

Personal Note on Ronny Dworkin.

I became a research student of Dworkin in 1973. I was a young arrival from Otago, New Zealand. I intended originally to stay one year, perhaps only reading for the then Diploma in Law although I wasn't committed to that, as I had a lectureship in Jurisprudence at the University of Keele, begun in January 1972, to return to if I wanted. I arrived at University College, Oxford with all the humble excitement of someone fresh from the South Pacific, ie full of cultural cringe. I wanted to study with H.L.A. Hart. I so much admired the clarity and logic of *The Concept of Law* and I wanted some of that to rub off on me. But I didn't know that Hart had just left teaching to become Principal of Brasenose College, and I was initially disappointed to find a letter in my pigeon-hole saying I'd been assigned to a "Mr. Dworkin". The College porter, Douglas, gloated. "Ha," he said, "you've got Professor Dworkin. You'll discover ..." I knew little of Ronny's work then, but I had written in a paragraph in an article just published in the *Otago Law Review* somewhat dismissing his account of legal principles ("Is the Law a System of Rules", 1967) by saying it was not as "instructive" as Hart's. Eventually I learned my comment had some insight; I'd not said "Hart's theory was less *descriptive*", and so I had at least intuited – I believe rightly - then that legal theories should serve an evaluative "instructive" point. Hart's own view, too, was evaluative in any case, although this point is mostly overlooked. (I suggest you re-read *The Concept of Law* Ch. IX if you're skeptical and tell me why he gives practical rather than reasons - of "descriptive sociology"- for preferring positivism to "natural" law).

I first came across Ronny – shortly before we formally met - at a seminar in which he announced that he believed in "*natural* legal rights". The audience of many undergraduates, but tutors too, was skeptical, like many audiences since who don't understand him. I, too, was sceptical, but I also was fascinated; the idea seemed just so absurd. I rapidly got the sense, however. What Ronny meant was that when lawyers engage in legal debate they do it by making moral judgments about moral rights but only those that integrate with already-settled (ie about which there is significant consensus) legal rights. Ask any barrister. A concerned undergraduate who, with heavily furrowed forehead, announced to Ronny that "he was worried that his position falsified the 'tri-partite division of the mind'." Ronny's reply, "I don't think that is anything to *worry* about" was an introduction to a characteristic humour which the less confident interpreted as arrogance.

Supervisions with Ronny were brilliant occasions for me and I always came away stimulated. Interestingly, Jeremy Waldron found them brilliant, too, but depressing as – and it was true – Ronny would demolish anything we, or anyone, said. He was a very good philosopher and he kept you on your toes. His power of abstraction was extraordinary. At our first meeting, I'd brought a hand-written essay, as I assumed that was proper. Only Americans in those days typed; some even in those days had IBM electric typewriters. My topic took up what I'd written before about why his idea of legal principles was wrong as "too waffly", too open to "interpretation", not "instructive". I arrived at his room in Kybald House at the back of the college. He was lying almost horizontally on a large sofa, smoking a large cigar, with a lop-sided grin (in fact, the result of child-hood Bell's palsy). I sat upright, in an angular antique chair (which he offered to me when he retired, decades later). Although I was from New Zealand, I felt so *English*. He was clearly put out that my essay wasn't typed; I think he would have liked it for me to go away, get it typed and come back another time. However, I suggested I read the essay to him. Chuffed by the apparently – to him - novel nature of this suggestion, he said, "OK. How very *Oxford*."

Not everything was satisfactory. The supervisions were good and I learned a lot as he was thorough but there weren't nearly enough of them. He would disappear for long periods of time, without telling me, or as I later was to learn, *anyone*, to the US, although I didn't

discover why – nor did Oxford - for quite some time. My impression was that he had very few research students who succeeded in obtaining their degrees, although there were quite a few who would see him about just one or two points in research relating to some other subject with which they had separate supervisors. It irked me to discover that later, in professional life, they cited Ronny as their former “supervisor”.

