

Pure Theory

of Law

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Meiji Gakuin University, Tokyo



**Pure
Theory**

1934¹

1960²

**Pure
Theory**



**Paradigmatical
Change
of Legal Theory
and
Juridical
Methodology**

**Pure
Theory**

→ New Terms and Concepts

**Norm
Basic Norm
Hierarchy of Norms
Legal Act**

.....

NLD

**Pure
Theory**

Natural Law Doctrine

→ 1970 Rene Marcic



**Pure
Theory**

L Log.

Legal Logic

**Hajime Yoshino
Jürgen Rödig**

**Ilmar Tammelo
Ota Weinberger**

**Deontic Logic
Georg Henrik von Wright
1951 →**



**Pure
Theory**

L Inf.

Legal Informatics

1970 →

**Herbert Fiedler
Leo Reisinger**

**Alfred Schramm
Erich Schweighofer**

**Roland Traunmüller
Maria Wimmer**

Metalevel

3 Kinds of

Rules

Interpretation:

- **of Facts**
- **of Norms**
- **of Texts**

Stage

Subjekt

*Is (Sein)
Mind*

Metalevel

Rules

1.

Interpretation of Facts

Stage

Subjekt

*Is (Sein)
Mind*

Metalevel

Rules

Fact



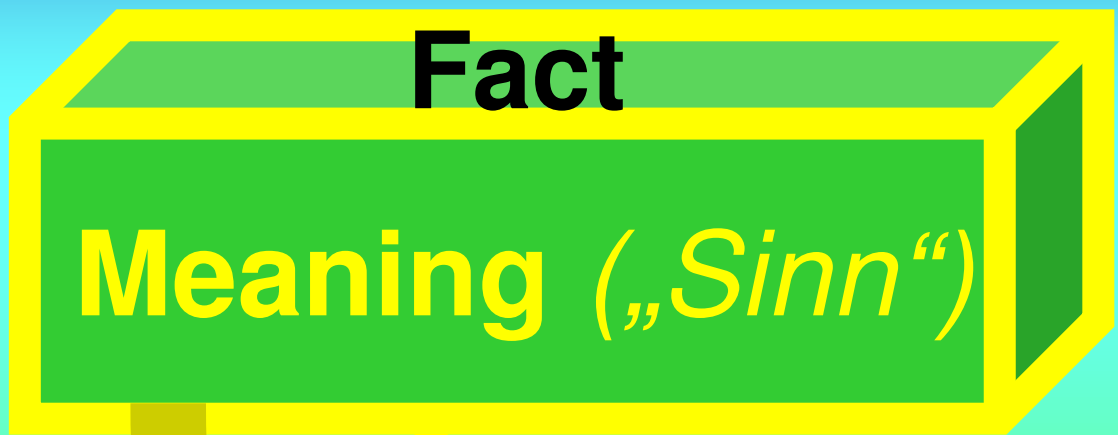
