 38-39.

<sup>9</sup> Rhees, p. 20.

looks superficially like a justification is clearly no justification at all. Thinking it is OK to tell a preposterous lie *is* rejecting conventional moral standards.

However, saying “Ah, that’s all right” (without the word “then”) would not make much sense either coming from someone who had just complained that the liar was behaving like a beast. This has to do not with presenting as a justification something that cannot be a justification, but with a seemingly inconsistent attitude. Either way—whether one inconsistently considers it “all right” to behave “like a beast” or, on the other hand, one misleadingly presents a rejection of conventional standards as a *reason* for rejecting one such standard—the problem does not appear to involve the rules of anything that I would want to call “the language game of ethical judgments.” If there were such a game, one would think its rules could be identified by philosophers, at least in part. I would also think that making such an identification, so that we could say what was and what was not allowed by the rules of the game, would count as writing or talking ethics, which Wittgenstein says in the lecture cannot be done: “the tendency of all men who ever tried to write or talk Ethics or Religion was to run against the boundaries of language. This running against the walls of our cage is perfectly, absolutely hopeless.”<sup>10</sup> This is precisely because ethics, in the sense that Wittgenstein has in mind, as something concerned with absolute rather than merely relative good, “can be no science.” If writing or talking ethics is running against the boundaries of language, then it is misleading to refer to a language game of ethical judgments. Breaking the rules is not a game in itself.

In Rhees’s view, Wittgenstein’s position in the lecture is that:

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<sup>10</sup> PO, p. 44.

in our expressions of value judgments we may take a familiar word like “safe” and join it with “absolutely”—which is a distortion or destruction of its meaning. But the example by which he first showed what he meant by a judgment of absolute value—“Well, you *ought* to want to behave better”—is a natural remark to make in the circumstances; the only remark you *could* make, in fact. It is not a distortion or misuse of language.<sup>11</sup>

I agree with Rhees about what sounds like a natural remark and what sounds like a distortion, but I am not so sure that Wittgenstein’s position in the lecture is in line with what Rhees says. He says of the remark “Well, you *ought* to want to behave better” that this is “an absolute judgment of value” and goes on to explain that no such judgment would ever be contained in a big book written by an omniscient person that contained “the whole description of the world,” i.e. all the facts, including merely relative judgments of value such as the quickest way (from some particular place) to Granchester.<sup>12</sup> The remark belongs to the set of things one might say when one wants to go beyond the world, beyond significant language. Perhaps Wittgenstein ought to have believed in a language game of ethical judgments, but at the time he gave the “Lecture on Ethics” I do not think he did.

Just over a year after this, though, his views seem to have changed. Ethics is still not something that can be conveyed by any theory, but the images of a boundary at the end of language, and of language’s being like a cage, are explicitly rejected in a conversation with Friedrich Waismann:

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<sup>11</sup> Rhees, p. 20.

<sup>12</sup> PO, p. 39.

What is ethical cannot be taught. If I could explain the essence of the ethical only by means of a theory, then what is ethical would be of no value whatsoever.

At the end of my lecture on ethics I spoke in the first person: I think that this is something very essential. Here there is nothing to be stated any more; all I can do is to step forth as an individual and speak in the first person.

For me a theory is without value. A theory gives me nothing.

## RELIGION

Is talking essential to religion? I can well imagine a religion in which there are no doctrinal propositions, in which there is thus no talking. Obviously the essence of religion cannot have anything to do with the fact that there is talking, or rather: when people talk, then this itself is part of a religious act and not a theory. Thus it also does not matter at all if the words used are true or false or nonsense.

In religion talking is not metaphorical either; for otherwise it would have to be possible to say the same things in prose. Running against the limits of language? Language is, after all, not a cage.<sup>13</sup>

There is a lot to unpack here. It is not easy to say what “the end” of Wittgenstein’s “Lecture on Ethics” (referred to in the second paragraph quoted here) is. The lecture consists of only two paragraphs. The first of these begins with the words “Before I begin” and the second begins with the sentence “I will now begin.” Not everything in that last paragraph, then, belongs to the end. The reference to the cage comes in the fourth from last sentence, and the two immediately after it continue the same thought, that there is nothing to be said about ethics or religion. The very last sentence is an expression of respect for the tendency to try to say such things nevertheless. This sentiment is repeated in the conversation with Waismann immediately after the denial that language is a cage: “All I can say is this: I do not scoff at this tendency in man; I hold it in reverence. And here it is essential that this is not a description of sociology but

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<sup>13</sup> This is from 17th December, 1930: Friedrich Waismann *Wittgenstein and the Vienna Circle, Conversations Recorded by Friedrich Waismann*. Edited by Brian McGuinness. Translated by Joachim Schulte and Brian McGuinness. Oxford: Basil Blackwell, 1979, p. 117. Cf. Nietzsche *The Antichrist* §34 and §39. According to Nietzsche, Jesus is concerned only with inner realities—the natural world is an occasion only for metaphors. Christian ideas do not make contact with actuality.



that I am speaking about myself.”<sup>14</sup> So I think that what Wittgenstein means by “the end” of the lecture is simply its final sentence. When Wittgenstein says that he respects the human tendency to try to say what cannot be said in ethics and religion, he is expressing his own view, making a value judgment, not stating any kind of evaluative fact. There are no such facts, and so he can only “step forth as an individual and speak as a person.” Still, he speaks. There is nothing to be stated, but still he speaks.

