

## Death's Dominion: An Appreciation of Ronald Dworkin (1931–2013)

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Received: 23 February 2013 / Accepted: 20 March 2013  
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Most of us hope to write our magnum opus before we die and never do (and it doesn't matter!). Ronald Dworkin, the distinguished jurisprudence scholar, did—shortly before his recent death from leukemia at age 82 in London. Dworkin's last book, *Justice for Hedgehogs*, published in 2011 certainly matters; indeed, it was lauded, in a magisterial *New York Review of Books* column by A. C. Grayling (2011), as “The Birth of a Classic.” The book is all the more impressive for offering unity to Dworkin's life's work, integrating his weighty contributions, and culminating in the notion of value as “one big thing.” He is also very quotable, as the dust jacket of the book demonstrates:

The fox knows many things, but the hedgehog knows one big thing. The truth about living well and being good and what is wonderful is not only coherent but mutually supporting: what we think about any one of these must stand up,

eventually, to any argument we find compelling about the rest.

So here is an argument by a progressive thinker, seen by some as relativist himself, against the relativist zeitgeist, all the more surprising for coming from the pen of a man who was of a liberal persuasion at a time when autonomy is often seen hand-in-hand with a postmodernism that makes unifying normative projects unfashionable. Or perhaps this is also an example of true integrity in its more literal meaning, where a person's moral arguments, and their moral character, align with an internal cohesion and consistency, that they are not in constant ‘deep conflict’ as Grayling points out is often the view of other modern philosophers (Grayling, 2011). In *Hedgehogs*, Dworkin, taking the fable analogy from Isaiah Berlin (Berlin 1953) explores the nature of skepticism (internal and external), moral responsibility, and how we “interpret” things. He holds, *contra* many, that value judgments can be true and chides modern philosophers whom he accuses of inflating “the methods of physics into a totalitarian metaphysics” (Dworkin 2011, 417). Ethics and morality are “freestanding” from science:

We cannot certify the truth of our value judgments through physical or biological or metaphysical discoveries; no more can we impeach them that way. We must make a case, not supply

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evidence, for our convictions, and that distinction demands a kind of integrity in value that in turn sponsors a different account of responsibility (Dworkin 2011, 418).

Dworkin's primary discipline was, of course, law, and so his purpose had been to explore philosophical investigations into the conceptual basis of legal argumentation. To those outside the legal academy, this might be off-putting and of dubious relevance at first glance as well as render some of his material difficult to follow for the uninitiated. However, the effort is rewarded for all those concerned with bioethics for two reasons: Firstly, he usually addressed issues of central concern to the field and, secondly, he was a wonderful writer. Indeed, one blog contributor suggests (kindly) that sometimes the beauty of his prose could mask an unsatisfactory argument (Bertram 2013). Another conservative critic (the late Robert H. Bork, quoted in Dworkin's *New York Times* obituary by Liptak 2013) said that, whatever the route taken, Dworkin would always come up with a liberal interpretation of the U.S. Constitution, the Constitution being the main subject of Dworkin's work (Bork 1990). But the nature of interpretation itself was also one of Dworkin's major foci, especially in *Justice for Hedgehogs*.

To this reader, it was Dworkin's meditations on the jurisprudence of death and dying that was so worthy of, at the very least, "cherry-picking" for the poetic insights that go beyond law and ethics to wider, almost spiritual significance. Maybe, thereby, there was the possibility to try and better understand the intellectual project in question—namely, always to defend a kind and inclusive liberality, a true liberalism, more in the English sense than the American. (Dworkin's political mission appears to have been anything but *laissez faire* and seemed social democratic, which would earn the label "liberal" from many in the United States.) Indeed Bork saw him as a liberal moral relativist but, writing in 1997, did not live to see the unifying work of *Hedgehogs* (Liptak 2013).

In his 1993 book, *Death's Dominion*, Dworkin gives a timely reminder of the need for tolerance and humanity to permeate all ethical deliberations about the beginning and end of life, be they theoretical or

clinical. The way we approach our deaths and those of our fellow human beings is an important ingredient in individual and collective constructs of human dignity:

But if people retain the self-consciousness and self-respect that is the greatest achievement of our species, they will let neither science nor nature simply take its course, but will struggle to express, in the laws they make as citizens and the choice they make as people, the best understanding they can reach of why human life is sacred, and the proper place of freedom in its dominion (Dworkin 1993, 241).

Death has dominion because it is not only the start of nothing but the end of everything, and how we think and talk about dying—the emphasis we put on dying with "dignity"—shows how important it is that life ends appropriately, that death keeps faith with the way we want to have lived (Dworkin 1993, 199).

Most importantly Dworkin posits that we all agree that life is sacred, even if we have different ways of expressing that sacredness. He saw in these difficult and weighty decisions that the freedom to make the choices at all is what the state (and the U.S. Constitution) must grant us, and this in itself is a dignity issue.

All teachers of ethics are at pains to point out that law and ethics are not the same thing. Nonetheless, some of the best in-depth scholarly consideration of the ethics of death and dying are to be found in legal cases and legal scholarship. Dworkin is the most eminent literary and philosophical example of this (Dworkin 1997; Dworkin et al. 1997).

The last word from this distinguished scholar comes in the epilogue of his *Hedgehogs*. As a man not far, as it turns out, from death himself, he writes:

The most arresting focus for life is death. We study a life best retrospectively, as it appears near its end. Then we cannot escape the question whether the joys and tears, the glitter and prizes and treats, have come to anything that can quiet the dread or do more than mock the silliness of having cared (Dworkin 2011, 420).

Amen to that. As Quakers might say, his life (work) spoke.

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