Stage

Subjekt

Mind

Metalevel

Rules



Stage

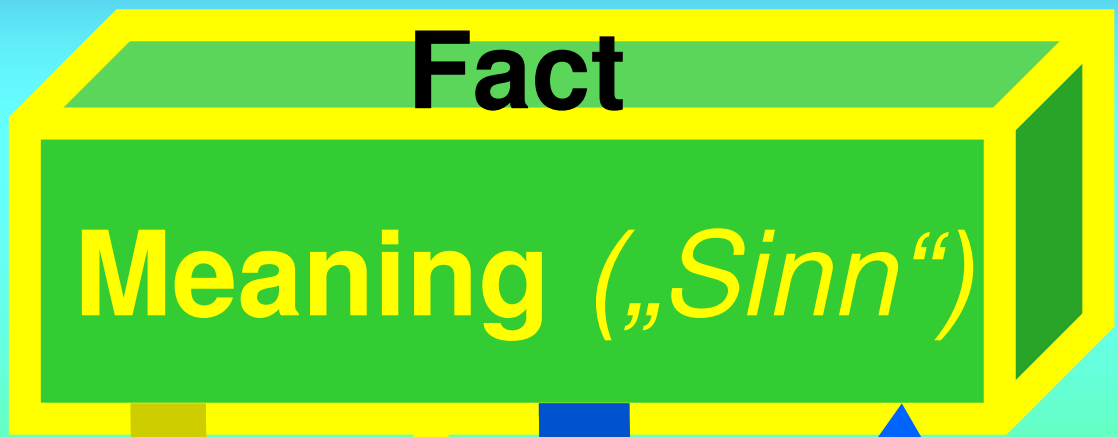
Subjekt

Interpretation

Mind

Metalevel

Rules



Stage

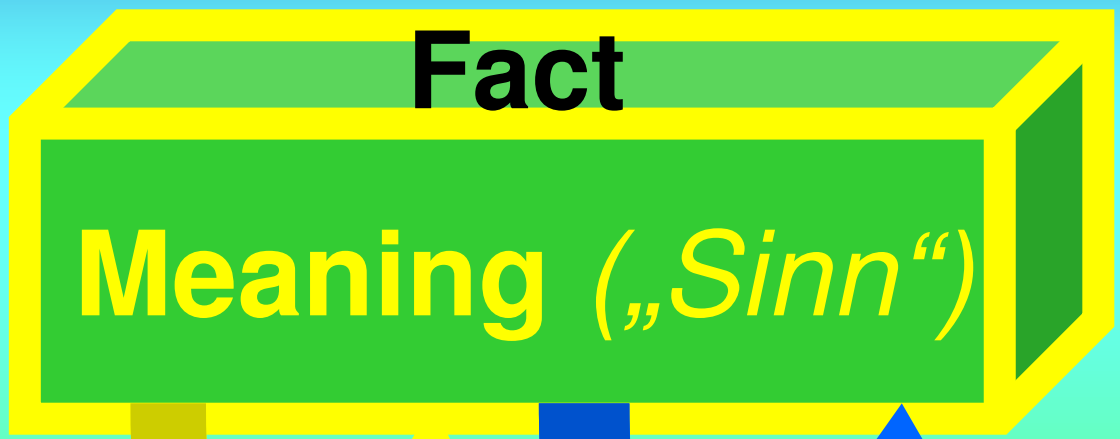
Subjekt

Reaction

Mind

Metalevel

Rules



Stage

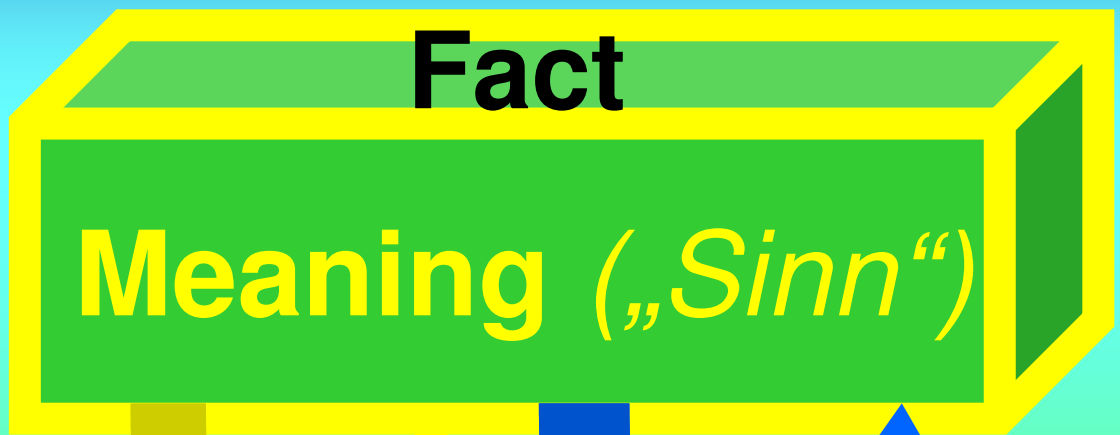
Subjekt

Norm

Mind

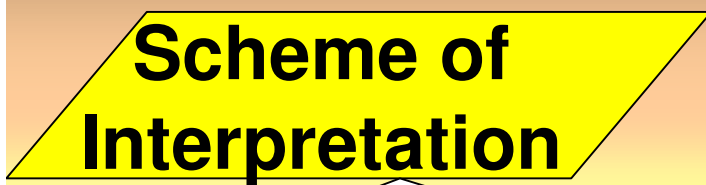
Metalevel

Rules



Stage

Subjekt



Mind



Metalevel

Rules

2.

**Interpretation
as valide
Legal Acts**

Stage

Subjekt

*Is (Sein)
Mind*

Metalevel

Rules

**normative formulated
Text**

Stage

Subjekt

Mind

Metalevel

Rules

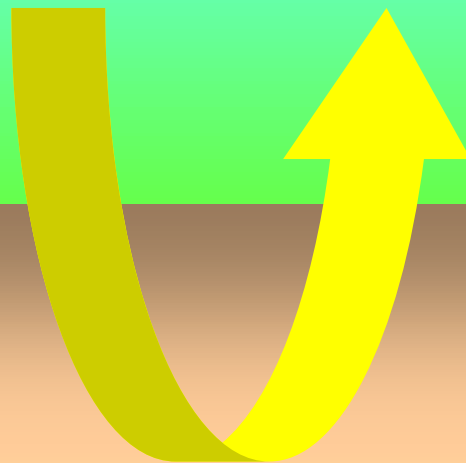
Valide Legal Act

Stage

Subjekt

Interpretation

Mind



Metalevel

Rules

Valide Legal Act

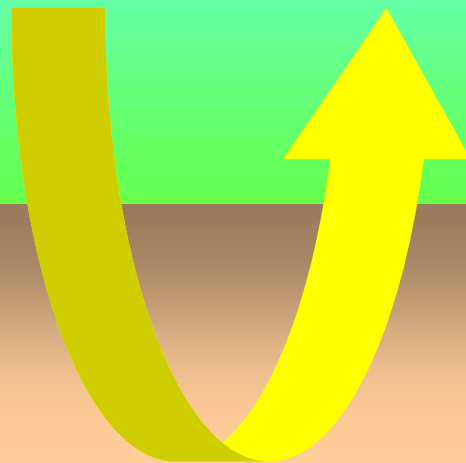
Valide Legal Act

Stage

Subjekt

Interpretation

Mind



Metalevel

Basic „Norm“

Rules

Valide Legal Act

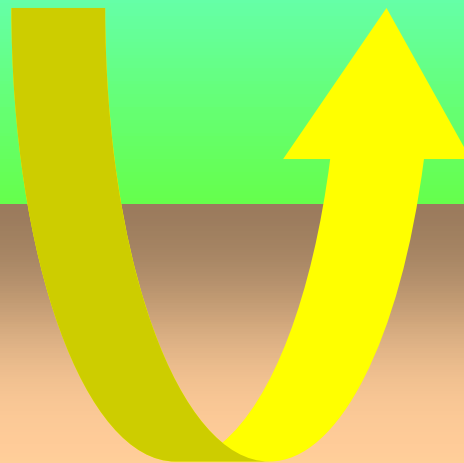
Valide Legal Act

Stage

Subjekt

Interpretation

Mind



Metalevel

Rules

3.