Basically, it was time at Oxford – with its many joys and its beauty - in which I just had to get along as best I could on my own. It was true of many research students at that time; but it was notoriously worse under Ronny. Awful, in fact. Fortunately, I was well placed for stability and could enjoy the beauty and other fruits of Oxford. My wife and I lived in a large set of rooms in the Master’s Lodgings and as I was a violinist – my first love - I was involved in a lot of music. It didn’t fail to help that the Master’s wife, Jean Maud, was a former pupil of Artur Schnabel, and as a professional pianist, was a noted Brahms interpreter. She assigned a music room in the Lodgings for my sole use. I was so lucky. I’d be in this, my own room, quite large, on the top floor and as I practised I could look down Logic Lane at J.R.R. Tolkien’s former lodgings on the corner of the Lane and Merton Street. Magic. Jean Maud and I played the Brahms violin sonatas together, including several times in the series of College concerts she organized in the Lodgings. I also played in piano trios with her and her son, a good cellist, the Hon. Humphrey Maud. I also played in a string quartet of Univ. players, which included John Truss, a Junior Research Fellow in Mathematics, whose daughter was born that year, later to become the Prime Minister. I also spent each week in the Oxford University orchestra including performing, I remember, *The Dream of Gerontius* in the Oxford Town Hall, and the *Rite of Spring* in the Sheldonian. Jean Maud organized me into another string quartet in which the three other players were the headmistresses of three Oxford secondary schools and this continued for a year.

In my first year at Univ, not known to me, and I don’t think widely known at Oxford, Ronny also had a professorship at Yale Law School, rumoured to be a full-time one. I found arranging a time for a supervision almost impossible. There was of course no email then and he mostly didn’t respond to letters and, if so, not at all quickly. It did not feel good. I became despondent towards the end of my first year when I was shocked to learn off-hand that he would be away the following April. I felt bad enough to cancel some rehearsals, and when John Maud learned of the situation he took me aside and showed great understanding – it had obviously happened before. He charmingly told me “all would come right – I have no doubts”. As indeed it did.

And then about the end of July I learned Ronny had arranged a further sabbatical term. I didn’t want to stay at Oxford too long. During that time John Finnis, right through the vacation, kindly read all of my work and commented on it in great deal. I have affection for him to this day, deriving a lot from his personal support. I should add that his detailed and early understanding of the moral basis of all jurisprudential concepts, particularly law, was more developed than Ronny’s at that time. But being supported was the important point. I mark here my gratitude as well as my admiration for him.

In retrospect, this was all incidental. In spite of some stimulating supervisions (once he dismissed international law as “words produced by meetings of a few old men” – don’t dismiss it; it is a good starting point for explaining the force of international agreements) and some good direction on ideas, the meetings were too limited. In the end, I did not write on his topics at all but wrote about the difficulties in using Kelsen’s theory in various Commonwealth and ex-Commonwealth legal cases. Finnis was superb on this.