He makes a distinction in this passage also between theory and action. When talk is not a theory but part of a religious act then it does not matter at all, he says, whether the words used are true or false or nonsense. And he makes no significant distinction, that I can see, between ethics and religion. Perhaps the nonsensical talking that is part of a religious act will be thought of as something purely ritualistic, as when a sacred language is used long after people have forgotten what it means. But Wittgenstein does not say this, and there is no reason why religious talk need be confined to a particular place or time. The distinction that Wittgenstein makes is not between words spoken during a ceremony and words spoken in daily life. It is between words used as part of an act and words used in a theory. This distinction can be made within ethics just as well as it can within religion. So apparently Wittgenstein thinks that it does not matter if ethics is nonsense, just as long as we recognize that what we say is part of our acting, not a theory or science.

This is fundamentally the same idea as that identified by Rhees with one of Wittgenstein’s later views on ethics. Different ethical systems have differences and similarities. To say that one is right is to adopt that system. To say they are all equally right is meaningless. There is no method for deciding which one is right. To say “Thou shalt not kill” is to express

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<sup>14</sup> *Ibid.*, p. 118.

Biblical ethics. To say “It is right that thou shalt not kill” is to adopt Biblical ethics. To deny that this is right is to adopt some other position. There is no justification outside of all ethical viewpoints from which any can be judged neutrally. We can only stand forth as individuals and speak. Hence the relevance of the quotation from Schopenhauer that Wittgenstein gives at the end of his discussion with Waismann of ethics, value, ‘ought’, etc.: “To moralize is difficult, to establish morality impossible.”<sup>15</sup>

It is in this sense that nothing can be said in ethics or religion: no foundation or ultimate justification can be provided in propositional form. One can still make judgments though. It is just that these will be a form of action rather than the recognition of some neutral or objective fact. Judgment involves the adoption of some stance or attitude. It is not science, nor is it metaphor. And Wittgenstein’s denial that religious talk is metaphorical (quoted above from the conversation with Waismann) is significant, because it is made in the same way that he later makes the point that uses of concepts in a secondary sense are not metaphorical.<sup>16</sup>

If ethical and religious talk involves the use of words in a secondary sense, then we might wonder what the primary sense of a word such as “good” is, but, according to Wittgenstein, this is not a simple matter:

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<sup>15</sup> Quoted in WVC, p. 118.

<sup>16</sup> In the conversation with Waismann, Wittgenstein says that talking in religion is not metaphorical because the same thing cannot be said in prose. Of secondary sense Wittgenstein writes in the *Investigations* (p. 216) that it is not a metaphorical sense because what one wants to say when one uses words in this way could not be expressed in any other way than by means of these concepts. Cora Diamond has argued that there are “certain logical resemblances” between Wittgenstein’s early talk about uses of words in an absolute sense in ethics and religion and his later discussion of uses of words in a secondary sense. See “Secondary Sense” in Cora Diamond *The Realistic Spirit* The MIT Press, Cambridge, Mass., 1991, pp. 225-241, p. 225. Something like the idea of secondary sense can be found, arguably, in the works of Kant. Peter Byrne argues along these lines, without mentioning Wittgenstein, in his *Kant on God* (Ashgate, 2007).

In view of the way we have learned the word "good" it would be astonishing if it had a general meaning covering all of its applications. I am not saying it has four or five different meanings. It is used in different contexts because there is a transition between similar things called "good", a transition which continues, it may be, to things which bear no similarity to earlier members of the series. We cannot say "If we want to find out the meaning of 'good' let's find what all cases of good have in common". They may not have anything in common. The reason for using the word "good" is that there is a continuous transition from one group of things called good to another.<sup>17</sup>

This is not to say that we may use the word "good" however we like. Wittgenstein says that language has rules and that, as when we play a game according to its rules, sometimes we know well enough what to do and sometimes we stop to consult the rules. It is when some kind of puzzle arises, e.g. when we do philosophy, that we must stop and ask ourselves how the word is actually used. Philosophers who break the rules talk nonsense. Wittgensteinian philosophy need not tell us how words are to be used, but it does tell us to look at how words are actually used when we are in doubt about their proper use. Of course sometimes they are used innovatively, but this is not what the confused philosopher means to do. Innovation is not confusion. To understand what confusion is we need to consider the nature of nonsense. This should also help us understand Wittgenstein's early suggestion that ethical talk is nonsense.