Interpretation of Legal Texts

Stage

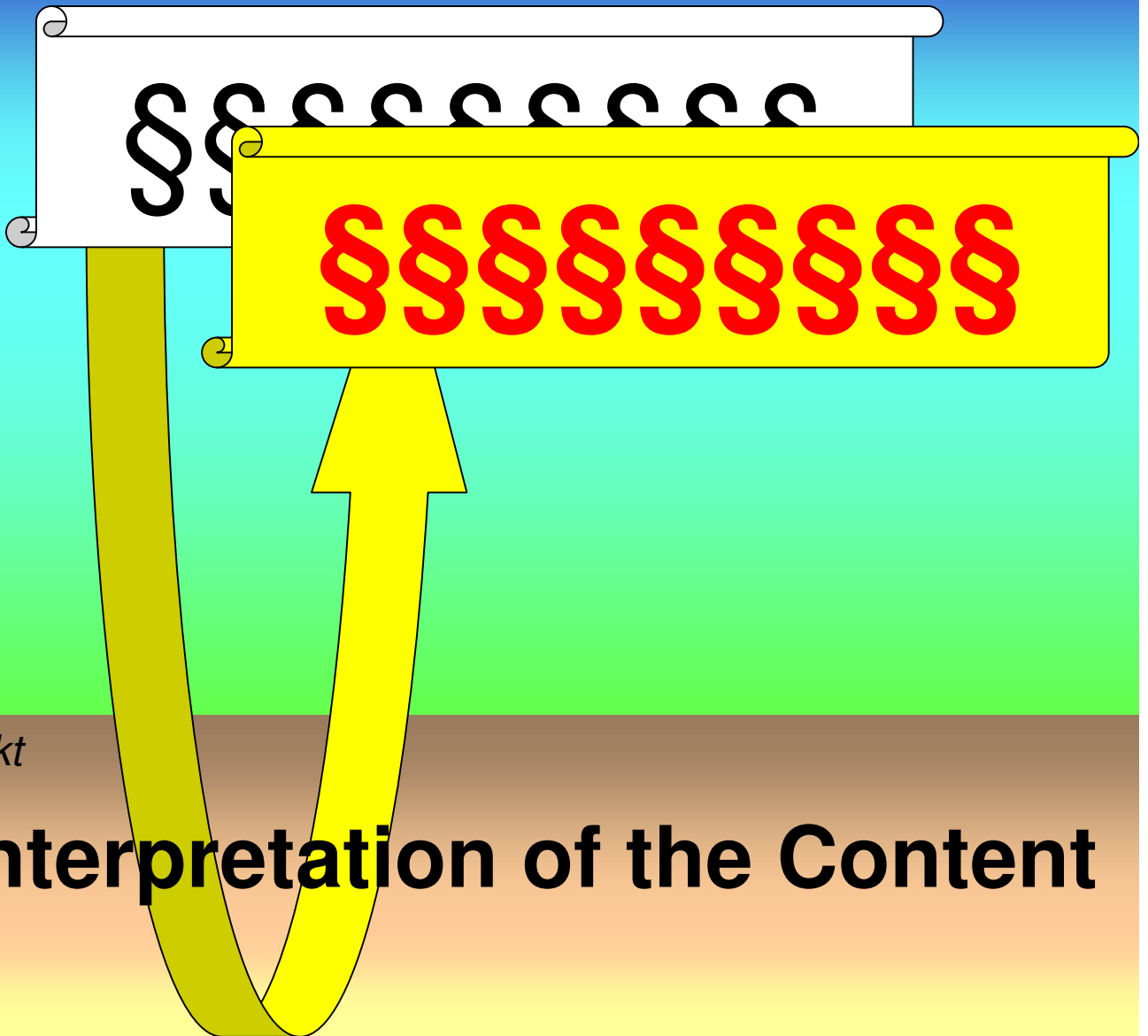
Subjekt

*Is (Sein)
Mind*

Metalevel

Rules

Legal Text



Stage

Subjekt

Interpretation of the Content

Mind

Metalevel

Synthesis of the 3 Kinds of Interpretation:

Rules

Subsumption

Stage

Subjekt

*Is (Sein)
Mind*

Valide Legal Act

§§§§§§§§

Situation, Facts

Meaning („Sinn“)

Subsumption

Valide Legal Act

§§§§§§§§

Situation, Facts

Meaning („Sinn“)