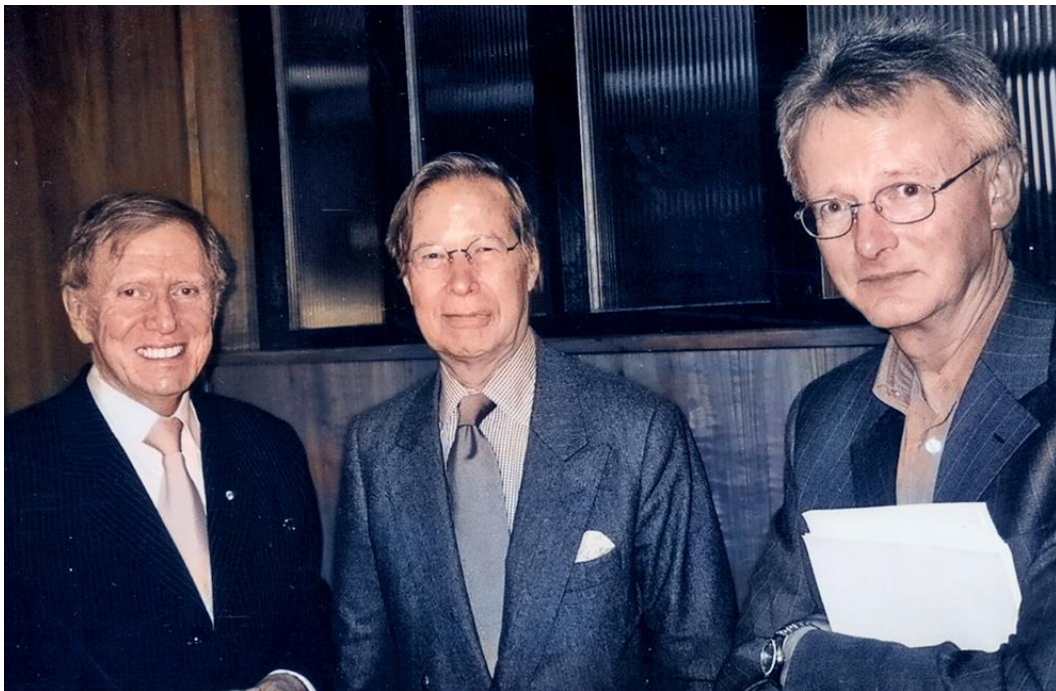
The absence and off-handedness of Ronny was not good. His account of law, and his attitude to deep questions about state, law and morality, were brilliant – austere, thoroughly honest and highly intelligent. But I had no illusions. So later when William Twining, shortly after he became the Quain Professorship of Jurisprudence in 1983 at UCL - and so my boss, I

suppose - took me aside in a pub and told me that “my problem” was that I was “in love with Dworkin.” I was stung by this remark. I had Ronny to a “t”, and the idea that my thinking about law was not endorsed by my own conviction but by some mistaken emotionally driven commitment to *Ronny*, left me rightly irritated.

Fortunately, towards the end of my first year at Oxford, I was offered a lectureship at Sheffield after a successful interview (on a day when the Sheffield law library completely collapsed and when John Wood, the Dean, grandly opened the door to that library to show me, we both looked through a mist of dust and a pile of books ten feet high, looking as though they were ready for burning). I was also offered interviews at about four other universities including Bristol and the LSE. As you can imagine, all this increased my confidence and I turned down the lectureship, and cancelled the interviews, and had another year at Oxford, including attending the second year of the Dworkin/Evans weekly seminars.

At the end of that year I was offered a lectureship at UCL and it was too good to refuse. It was London, and it was a law faculty with a well-established culture of Jurisprudence. In reality I wrote the bulk of my work while getting down to teaching at UCL the following year and eventually I completed a 50,000 word thesis, which was examined by Joseph Raz and Jim Harris, submitting it for, I think, the last B.Litt degree that was ever awarded at Oxford. (Douglas, still Head Porter, was in a most humble state of apology – virtually unknown for him - for the Latin language graduation he’d not sourced the correct hood for me).

I kept good contact with Ronny but I had really not wanted to mess round on my own for any further years. When my book on Ronny was published in 1992 I immediately submitted a thesis version of it for a PhD for the University of London and it was awarded quite soon afterwards, my two examiners being Nigel Simmonds, and Roger Cotterrell. The book paid for double glazing our house in Cornwall! When the book came out, Ronny held a launch party at his home in Belgravia, telling me to “invite all your chums”; at it, he gave a charming little speech announcing that “I understood his theory of law better than he did”!