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<sup>17</sup> Ludwig Wittgenstein *Wittgenstein's Lectures, Cambridge, 1932-1935: From the notes of Alice Ambrose and Margaret Macdonald*. Edited by Alice Ambrose. Oxford: Basil Blackwell, 1979, p. 29.

## II. Nonsense

*Tractatus* 3.328 says that “If a sign is *not used* then it is meaningless. [...] (If everything behaves as if a sign had meaning, then it has meaning.),” which suggest that, for signs, meaning is use. 5.4733 says: “Every possible proposition is legitimately constructed, and if it has no sense, then that can only be because we have given some of its parts no *meaning*.” I take it that this means that senseless propositions are those that include signs to which we have given no use. This sounds a lot like the supposedly later idea that meaning is use, but Wittgenstein might have changed his mind about what constituted use and if meaning is use in any simple sense then, *pace Tractatus* 6.421, it is *not* clear that ethics cannot be expressed. The view presented in the *Tractatus* (whether or not we are meant to throw it away) is that the proper function of language is to state contingent facts. This is not very plausible, especially since so little of the *Tractatus* consists of such propositions, but at 6.53 “what can be said” is explicitly identified with “propositions of natural science.” So presumably, according to this view, signs that serve to express or convey such facts have a use and those that do not, do not. (Hence the paradoxical view that the *Tractatus* itself is nonsense.)

In the later *Philosophical Investigations* language is not presented as having any one proper function. So the meaning of “use” in that book is much less clear. Determining what contributes to a language game and what does not might seem to involve a judgment of value, although later Wittgensteinian philosophy is supposed to be neutral, saying only what everyone will admit. Wittgensteinian philosophy only describes and says nothing but what everyone will agree with (see *PI* §109 and §128).

On the other hand, *Investigations* §520 indicates that we are sometimes “tempted in philosophy to count some quite useless thing as a proposition” because “we have not considered its application sufficiently.” The later Wittgenstein agrees with his earlier self that not everything that might look meaningful really is so. Perhaps attempts to express ethics would fall into this category. *Investigations* §500 says that to call a combination of words senseless is to exclude it from the language, to withdraw it from circulation. It is an act, in other words, or, perhaps, an attempt. For who actually has the power to exclude words from the language, to make anyone stop using them? We can refuse to use certain combinations of words ourselves, and can encourage others to join us, but that is all.

*PI* §499 also points out that there are various reasons for wanting to do such a thing: “To say “This combination of words makes no sense” excludes it from the sphere of language and thereby bounds the domain of language. But when one draws a boundary it may be for various kinds of reason.” Wittgenstein writes as if there might be territories on either side of the boundary, as if some people might be able to live entirely in the area that lies outside the boundary we have drawn.<sup>18</sup> As I read this passage, it suggests that there is no nonsense as such, only potential instruments that one might, for various reasons, refuse to use or count as part of one’s game or games. So one could call ethical talk nonsense or senseless, but to do so would be

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<sup>18</sup> This recalls, though, his first remarks in the foreword to the *Tractatus*, to the effect that drawing a limit to thought would require being able to think both sides of the limit, both what can be thought and what cannot be thought. Instead, he tells us, he will draw a limit to the *expression* of thoughts although, by parallel reasoning, this will surely involve him in saying both what can be said and what cannot be said. The reader is somehow to understand the message of the book without understanding the *meaning* of what cannot be said (it has none) and without being enabled thereby to think what cannot be thought. In the *Investigations* Wittgenstein appears to mean that drawing a limit to the expression of thoughts is not enough. Language is not a cage, so there is no limit that we all *must* respect. If one wants to draw a limit then one must also explain what this limit is for. And, perhaps, persuade others to use it in the intended way. Something of this idea is already present in *Tractatus* 6.53.

somewhat arbitrary. It need not, and should not, be merely whimsical, but it cannot be absolutely forced on us either.

There is an apparent tension here. In one sense, words have meaning if they have a use in the language, and so any words that have such a use are not, cannot be, nonsensical or senseless. On the other hand, I can call any set of words I choose senseless and thus (attempt to) exclude them from the language. If I succeed in excluding these words from the language then I succeed in calling them senseless. Calling and making are practically indistinguishable here. It might be hard to see, then, how the work of Wittgensteinian philosophers could be said to leave everything as it is (see *PI* §124).