Decision

Metalevel

Pure Theory

Rules

Concept of Norm

Stage

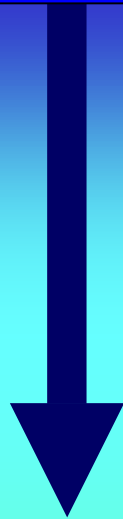
Subjekt

Mind

Metalevel

Rules

Norm: To Do



Human Being

Stage

Subjekt

pre-scriptive

Mind

Metalevel

Rules

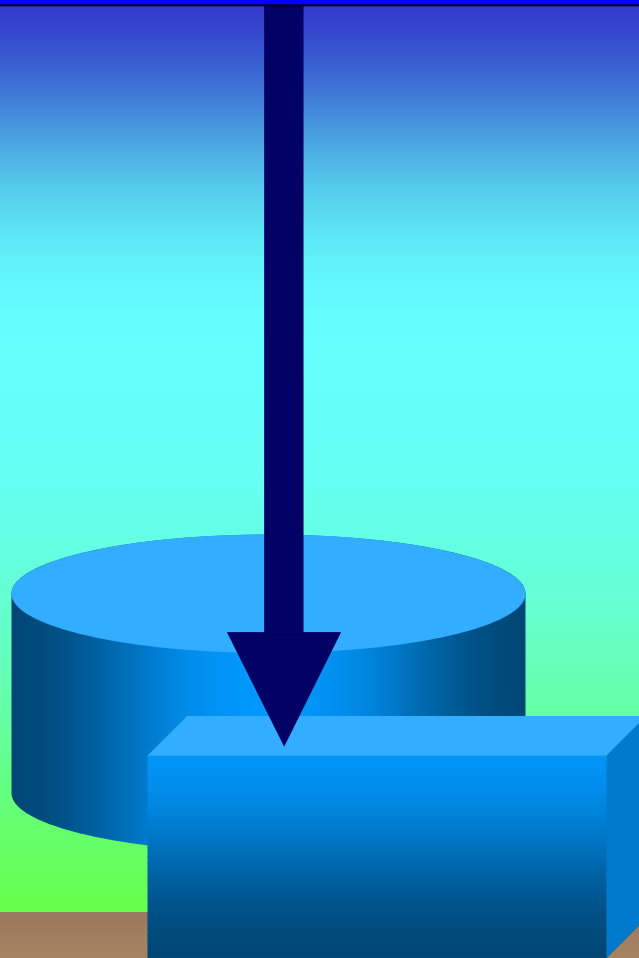
Norm: To Do

Stage

Subjekt

Behavior: To Do

Mind



Metalevel

Giovanni Sartor:

Rules

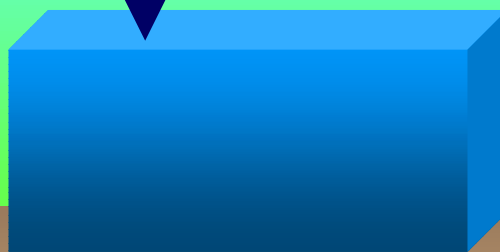
Norm: To Be

Stage

Subjekt

Status: To Be

Mind



Metalevel

Pure Theory

Rules

Double- Norm

Stage

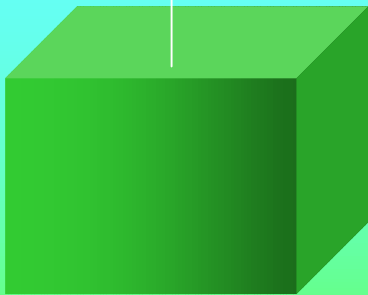
Subjekt

Mind

Metalevel

Rules

Condition



Stage

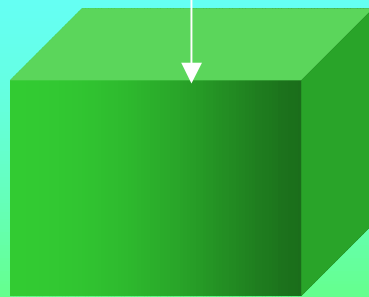
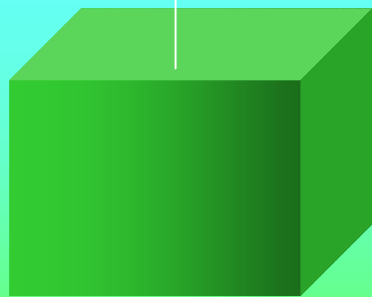
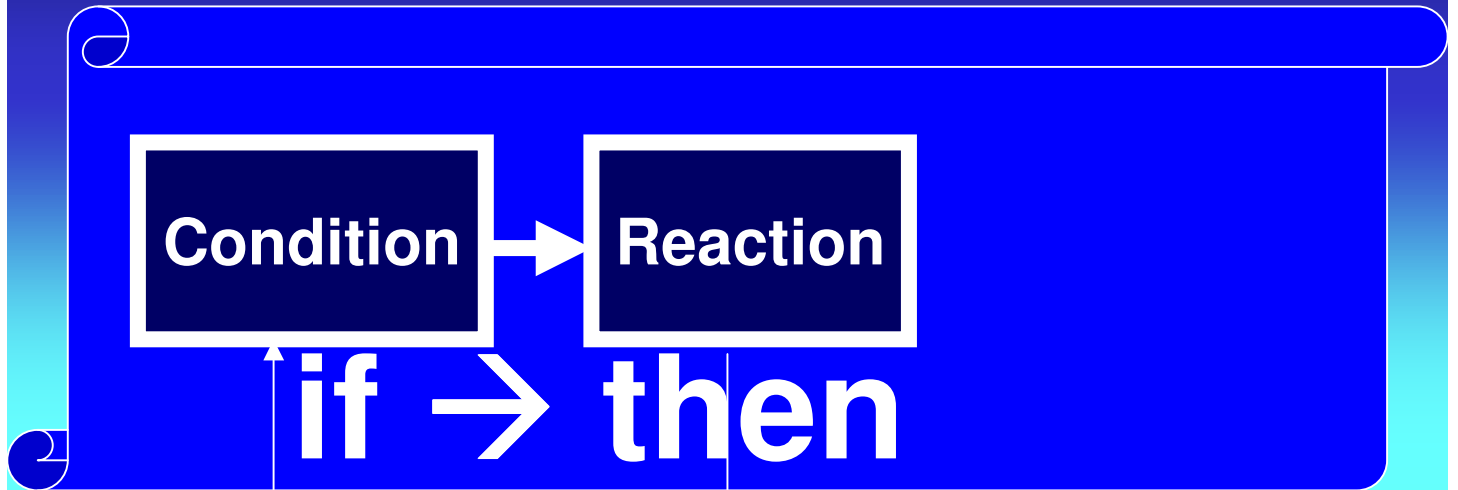
Subjekt