The Australian judge, Mr Justice Michael Kirby, Ronny and me in 2006

Ronny joined us at the UCL Faculty of Laws in 1984 as Visiting Professor in Jurisprudence, giving lectures to the LLB and LLM Jurisprudence students plus teaching two seminars with me for the LLM for a week in the second term. These continued annually until 1998 when he retired from Oxford and became our Quain Professor of Jurisprudence. He and I and Jo Wolff from the Philosophy Department (a stalwart, and talented philosopher, the Head of the Department of Philosophy - I have a lot to thank Jo for) then co-chaired the Colloquium in Legal and Social Philosophy at UCL for a number of years before he retired from the Quain in 2005. After that, Ronny stayed on for occasional teaching in various capacities as a visiting professor (our “Bentham Professor of Jurisprudence”) until his death in 2012.

Of the two best professional memories I have of him, one was his participation with Gareth Evans at Univ. in 1973-1975 in free-flow intelligent thinking and discussion centered on their joint seminar on the objectivity of morality and law. They made great progress. Much of what was said would be unintelligible today in which there is widespread confusion over what constitutes a true proposition in science and value (and in those days things were made easier because of the absence of audio-visual aids; you had to concentrate and *listen* not watch). I’ve tried to combat that confusion over many years but it is a difficult task; the “subjective/objective” distinction has such wide and superficial attraction. Only slightly less superficial are the “fact/opinion”, “anti-realist/realist” and “internal/external” distinctions. I spoke earlier of Ronny’s impressive power of abstraction; Gareth Evans had that gift too. Known in philosophical circles for having solved difficult problems relating to the cause of knowledge, Evans had insightful moral perception, but also seemed, like Ronny, to have no problem with logic, the philosophy of science or in grasping the arguments contained in long and difficult papers.

He and Ronny invited distinguished mathematicians, scientists, historians amongst others, to contribute their ideas on the sense of supposing that in their respective disciplines there were “right answers”. Few people attended – I think about 20 maximum although most attended both years – but they were all good, some brilliant (John Mackie, David Lyons, John McDowell, Bernard Williams – an occasional visitor – and once or twice HLA Hart). Mackie’s book *Ethics: Inventing Right and Wrong*, too, had just been published, convincingly knocking on the head the idea that the truth of moral propositions could be provided by reference to metaphysical entities (what Ronny later called “morons”). Ronny, particularly with Mackie’s and Evans’s help, had managed to isolate the idea that it was provability, or certainty, or – as they called it – “demonstrability” that people seemed to think was required for truth”: since moral propositions could not be demonstrated then they could not be true, and were thus “mere” opinions, or were “unrealistic”, or just “subjective” (or in Mackie’s case, false).

In the middle of a seminar, Ronny suddenly posed the question whether, if demonstrability was required for value truth, how could we *demonstrate* the truth of the demonstrability thesis itself? Evans of course picked this idea up immediately (many can’t; Ronny once said that explaining it was often like banging your head against a brick wall). The question had been canvassed in the philosophy of science by critics of the 30s Vienna Circle’s insistence on the primacy of empirical propositions, and it stymied AJ Ayer’s otherwise brilliant *Language, Truth and Logic* of 1936. But Ronny’s question was advanced in the context of evaluative argument, particularly that of legal argument and contributed, at least to my mind, the possibility that propositions such as that “abortion is morally wrong” could be true (and therefore false: “it is a true proposition that “abortion is morally wrong is false”).

The other great professional memory was of him, with Jo Wolff, the Head of Philosophy at UCL and me, at the lunches we had for our Colloquia at UCL. These consisted of the three of us although Jo and I alternated a bit, sometimes one of us just with Ronny, but

that was unusual. Like the NYU Colloquium, our format required that the speaker not be permitted to introduce their paper, which had to be submitted and circulated at least a week before the session. One of us would introduce the paper and the best introductions were short and to the point. At the lunch there was virtually no social chit-chat; Ronny insisted lunch was for work. It was the best part of the day. The later formal session was from 4-7pm, after which there was a dinner for about eight in UCL's small Whistler Room under the UCL Main building dome in which there was a large octagonal table, at which Ronny insisted that we continue discussion. It was a very long although very stimulating day, made longer by my pre-Colloquium sessions 11.30-1.00 with the students who were to attend in the afternoon. These were good though and gave the students as well as me confidence that we had a reasonable grasp of the issues.