Wittgenstein's goal in philosophy, one might say, is to get people to stop wanting to use certain combinations of words, combinations that have been given no real meaning. Or, perhaps, they had once been given a meaning but no longer retain it. In the chapter on Philosophy in the "Big Typescript" (*PO*, pp. 158-199, put together in 1933) he writes that "philosophy does not lead me to any renunciation, since I do not abstain from saying something, but rather abandon a certain combination of words as senseless" (p. 161). The early Wittgenstein—of *TLP* 6.53, e.g.—could equally have written this. In the later philosophy, though, lacking sense is identified with being excluded from a language-game. We do not cut words from our language because they fail to talk about the world. Rather, perhaps we could say, cutting them from the language just is saying that they fail to talk about the world. There are many different language-games, and different possible reasons for wanting to exclude a form of words from any given game. The reason that primarily interests Wittgenstein is what he calls metaphysics.

### III. Metaphysics

It is not hard to find evidence that Wittgenstein thought ill of metaphysics. In *The Blue Book* (p. 35) he writes that: “.... the characteristic of a metaphysical question [is] that we express an unclarity about the grammar of words in the form of a scientific question.” In *Zettel* §458 he writes: “The essential thing about metaphysics: it obliterates the distinction between factual and conceptual investigations.” In *Remarks on the Philosophy of Psychology*, vol. I, §949, he repeats the idea that: “A metaphysical question is always in appearance a factual one, although the problem is a conceptual one.”

These middle and late remarks are not all that different from early ones on the subject. The metaphysical is there too distinguished from the factual. In the *Notebooks 1914-1916* (p. 78e, dated 30<sup>th</sup> July 1916) Wittgenstein writes that the mark of a happy, harmonious life cannot be physical but must, instead, be metaphysical, transcendental. On the next page he continues with the thought that ethics is transcendental. The metaphysical, like the ethical, is beyond meaningful language. Likewise, *Tractatus* 6.53 implies that whoever tries to say something metaphysical has failed to give meaning to some of the signs in his propositions. If there is such a thing as metaphysical truth or reality, then, it is not such as to be expressible in language. Anyone who tries to express metaphysical propositions is making a mistake, wrongly thinking that some matter of fact is being addressed.

It might be thought that Wittgenstein thinks of all metaphysics as purely bad, therefore, but I do not think his view is so simple. He is also reported to have said that:

The nimbus of philosophy has been lost. For we now have a method of doing philosophy, and can speak of skilful philosophers. Compare the difference between alchemy and chemistry; chemistry has a method and we can speak of skilful chemists. But once a method has been found the opportunities for the expression of personality are correspondingly restricted. The tendency of our age is to restrict such opportunities; this is characteristic of an age of declining culture or without culture. A great man need be no less great in such periods, but philosophy is now being reduced to a matter of skill and the philosopher's nimbus is disappearing.<sup>19</sup>

This suggests that there was a time when philosophy was not so reduced and allowed for the same great expression of personality as alchemy does. (Presumably Wittgenstein did not think that alchemy ought to be preferred to chemistry. I take his point to be, rather, that the progression from alchemy to chemistry was not without some cost.)

Wittgenstein appears to have used a similar metaphor before, as it shows up in David Pinsent's diary:

Wittgenstein's work is really amazing -- and I really believe that the mucky morass of Philosophy is at last crystallising about a rigid theory of Logic -- the only portion of Philosophy about which there is any possibility of man knowing anything -- Metaphysics

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<sup>19</sup> *Wittgenstein's Lectures Cambridge, 1930-1932 From the Notes of John King and Desmond Lee*, edited by Desmond Lee, Basil Blackwell, Oxford, 1980, p. 21



etc are hampered by total lack of data. It is like the transition from Alchemy to Chemistry.<sup>20</sup>

Again we see here the idea that metaphysics does not deal with anything factual, with any data. There can be no such thing as metaphysical knowledge. Metaphysics is not a science, like chemistry, but something more primitive, like alchemy. Like alchemy, though, it can allow more expression of personality than can chemistry.

Further evidence of (limited) sympathy for metaphysics on Wittgenstein's part can be found in M. O'C. Drury's record of his conversations with Wittgenstein.<sup>21</sup> In response to Drury's telling him that he was drawn to philosophy because he wanted to be able to understand a book he had seen in a library called *Space, Time, and Deity*, Wittgenstein reportedly replies: "Oh, I can understand that. If it is right to speak about the 'great problems' of philosophy, that is where they lie: space, time, and deity."<sup>22</sup> The following year, on the subject of Schopenhauer's chapter "Man's Need for Metaphysics," Wittgenstein says: "I think I can see very well what Schopenhauer got out of his philosophy. Don't think I despise metaphysics. I regard some of the great philosophical systems of the past as among the noblest productions of the human mind. For some people it would require a heroic effort to give up this sort of writing."<sup>23</sup> This is

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<sup>20</sup> David Hume Pinsent *A Portrait of Wittgenstein as a Young Man: from the diary of David Hume Pinsent, 1912-1914* edited by G. H. von Wright. Oxford, U.K. and Cambridge, Mass.: Basil Blackwell, 1990, p. 59.

