

## Personal Note on Ronny Dworkin

I became a research student of Dworkin in 1973. I was a young arrival from Otago, New Zealand, and I intended originally to stay just one year, perhaps only reading for the then Diploma in Law, though I wasn't committed to that — I had a lectureship in Jurisprudence at the University of Keele, from January 1973, to return to if I wanted. I arrived at University College, Oxford, with all the humble excitement of someone fresh from the South Pacific and full of cultural cringe, though I'd add that humility is necessary in my subject. I wanted to study with H.L.A. Hart. I so much admired the clarity and logic of *The Concept of Law* that I wanted some of it 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 pigeonhole 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, in a paragraph of an article just published in the *Otago Law Review*, somewhat dismissed his account of legal principles ("Is Law a System of Rules?", 1967), 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, rightly I believe, that legal theories make sense only when they serve an evaluative, "instructive" point. Hart's own view, too, was evaluative, though this is mostly overlooked. (I'd suggest re-reading *The Concept of Law*, Ch. IX, if you're sceptical, and asking why he gives practical rather than "descriptive sociology" reasons 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, mostly undergraduates but tutors too, was sceptical, as many audiences have been since, not understanding him. I was sceptical myself, but also fascinated — the idea seemed so absurd. I rapidly got the sense of it, though. 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 legal rights (settled in the sense that there is significant consensus about them). Ask any barrister. One concerned undergraduate, forehead heavily furrowed, announced to Ronny that he was worried his position "falsified the tripartite division of the mind." Ronny's reply — "I don't think that is anything to worry about" — was an early introduction to a characteristic humour that the less confident mistook for arrogance.

Supervisions with Ronny were brilliant occasions for me, and I always came away stimulated. Jeremy Waldron found them brilliant too, but also depressing, since — and it was true — Ronny would demolish anything any of us 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, assuming that was proper — only Americans typed in those days, and some even had IBM electric typewriters. My topic returned to something I'd written before, about why his idea of legal principles

was wrong: 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 horizontal on a large sofa, smoking a large cigar, with a lop-sided grin (in fact the result of childhood Bell's palsy). I sat upright in an angular antique chair, which he later offered to me when he retired, decades on. Although I was from New Zealand, I felt thoroughly English. He was clearly put out that my essay wasn't typed — I think he'd have preferred I go away, get it typed, and come back another time. I suggested instead that I simply read it to him. Chuffed by what seemed to him a novel suggestion, he said, "OK. How very Oxford."

Not everything was satisfactory. The supervisions were good, and I learned a great deal, as he was thorough — but there weren't nearly enough of them. He would disappear for long periods, without telling me, or, as I later learned, anyone, to the US, though I didn't discover why — nor did Oxford — for quite some time. My impression was that very few of his research students actually succeeded in obtaining their degrees, although a good many would see him about just one or two points relating to some other subject on which they had a separate supervisor. It irked me later, in professional life, to hear them cite Ronny as their "supervisor."

Basically, my time at Oxford — with its many joys and its beauty — was one in which I had to get along as best I could on my own. That was true of many research students then, 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 great deal of music. It didn't hurt that the Master's wife, Jean Redcliffe-Maud, a former pupil of Artur Schnabel and 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 there, 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.

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

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. Through that vacation, John Finnis kindly read all of my work and commented on it in great detail. I have affection for him to this day, owing a great deal to his personal support. I should add that his early, detailed understanding of the moral basis of all jurisprudential concepts, particularly law, was

more developed at that time than Ronny's — but being supported was the important thing. I record here both my gratitude and my admiration for him.

In retrospect, all this was incidental. In spite of some stimulating supervisions (he once dismissed international law as "words produced by meetings of a few old men" — don't dismiss it; it's a good starting point for explaining the force of international agreements) and some good direction on ideas, the meetings were too few and far between. In the end I did not write on his topics at all, but on the difficulties of using Kelsen's theory in various Commonwealth and ex-Commonwealth legal cases. Finnis was superb on this. Ronny's absence and off-handedness were not good. His account of law, and his approach to the deep questions of state, law, and morality, were brilliant — austere, thoroughly honest, and highly intelligent. But I had no illusions.