Ronny was always well prepared and would usually make the first remark, which would always identify the major thrust of the paper. His questions were very direct, and subtle. The contentious parts of the paper would shortly become obvious, falling usually and naturally into three to four major areas, and would structure the afternoon's seminar. That way of doing things was established through Ronny's (and mine on a few occasions) experience of the similar New York University Colloquia (on which we modelled our Colloquia) that he and Tom Nagel founded in 1981.



Ronny and me at the Holberg Prize seminar in 2007 in Bergen

I have many personal memories. He was charming with undergraduates. His lectures – dating from my attendance in 1973 in Oxford's Gulbenkian Theatre where he expounded with crystal clarity the whole of Hart's *The Concept of Law* (to an undergraduate audience that had read that book *all the way through*) producing a persuasive criticism of it – continued to be interesting and challenging into the 2000s. He would invite questions and return clear and responsive answers.

He had endearing ways. One joke he loved to tell (I fear a bit too often) was a dream he had of being at a dinner party at which Voltaire, amongst a number of other distinguished literary persons, was being particularly witty, and in the hubbub a voice was heard crying "Shut up, Voltaire, I want to listen to Dworkin".

I remember close to his death his getting upset by a review he'd read in which he was described as "lacking humour" and was charged with "producing grand theories". He was right to be upset, not just because the joint writers were disciples of Hart's legal philosophy and no one can claim that Hart's theory was not an attempt at "grand theory" but because Ronny had an excellent sense of humour and playfulness. But I have no doubts that much of the academic criticism and dismissal of his work arose, and arises, from either academic jealousy, or that he held views not liked by people who classify themselves as either right or leftwing. These are more political dislikes rather than academic jealousy, however, although I should say that the leftwing/rightwing distinction has limited use in academic discussion. Ronny believed in equality. Oh dear me! Or he believes in market economics. Oh dear me! Trying to fit him into the left/right categories just does not work. Ronny made his political convictions clear: the rights of women to determine their procreative life, the lack of contradiction between moral equality and affirmative action, the role of the properly regulated free market in determining the just distribution of resources, and the role of judges in ensuring their decisions are made in the context of moral democracy.

I always enjoyed Ronny's self-deprecatory sense of humour; the Voltaire example should be read that way. The sort of thing I mean appears, eg, in *Justice for Hedgehogs* where he discusses the nature of promising. In my second year at Oxford when I'd really decided that I couldn't rely on Ronny – although my main interest was and still is the nature of judicial reason - and I wanted my time at Oxford to come to a close, I more or less chose by pin what topic I would submit for research, deciding, since Finnis was so helpful, something that was more akin to Finnis's work, an analysis of the Kelsenian revolution cases. Much of my work at Oxford continued with Ronny, however, and my last essay, much of which he agreed with, was the culmination of a lot of work I put into the questions raised by Hume's "is-ought" distinction. I remember particularly studying all the papers on deriving an "ought" from an "is" in the context of defining a promise (a collection by WH Hudson springs to mind). That there was an analogy between saying "I promise" and legislation (and the law of contract) is far too close to be uninteresting, and so my essay was on law and promising. Decades later, I found clarity in Ronny's explicit use of the "Humean principle" in *Justice for Hedgehogs* to explain the overall thrust of support of the idea that rationality was as much at home in evaluative areas as it is for science, albeit relatively neglected. So it was good to see there a published version of his argument I'd heard before that delighted undergraduates. The argument is designed to show that it makes little sense to assume there can be non-moral contextual settings for genuine promises. Ronny writes to an address chosen from hundreds of different telephone directories. He then writes, unexpected, to the person thus chosen (there were different versions and this one will do). "Dear Mr. Pycinski, I hereby promise to walk from John O'Groats to Land's End, United Kingdom, next March, Yr. Obt. Servant Ronald." Amusing example, point made; typical Ronny in good form.