Mind

Metalevel

Hypothetical Norm

Rules



Stage

Subjekt

Mind

Metalevel

Kategorical Norm

Rules



To Do

Stage

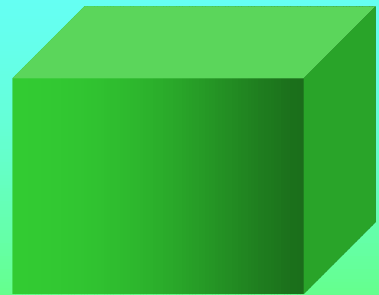
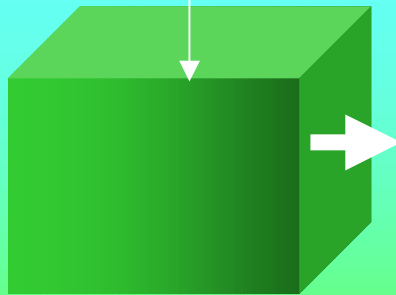
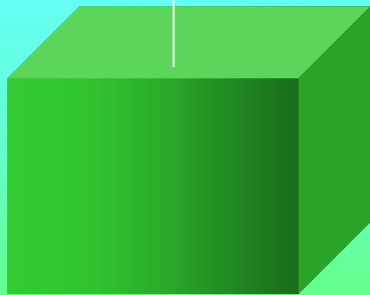
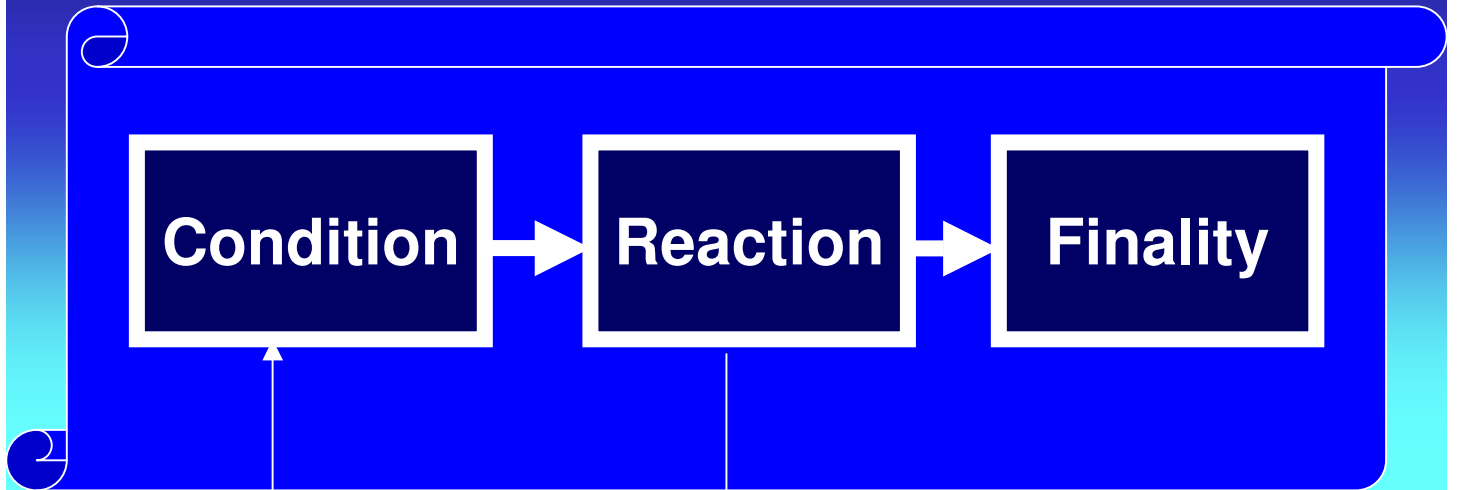
Subjekt

Mind

Metalevel

another Concept (Luhmann)