At the end of that year I was offered a lectureship at UCL, which I gladly accepted. 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, eventually completing a 50,000-word thesis for which I was awarded the B.Litt. Although I kept good contact with Ronny, I had really not wanted to go on working alone for any further years. When my book on him was published in 1992, I immediately submitted a thesis version of it for a PhD at the University of London, and it was awarded quite soon after, my two examiners being Nigel Simmonds and Roger Cotterrell. When the book came out, Ronny held a launch party at his home in Belgravia, telling me to "invite all your chums"; there, he gave a charming little speech announcing that "I understood his theory of law better than he did"!

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

I might say a word here about William Twining, who became our Quain Professor of Jurisprudence in 1983. Although Ronny was with us for 24 years, I remember only one direct encounter between them, early on, in 1985. During a lecture I was chairing, in which Ronny expounded his views on interpretation in science and value (*Law's Empire* was about to be published), William suddenly stood up in the middle of a large audience and, waving a Donald Duck comic, said: "I think, Ronny, where I disagree is over interpretation. What about Dorfman's 1971 Marxist interpretation of

the Disney comics?"<sup>1</sup> Ronny: "Sorry, I didn't quite catch..." William: "Donald Duck, Donald Duck, Marxist interpretation." "But I do agree that's a possible interpretation," said Ronny. "I just don't think it's a very good one."

William was flummoxed. His example was consistent with his comprehensively relativist approach to law. Couching in terms of "standpoint" and "context," he believed this allowed him to offer a third point of view on every theory, simply by mapping different positions — not having to defend any particular one (beyond the obvious point that people's views differ) let him, or so he thought, disengage from substantive questions.

His memoir<sup>2</sup> variously confirms what he told me many times: that Ronny was merely a "performer" whose writing and thinking style was "convoluted"; that Ronny's theory of law was "parochial" to the United States; that his essays on constitutional law in the *New York Review of Books* were "polemical." He seemed particularly incensed by Ronny's retirement title, "Bentham" Research Professor, since Ronny had attacked both Bentham's utilitarianism and legal positivism generally. And he often criticised Ronny for believing that he, Ronny, was right — though William certainly believed he himself was right, and the illogic of that position is one he shared with many.

At one point William described Ronny's distinction between "doctrinal jurisprudence" and "sociological jurisprudence" as so "silly" that he thought Ronny might have been "tongue in cheek," or even "under stress." But the distinction is straightforward enough, and not silly at all. It marks a useful difference between the law that barristers practise — statutes, common law, and so on — and empirical studies, such as the amassing of questionnaires and statistics on matters connected with law, usually directed towards reform.

Of my two best professional memories of Ronny, one was his participation, with Gareth Evans at Univ. in 1973–75, in free-flowing, intelligent discussion in their joint seminar on the objectivity of morality and law. They made great progress. Much of what was said would be unintelligible today, given the widespread confusion now over what constitutes a true proposition in science and in value (and things were made easier then by the absence of audio-visual aids — you had to concentrate and listen, not watch). I have tried to combat that confusion over many years, but it is a difficult task; the subjective/objective distinction has such wide and superficial appeal. Only slightly less superficial are the fact/opinion, anti-realist/realist, and internal/external distinctions. I mentioned Ronny's impressive power of abstraction earlier; Gareth Evans had that gift too. Known in philosophical circles for having solved difficult problems relating to the causal theory of knowledge, Evans had insightful moral perception but also seemed, like Ronny, entirely at home with logic, the philosophy of science, and the arguments of long and difficult papers.

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<sup>1</sup> *How To Read Donald Duck* Dorfman & Mattelart. (1971) Pluto Press. The book is a criticism of Disney comics as capitalist propaganda for American corporate and culture imperialism.

<sup>2</sup> Twining, *Jurist in Context: A Memoir*. (2019) OUP.