Ronny also engaged in word-play. A typical remark was his summation of his criticism of Lord Devlin's invocation of conventional morality that Devlin was right to say that morals counted but was wrong to say what counted as morality. There are many examples. In the article that made him well-known, "Is Law a System of Rules?", Ronny claims that legal rules are "torpedoed" whereas principles "erode" over time. ("Torpedoed", eg "erodes"). There are a number of other amusing flourishes there and elsewhere.

About two weeks before he died in February 2012, I visited him at his home in London. Though ill, he was as lively and intelligent as ever. We had a good talk arising from how he "felt unsettled" when he watched Luis Bunuel's *Discreet Charm of the Bourgeoisie* which I'd seen. It is partly surreal, depicting eccentric middle-class dinner parties seemingly unconnected. He thought it "didn't make sense". He'd just been talking

about that with Alfred Brendel, the previous visitor and former husband of Ronny's wife, Reni. Ronny elaborated by remarking he couldn't make sense of something except through "plain meaning statements" ie clear propositions. I was a little surprised because I had thought his account of interpretation permitted the crossing of propositional boundaries such as those of legal, moral and artistic practices. In fact, I thought that it was the absence of the possibility of expressing in plain meaning statements that underpinned for him interpretive practices such as music.

I responded that I thought that cinema as well as music/poetry/some forms of art could make or lack sense when plain meaning statements were not possible. As an example I suggested the meaning orchestral conductors could convey through gestures, or use of metaphors or even the language critics characteristically use when referring to lines of poetry (often un-understandable but you somehow know what they mean). He agreed with me: "You just *said* it". I gathered that my line of comment was Brendel's line.

I think Ronny had to agree. Had he not previously seen this dimension of his work? His generalization about interpretation in the philosophy of law – interpretation being what all lawyers if not all jurists are familiar with - and his pursuit of analogies between law and art, including cinema, implied that propositional yet non-plain meaning – gestural, say - accounts of music are not just possible, but natural. Music has a physiological basis and is mathematically analysable, the latter particularly evident in the rules of harmony. Thereafter, however, it is the interpretive element playing upon conventions of music production that are open to creativity and expression. (Hard cases in music? God yes!). And if music, why not cinema?

I agreed with him that Bunuel's film was upsetting but the reason for that was it contained a degree of artistic duplicity that couldn't be put into words. Ronny would not feel the same way if he sensed that Bunuel was being honest. I suggested this is what upset him.

Whatever, it was an engaged conversation that gave me great pleasure and the substance was squarely within his project of exhorting us to be more confident in making value judgements, particularly in law. Perhaps this all means more to me since my parents made me familiar with interpretation, certainly in literature, and of course, I'm a musician. Interpretation – the mid-way between doing things by "numbers" and doing it by "feeling" - appeals to me because it seems so natural.

So I think nothing Ronny says in *Justice for Hedgehogs* should really come as a great surprise even though the book is a highly original and bold statement of the importance and coherence of value. It is not engaged in "analytic" truths in the sense in which it is now often used - with the resonance of autistic judgement - but it is important to realise that "analytic" studies seek precisely the same sort of confidence that Ronny sought in interpretive truths. In his terms, there is an interpretive justification for pursuing analysis.

The occasion was wonderful in one sense because Stanford UP had just published the third edition of my book on him and he hadn't seen the copy of it and I could present him with it. He seemed delighted. After about an hour, Reni said that Ronny needed a rest and Ronny said, "Well, goodbye Stephen," and gave me a little wave. It was charming and moving and since he seemed happy within himself, I went away as happy as one could be in the circumstances.

Stephen Guest