<sup>21</sup> These are in M. O'C. Drury *The Danger of Words and writings on Wittgenstein* edited and introduced by David Berman, Michael Fitzgerald, and John Hayes, Thoemmes Press, Bristol, UK, 1996.

<sup>22</sup> *Ibid.*, p. 99. This was in 1929.

<sup>23</sup> *Ibid.*, p. 105.

reminiscent of Wittgenstein's reference to the giving up of some nonsensical expressions as sometimes being as hard as holding back tears.<sup>24</sup> So why must we make this effort?

As Wittgenstein sees it, metaphysics happens when people try to extend the apparent or implicit logic of language in ways that are not proper to it. That is, they see a pattern and think this must be continued in a certain way, when in fact the pattern is not so continued in the language itself. *Philosophical Investigations* §111:

The problems arising through a misinterpretation of our forms of language have the character of *depth*. They are deep disquietudes; their roots are as deep in us as the forms of our language and their significance is as great as the importance of our language. ----  
Let us ask ourselves: why do we feel a grammatical joke to be *deep*? (And that is what the depth of philosophy is.)

A simile that has been absorbed into the forms of our language produces a false appearance, and this disquiets us. 'But *this* isn't how it is!' -- we say. 'Yet *this* is how it has to *be*'.

*Philosophical Investigations* §115 says that the picture that held us captive "lay in our language and language seemed to repeat it to us inexorably." It does not follow that the picture must be removed from language. Philosophy leaves everything as it is (*PI* §124). It "may in no way interfere with the actual use of language."

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<sup>24</sup> See section 86 of the chapter on "Philosophy" in the "Big Typescript," PO p. 161.

Wittgenstein says that we get entangled in our own rules and need to get a clear view of them (*PI* §125). He seems to mean that there is a contradiction in the rules of our language if they are understood one fairly obvious way, but that this supposed contradiction is not a problem in practice. So to see it as a contradiction is a mistake. The mistake is avoided by getting a clear view of the “non-metaphysical”, everyday use of the words. “The confusions which occupy us arise when language is like an engine idling, not when it is doing work” (*PI* §132).

The skilful philosopher can guide others around our language when they mistakenly, confusedly, think it must go a certain way just because it seems to point that way. In a sense it *does* point that way, because it grew from a kind of chaos, but as a functioning language it has to be *taken* as not pointing that way. Consider the analogy with chemistry’s emergence from alchemy. Chemistry might have a certain form because of this history—perhaps some chemicals or procedures or pieces of equipment have names that relate to the occult—but this has to be overlooked, or handled carefully, by chemists who wish to avoid muddle. Similarly, our language includes words like ‘soul’ which appear to name objects, but if we treat them as if they do we will likely fall into confusion. If we were still doing alchemy or metaphysics this might not be a problem. Or at any rate our problems would not be the same as those of the personality-expressing alchemist, magician, or metaphysician. But times have changed and we must accept a more modest role. Wittgenstein’s later philosophical method(s) presupposes this view of the history of culture and civilization, and is imbued with this sense of humility and self-restraint.<sup>25</sup>

Because metaphysicians too belong to the culture whose language this is, they do not necessarily *want* to use the language metaphysically. They simply feel that they have to. Misleading analogies in our language (“to be” looks like “to eat” and so on) lead us to a

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<sup>25</sup> Which is not to say that the method is bound to fail if this view turns out to be incorrect.

headache-inducing sense of puzzlement. We feel that we are confronted by a profound mystery, when in fact all we are confronted with is the end of language, “the point where language stops anyway” (BT, p. 187) and so, of course, there is nothing (but plain nonsense) to be said.

But metaphysics can be deceptively satisfying as well as troubling. “And this [bumping against the limits and staring as at an inexplicable mystery] by the way satisfies a longing for the supra-natural //transcendental//, for in believing that they see the “limits of human understanding” of course they believe that they can see beyond it” (BT, p. 187). This is the danger of metaphysics, the moral and aesthetic error in it. It is a straying out of bounds, a mistaken attempt to obey language that in fact takes one beyond the area that language and its rules actually cover. Metaphysics, then, is a form of confusion. It is bad because it is unwanted or because it gives false satisfaction to a longing to see beyond what humans can understand. Seemingly metaphysical uses of words that are not problematic in such ways might well not count as metaphysics for Wittgenstein. Talk of natural rights seems to fall into this category.