Rules



Stage

Subjekt

Mind

Metalevel

Pure Theory

Rules

Hierarchy of Norms

Stage

Subjekt

Mind

Metalevel

Hegemonial Law

International Law

Rules

EU Primary Law

EU Secondary Law

Constitution

Law

Statute

Decision

Stage

Private Treaty

Subjekt

Basic Norm

Mind

Metalevel

Pure Theory

Rules

Norm- Monism

Stage

Subjekt

Mind

Metalevel

Rules

Norm

Norm

Norm

Norm

Norm

Norm

PTL: The Legal Order

**exclusively consists
of Norms**

Stage

Subjekt

Mind

Metalevel

Rules

Norm

Definition

PTL: Legal Definitions are only Part of other Norms

Stage

Subjekt

Mind

Metalevel

Rules

*another Concepts:
it is possible, that
there are other Legal
Elements too*

Stage

Subjekt

Mind

Metalevel

Rules

Legal Norm

Indicative Legal Sentences

Legal Signs

*another Concept:
it is possible, that
there are other Legal
Elements too*

Stage

Subjekt

Mind

Metalevel

Pure Theory

Rules

Purification *(Deconstruction)* of Ideology

Stage

Subjekt

Mind

Metalevel

Traditional Concepts of Law

Rules

Stage

Subjekt

Mind

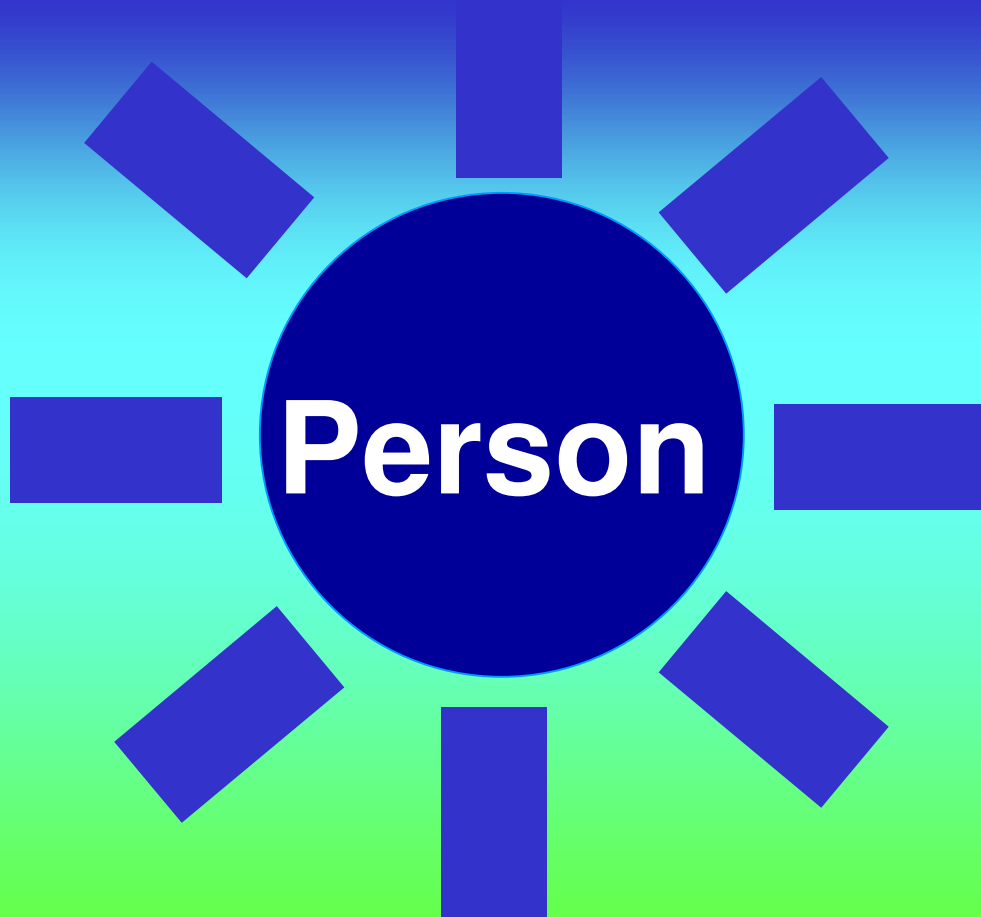
→ *Deconstruction*

Critical Interpretation of other Theories

Metalevel

Traditional Concepts of Personality

Rules



Stage

Subjekt

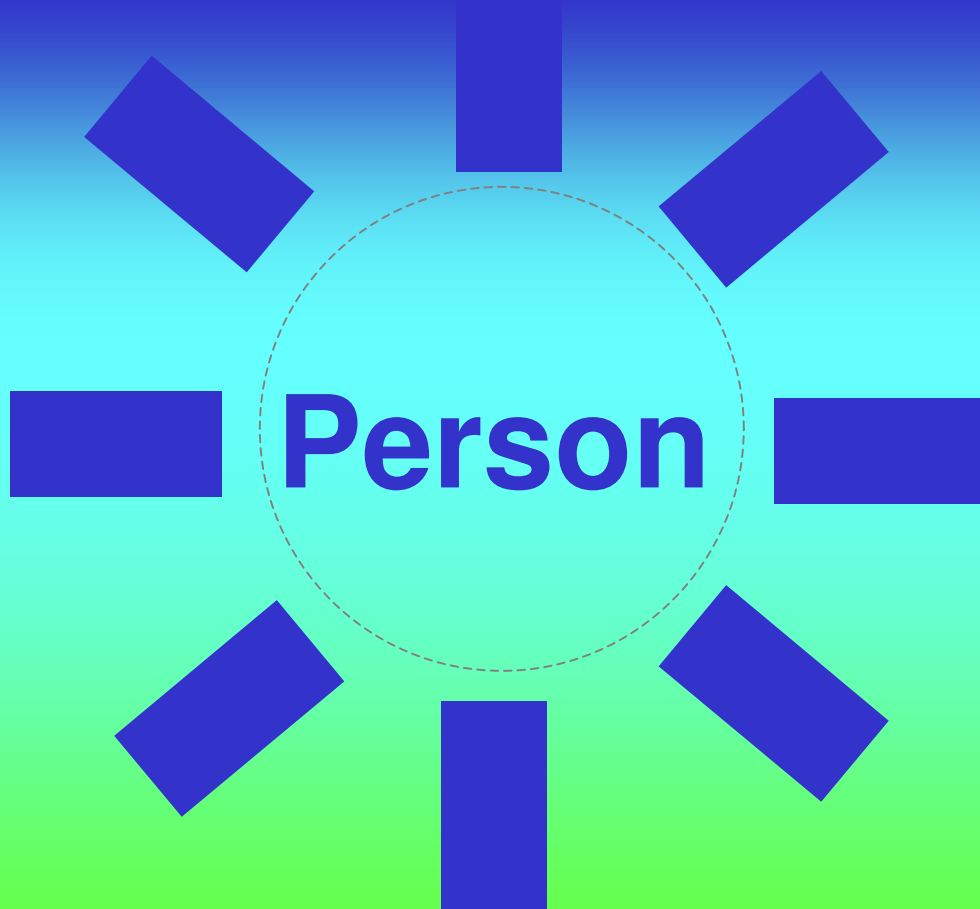
Mind

Metalevel

**Person: only a Quantity
of Rights and Duties**

Rules

→ *deconstructed*



Stage

Subjekt

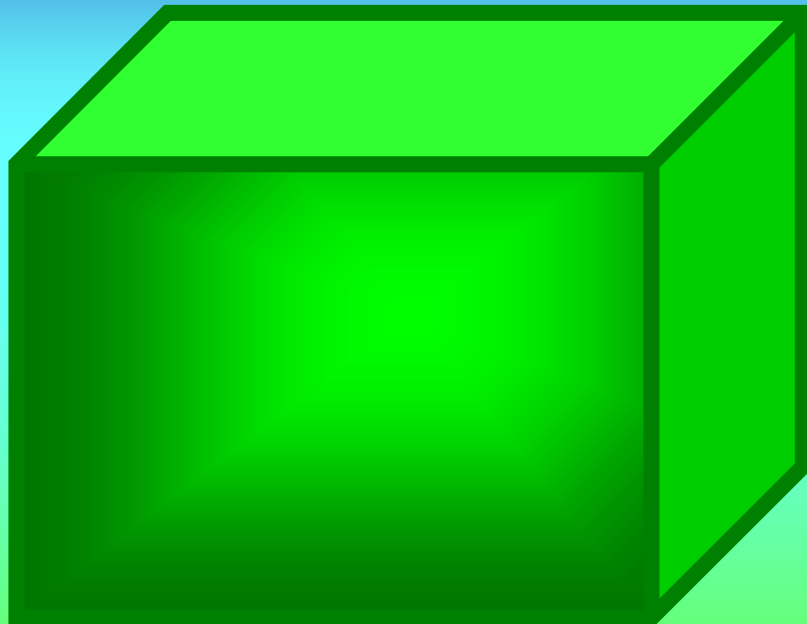
PTL: „Purification“

Mind

Metalevel

Traditional Concepts of **Institutions**

Rules



Stage

Subjekt

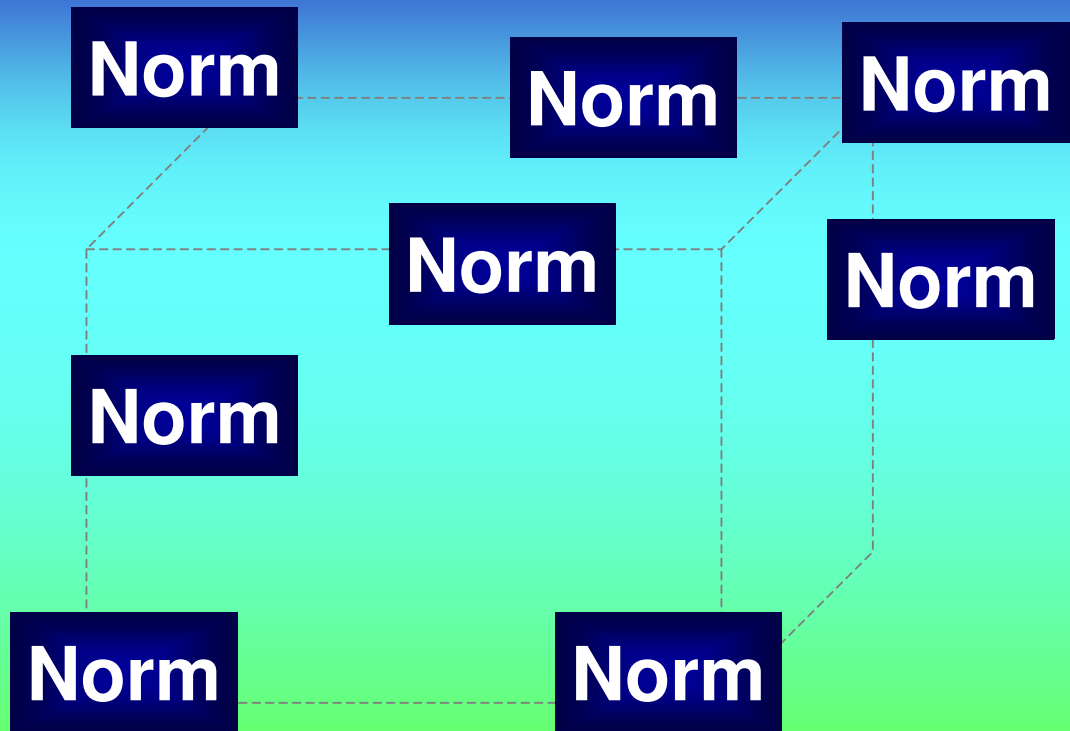
Mind

Metalevel

Institutions: only Norms

Rules

→ deconstructed



Stage

Subjekt

PTL: „Purification“

Mind

Metalevel

**Traditional Concepts of
State**

Rules

State

Stage

Subjekt

Mind

Metalevel

State = Personification

Rules

→ deconstructed

State

Stage

Subjekt

PTL: „Purification“

Mind

Metalevel

Rules

but on the contrary:

Stage

Subjekt

Mind

Metalevel

Pure Theory

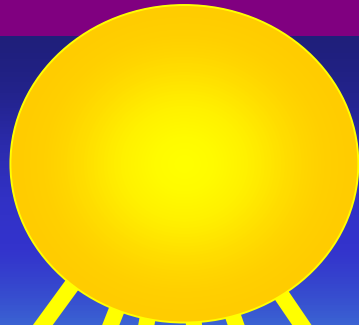
Rules

Personification of Jurisprudence

Stage

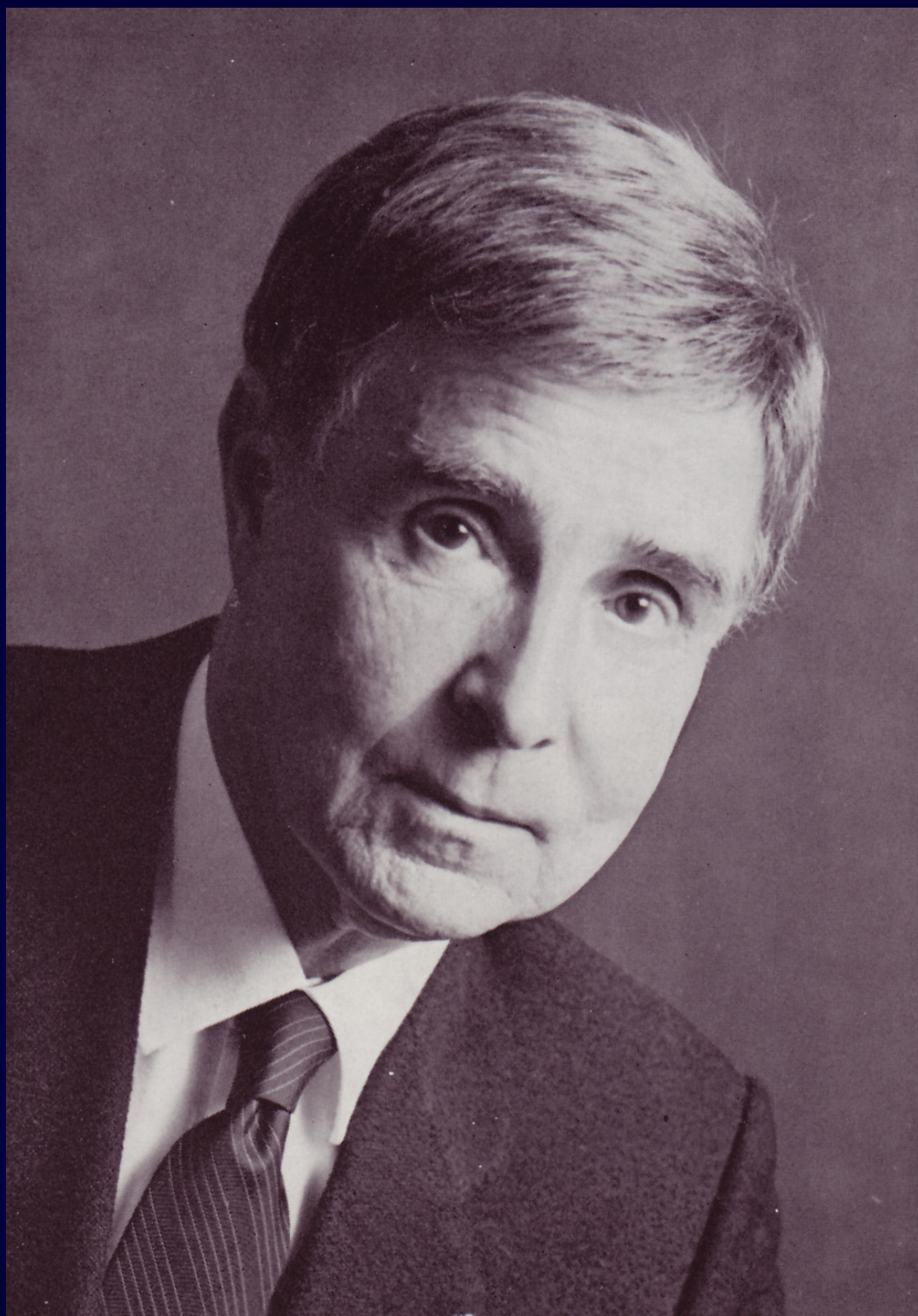
Subjekt

Mind



This lecture is dedicated to the memory of

*This lecture is dedicated to the memory of
Ilmar TAMMELO*



the famous Estonian Legal Philosopher

*Thank you
for your
Attention!*

Lachmayer @ chello.at