He and Ronny invited distinguished mathematicians, scientists, and historians, among others, to contribute their views on whether there could be "right answers" in their respective disciplines. Few people attended — about twenty at most, though most attended both years — but they were all good, some brilliant (John Mackie, David Lyons, John McDowell, Bernard Williams as an occasional visitor, and once or twice H.L.A. Hart). Mackie's book *Ethics: Inventing Right and Wrong* had just been published, convincingly demolishing the idea that the truth of moral propositions could be grounded in metaphysical entities (what Ronny later called "morons"). Ronny, with particular help from Mackie and Evans, 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, they could not be true, and were thus "mere" opinions, "unrealistic," or simply "subjective" (or, as Mackie asserted, false).

In the middle of one seminar, Ronny suddenly posed the question: if demonstrability was required for value-truth, how could we demonstrate the truth of the demonstrability thesis itself? Evans, of course, picked this up immediately (many just don't "get it" — Ronny once said that explaining it was often like banging your head against a brick wall). The question had already been raised in the philosophy of science by critics of the Vienna Circle's 1930s insistence on the primacy of empirical propositions, and it stymied A.J. Ayer's otherwise brilliant *Language, Truth and Logic* (1936). But Ronny put the question in the context of evaluative — particularly legal — argument, and it contributed, to my mind, the possibility that a proposition such as "abortion is morally wrong" could be true (and, correspondingly, that "'abortion is morally wrong' is false" could itself be true).

My other great professional memory was of the lunches Ronny, Jo Wolff — the Head of Philosophy at UCL — and I had before our Colloquia. These usually involved the three of us, though Jo and I sometimes alternated, one of us alone with Ronny; that was unusual. As with the NYU Colloquium, our format required that the speaker not introduce their own paper, which had to be submitted and circulated at least a week beforehand; one of us would introduce it instead, and the best introductions were short and to the point. At lunch there was virtually no social chit-chat — Ronny insisted lunch was for work. It was the best part of the day. The formal session ran from 4 to 7pm, after which came dinner for about eight in UCL's small Whistler Room, under the Main Building dome, around a large octagonal table, where Ronny insisted the discussion continue. It made for a very long, if very stimulating, day — made longer still by my pre-Colloquium sessions from 11.30 to 1.00 with the students who would attend that afternoon. These were valuable, though, and gave both the students and me confidence that we had a reasonable grasp of the issues.

My goodness. In retrospect, I came to realise that these sessions were ridiculously long. They were suitable for Ronny; I think they brought the best out of him. This was his medium, and we went along with it, but it had its cost.

Ronny was always well prepared and would usually make the first remark, identifying the paper's major thrust. His questions were very direct, and subtle. The contentious parts of a paper would quickly become apparent, falling naturally into three or four major areas that would structure the afternoon's seminar. This way of doing things came from Ronny's experience of the similar New York University Colloquium — on which ours was modelled — which he and Tom Nagel had founded in 1981.

I have many personal memories. He was charming with undergraduates. His lectures — I first heard them in 1973, in Oxford's Gulbenkian Theatre, where he expounded with crystal clarity the whole of Hart's *The Concept of Law* (to an audience that had read the book all the way through), producing a persuasive criticism of it — remained interesting and challenging into the 2000s. He invited questions and returned clear, responsive answers.

I always enjoyed Ronny's self-deprecating humour; the Voltaire story should be read that way. In my second year at Oxford, once I'd really decided I couldn't rely on Ronny, and wanted my time at Oxford to draw to a close, I more or less chose by chance the topic I would submit for research, settling, since Finnis had been so helpful, on something closer to his work: an analysis of the Kelsenian revolution cases. I continued with Ronny nonetheless, and my last essay, with much of which he agreed, was the culmination of a great deal of work on the questions raised by Hume's is-ought distinction. I recall studying all the papers on deriving an "ought" from an "is" in the context of defining a promise (a collection edited by W.D. Hudson comes to mind). The 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 real clarity in Ronny's explicit use of the "Humean principle" in *Justice for Hedgehogs*, to explain his overall argument that rationality is as much at home in evaluative areas as in science, though relatively neglected there.

So it was good to see, published, a version of an argument I'd heard from him before, one that had always delighted undergraduates. It's 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 at random from hundreds of telephone directories, then writes, unexpected, to whoever is found there (there were different versions of this; 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.