#### IV. “Natural Rights”

Article II of the Declaration of Rights of Man and Citizen, adopted in 1789, six weeks after the storming of the Bastille, by the French National Assembly declares that: “The end in view of every political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression.”<sup>26</sup>

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<sup>26</sup> See Jeremy Bentham “Anarchical Fallacies; Being an Examination of the Declaration of Rights Issued During the French Revolution” in John Bowring (ed.) *The Works of Jeremy Bentham* Volume Two, New York, Russell & Russell, Inc., 1962, p. 500.

This seems like an everyday use of the word “rights” (and therefore all right, according to a natural reading of *Philosophical Investigations* §116) but also as a metaphysical use of the word (since rights are supposed to be part of nature in some sense). It also seems to me to be simultaneously ethical and metaphysical. So should we regard it as an acceptable use of language by the later Wittgenstein’s lights? If so, must Wittgensteinians oppose people like Bentham who reject such uses of words as nonsense?

Bentham’s “Anarchical Fallacies” is a kind of propaganda as well as a work of analytical philosophy. He opposes not only confusion but also dangerous nonsense, “terrorist language” as he puts it.<sup>27</sup> It is here that Bentham writes that: “*Natural rights* is simple nonsense: natural and imprescriptible rights, rhetorical nonsense, -- nonsense upon stilts.”<sup>28</sup> Before this, on the previous page, he calls the expression “natural rights” purely figurative (since literal rights come from governments). But not every figurative use of words is objectionable. Bentham’s objection is that this is a confused use of words, that it is not intended to be merely figurative and, more relevantly, that it is dangerous because it is used to justify violence and terror.

Bentham’s main point is that talk of imprescriptible rights attempts to bind the hands of future governments. He would prefer bad laws to laws that can never be changed, he says, and a declaration of natural rights threatens to create a state in which some laws would be unalterable. It is relevant, too, of course, that he sees the declaration tending to bad laws and violent anarchy. In judging which words are nonsense his policy, as he presents it, is to apply the principle of charity. He looks for a decent meaning in the words he is examining whenever possible, but

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<sup>27</sup> Bentham, p. 501.

<sup>28</sup> *Ibid.*

time and again is faced with the choice of condemning them as evil or else regretting that they have no meaning at all.

We might expect that the early Wittgenstein would agree with Bentham, and for similar reasons. Bentham wants the “modes of expression” found in the Declaration to “fall into discredit” and says that “unmasking” them is the best, indeed the only, method for accomplishing this end.<sup>29</sup> Again and again he asks what the words of the Declaration might signify, and often comes to the conclusion that they have no meaning but an emotive one, that they amount to no more than “*bawling upon paper.*”<sup>30</sup> This is reminiscent of (I do not say exactly the same as) the method outlined in *Tractatus* 6.53: whenever someone wants to say something metaphysical (perhaps about “natural and imprescriptible rights,” for instance), we point out that he has failed to give a meaning to certain signs in his propositions. This, Wittgenstein notes, will not be satisfying to the other person. It is not hard to imagine a would-be Tractarian philosopher taking a very similar tack. He would challenge the defenders of talk about “the natural rights of man” to explain what they mean and, probably, reject such talk as muddled nonsense, as the early Wittgenstein seems to have thought all ethical talk and all metaphysics were nonsense.

The later Wittgenstein, arguably, would have regarded Bentham as making a mistake, as failing to pay proper attention to the use of the word “rights” in the Declaration. Significant language is not treated in the *Philosophical Investigations* as language that remains within the world or as language that can add to our knowledge in some sense. Here there is none of the apparent scientism of *Tractatus* 6.53 (only propositions of natural science make sense), and instead the meaning of a word is regarded as its use in the language, so that any word with a use

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<sup>29</sup> Bentham, p. 495.

<sup>30</sup> Bentham, p. 494. Emphasis in the original.

has a sense. Ethical words have a great many uses. The word “good,” for instance, has “a family of meanings,”<sup>31</sup> and so, presumably, a family of uses. So we might expect the later Wittgenstein to regard the word “rights” as having more than one kind of use, and for him to disagree with Bentham’s narrow-minded intolerance of natural rights-talk.

