

WITTGENSTEIN OR FRANKENSTEIN: THE CONCEPT OF RULE FOLLOWING IN LEGAL INDETERMINACY

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ABSTRACT

This paper examines Wittgenstein's concept of rule following in the context of legal indeterminacy. It argues that many legal scholars have misinterpreted the concept and, subsequently, applied it wrongly to law. This is due to the fact that, first of all, they have relied on a wrong interpretation of Wittgenstein's work, which affects the internal logical consistency of their claims. Moreover, their applications of rule following in the domain of jurisprudence are not sophisticated in general. Thus, this paper concludes that many extended claims derived from the concept of rule following are incoherent – products that are not entirely Wittgenstein's. It is best leave the concept of rule following where it is, and approach legal indeterminacy in some other way.

Keywords: Ludwig Wittgenstein, Rule Following, Legal Indeterminacy, Jurisprudence.