Alternatively, we might expect the later Wittgenstein’s verdict on Bentham to be that he was at least half-right (and perhaps completely right) *at the time*, but that such talk of rights *now* has an established use and hence a meaning. Then late eighteenth century talk of “natural rights” would be not quite sense and not quite nonsense. It was a kind of nonsense at the time, since it had no established use, it belonged to no existing language game. But a game has since grown up around it, so now it makes sense. This is roughly Derrida’s view, according to which the moments at which a law or state is founded are “in themselves, and in their very violence, uninterpretable or indecipherable. That is what I am calling “mystical”.”<sup>32</sup> Derrida explicitly links his reference to the mystical with Wittgenstein.<sup>33</sup>

I take this to be a reference to a set of ideas we find in the early Wittgenstein. The *Tractatus* tells us that the mystical is the inexpressible (6.522), that this is identical also with the world’s existing or *that* the world is (6.44). Related to this is the mystical feeling, the feeling of the world as a limited whole (6.45). We might wonder what exactly is the relation between the mystical feeling (referred to in 6.45) and the Mystical (referred to in 6.44 and 6.522). In the “Lecture on Ethics” Wittgenstein seems to identify the two: “[My point here] is the paradox that

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<sup>31</sup> *Philosophical Investigations* §77

<sup>32</sup> Jacques Derrida “Force of Law: the “Mystical Foundation of Authority”,” in *Cardozo Law Review*, Volume 11, 1990, pp. 920-1045, p. 991. I have amended the translation so that “mystical” is in English. I see no reason to keep it in French (*mystique*) here.

<sup>33</sup> See Derrida, p. 943.

an experience, a fact, should seem to have supernatural value.”<sup>34</sup> Experience and fact are identical, or two ways of talking about the same thing. The experience in question is that of wondering at the existence of the world, of seeing it as a miracle, i.e. as something “the like of which we have never seen.”<sup>35</sup> Those who want to express such experiences produce nonsense not because they have “not yet found the correct expressions” but because what they want to do is precisely “*to go beyond* the world and that is to say beyond significant language.”<sup>36</sup> The method of *Tractatus* 6.53 will not work on someone who *wants* to go beyond significant language. Pointing out to him that he is not making sense will not bother him. He is not trying to look at facts in “the scientific way.”<sup>37</sup> He is looking at the world, rather, as a miracle and trying, presumably, to communicate something of this way of looking at things to others. It is hard to see how this could work, though, unless these others had already seen things in that kind of way and so grasped the (after all inexpressible) intent behind his words. As Wittgenstein puts it in *Investigations* §243, if the words of a language are supposed to refer to experiences whereof only the speaker can know, then another can, precisely on this account, not understand this language.

Wittgenstein’s view here is religious more than political, but this does not mean that Derrida is wrong to refer to it. Some of what the early Wittgenstein calls nonsense is very close to what he later called the use of words in a secondary sense: something like a metaphorical use of words, but without the possibility of saying the same thing literally and where the very same

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<sup>34</sup> Wittgenstein “Lecture on Ethics,” p. 43.

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*, p. 44.

<sup>37</sup> *Ibid.*, p. 43.



concept is somehow involved as in the use of the word in its primary sense. It seems quite possible that those who first wanted to talk of “natural rights” wanted precisely the idea of rights in the political sense that Bentham accepts and yet knew that they did not mean “rights” in the primary sense. This would not be a matter of semantic nihilism but would depend, rather, precisely on the fact that “rights” has a (more or less fixed) meaning. The innovative, risky, creative, arguably nonsensical secondary use of words depends on the primary use. To declare the natural rights of men and women is to engage in an act of attempted expression and hoped for understanding. It is not to deal with the mystical as Wittgenstein understands it, but it is to tread on similar ground.

Justice itself, Derrida seems to think, requires that we enter this territory. His view, as I understand it, is that a merely mechanical application of the law would never be just, and that a simple, bare decision cannot be just either.<sup>38</sup> A just decision is one that in some sense follows the law, but not blindly. It is not all that far from Wittgenstein’s idea of what is involved in following a rule. Derrida writes: “Law is the element of calculation, and it is just that there be law, but justice is incalculable, it requires us to calculate with the incalculable; and aporetic experiences are the experiences, as improbable as they are necessary, of justice, that is to say of moments in which the decision between just and unjust is never insured by a rule.”<sup>39</sup> Two pages later he adds: “If I were content to apply a just rule, without a spirit of justice and without in some way inventing the rule and the example for each case, I might be protected by law (*droit*),

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<sup>38</sup> My reading of Derrida on this might be controversial. According to Guy Stock, in his critical notice of Richard Amesbury *Morality and Social Criticism* (*Philosophical Investigations* 31:4, October 2008, pp. 359-369, Amesbury reads Derrida as holding that: “Justice *itself* cannot rest on principles. Its existence requires, on the part of a judge, the singularity of an interpretative act: an act which (given the intrinsic indeterminacy of statements of rules) cannot itself be entailed by any given set of rules and thus must be seen – within the context of an individual’s biography – as simply a bare decision” (pp. 364-365). I think this is wrong.

<sup>39</sup> Derrida, p. 947.

my action corresponding to objective law, but I would not be just. I would act, Kant would say, *in conformity* with duty, but not *through* duty or *out of respect* for the law.”<sup>40</sup> Justice requires law, and law requires the application of rules, but justice requires a particular kind of application of these laws. It must not be too mindless or objective.<sup>41</sup> In other words, justice must not be whimsical, but it also requires something like personality or humanity: it is hard to imagine a machine administering justice, since a machine could have little sense of what is reasonable, little if any mercy, little if any wisdom, little sense of what would be poetic, and so on. Above all, justice requires not merely accord with the rules of law but active, intentional following of these rules. Or so I take Derrida to be saying. (There is room for debate, it seems to me, about what justice requires—some people are attracted to mechanical, even cruel, ideas of punishment.)

He believes also that the foundations of law change with political progress: “each advance in politicization obliges one to reconsider, and so to reinterpret the very foundations of law such as they had previously been calculated or delimited. This was true for example in the Declaration of the Rights of Man, in the abolition of slavery, in all the emancipatory battles that remain and will have to remain in progress, everywhere in the world, for men and for women”<sup>42</sup> If we reject the documents that help to create or constitute this kind of advance as nonsense then we risk committing ourselves to a kind of conservatism. It is worth noting that Bentham opposed the abolition of slavery in the very same text in which he rejected talk of “the natural rights of man,” at least if done immediately, because of the bad effects he anticipated it would

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<sup>40</sup> *Ibid.*, p. 949.

<sup>41</sup> See *ibid.*, p. 961.

<sup>42</sup> *Ibid.*, p. 971.

have on both the slave-owners and the slaves themselves. The difference between Bentham and Derrida is not a mere disagreement about words. There really is something conservative about Bentham's position and something progressive about Derrida's. Whichever we prefer, we probably do not want a conception of nonsense that forces our hand one way or the other. Grammar, or conceptual analysis, should not dictate politics.

A reinterpretation of the foundations of law, or of who counts as a human being, or of what rights are, is not necessarily muddled in the way that metaphysics is. It will be innovative, of course, (since it is a *reinterpretation*), but it might be perfectly in line with the *spirit* of the rules that have been followed in the past. Wittgenstein compares the rules of language to the rules of a game, and games can have a certain spirit. This often guides people who want to modify the rules of a game in response to some unforeseen circumstance. It can also guide the enforcement of the existing rules, as when a referee punishes a player for unsporting behavior. We need not be able to specify strict criteria for what is within and what is outside the spirit of football or of justice. Where there is disagreement we can only speak for ourselves—the facts do not speak for themselves.

So is (or was) the language of the Declaration of the Rights of Man doing any work? Was Bentham wrong? Are Wittgensteinian philosophers never to call anything nonsense on pain of methodological impropriety? In a weak sense, yes, if they insist that what they are doing is purely philosophical (in the later Wittgenstein's sense). If they can get their interlocutor to agree that what s/he is saying is nonsense, though, then this is all right. Nothing is being said except what everyone agrees with. And declarations that such-and-such a combination of words is nonsense are also all right by Wittgenstein's standards if the people making the declarations accept that what they are doing is somewhat personal and, in a sense, arbitrary. There is no

boundary of language already drawn for us that the words “natural rights” uncomfortably straddle. Any words can be given a use and any words can be withdrawn from circulation. A verdict on what makes sense requires a judgment from the one passing the verdict. This judgment, as Derrida seems to recognize, can be neither entirely subjective nor entirely objective. What makes sense is not simply dictated by “the community of language-users,” but neither is it determined solely by my whim. It is possible to make a mistake and talk nonsense, but it is also possible to innovate and so, for instance, to recognize the rights of men, women, and others.

It is perfectly possible to make a case that others should exclude certain combinations of words from the language, and one of the strongest possible kinds of such a case would be on grounds of bad faith. This is largely what philosophers such as Bentham do. He tries to convince his readers that the authors of the Declaration of Rights of Man and Citizen could not possibly have meant what they said. Bentham works to change attitudes rather than to prove a conclusion true by means of logical argument, or to apply therapy to the metaphysically confused. Wittgenstein never says we may not do this, but it is not his idea of philosophy. Wittgensteinian philosophy is more therapeutic, less agenda-driven than Bentham’s. A philosopher per se, as Wittgenstein sees it, is a member of no thought community and so is not committed to the left or the right, or anywhere in between. This means that philosophy will not tell us whether we should side with Bentham, Derrida, or neither on the question of whether talk of “natural rights” belongs in our language. We can choose to reject it, for whatever reason we like, but a philosophical condemnation of it as nonsense (should we want to procure such a thing) will depend on our ability to bring our interlocutors to agree that these words do not mean

or express what they want them to. This is what Anscombe tries to do in much of her work on ethics, and it is not contrary to Wittgenstein's conception of philosophical work in any way.