One joke he loved to tell, probably too often, was of a dream in which he was at a dinner party where Voltaire, among a number of other distinguished literary figures, was being particularly witty, and in the hubbub a voice was heard crying, "Shut up, Voltaire, I want to listen to Dworkin."

Ronny also enjoyed wordplay. A typical remark was his summary of his criticism of Lord Devlin's invocation of conventional morality: that Devlin was right to say morals counted, but wrong about what counted as morality. There are many such examples. In the article that made him well known, "Is Law a System of Rules?", Ronny writes

that legal rules are "torpedoed," whereas principles "erode," over time — a nice pairing of images, and one of a number of amusing flourishes throughout his work.

He was sensitive to criticism. I remember, close to his death, his being upset by a review in which he was described as "lacking humour" and charged with "producing grand theories." He was right to be upset — not only because the writers were disciples of Hart's legal philosophy, and no one could claim Hart's theory was not itself an attempt at "grand theory," but because Ronny had an excellent sense of humour and playfulness. Still, I have no doubt that much of the academic criticism and dismissal of his work arose from either academic jealousy or from political dislike of the views he held.

Ronny was often dismissed as either "right-wing, captured by market economics" or "left-wing believer in rights"! Ronny believed in equality — oh dear me! Or he believed in market economics — oh dear me! Trying to fit him into left or right simply doesn't work and indeed the left/right distinction has almost no use in philosophical discussion. His political convictions were clear enough: the right of women to determine their reproductive lives ("left-wing"?); the absence of any contradiction between moral equality and affirmative action ("left-wing"?); the role of a properly regulated free market in the just distribution of resources ("right-wing"?); and the role of judges in ensuring legislation are constrained by moral democracy ("right-wing"?).

And of course, the no-brainer, Ronny believed that there were right answers (neither "right-wing" or "left-wing", merely confused).

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 talked about how he'd felt "unsettled" watching Luis Buñuel's *The Discreet Charm of the Bourgeoisie*, which I had also seen. It's a partly surreal film, depicting eccentric, seemingly unconnected middle-class dinner parties. He thought it "didn't make sense." He'd just been discussing this with Alfred Brendel, the previous visitor and former husband of Ronny's wife, Reni. Ronny explained that he couldn't make sense of something except through "plain meaning statements" — clear propositions. I was a little surprised, since I'd thought his account of interpretation allowed for crossing propositional boundaries, including those between legal, moral, and artistic practices. In fact, I'd thought it was precisely the absence of plain meaning statements that, for him, underpinned interpretive practices such as music.

I suggested that cinema, like music and poetry, could make or lack sense even where plain meaning statements were not possible — the meaning conveyed by a conductor's gestures, say, or by metaphor, or by the sort of language critics use of lines of poetry, often barely intelligible yet somehow understood. He agreed: "You just said it." I gathered this line of thought was in fact Brendel's.

I think Ronny had to agree. Had he not seen this dimension of his own work before? His account of interpretation in the law — something with which all lawyers, if not all

jurists, are familiar — and his pursuit of analogies between law and art, including cinema, implied that propositional yet non-plain-meaning accounts of music — gestural accounts, say — are not just possible but natural. Music has a physiological basis and is mathematically analysable, most evidently in the rules of harmony; but beyond that it is the interpretive element, playing on the conventions of musical production, that is open to creativity and expression. (Hard cases in music? God, yes.) And if music, why not cinema?

I agreed with him that Buñuel's film was upsetting, but for a reason that couldn't quite be put into words: it contained a degree of artistic duplicity. Ronny, I suggested, wouldn't have felt the same way if he'd sensed Buñuel was simply being honest — and I thought that duplicity was what had unsettled him.

Whatever the truth of that, it was an engaged conversation that gave me great pleasure, and its substance sat squarely within his broader project of exhorting us to be more confident in making value judgments about morality, although particularly in law. Perhaps it means more to me because my parents made me familiar with interpretation in literature, and because I am a musician. Interpretation — a middle way between doing things "by numbers" and doing them "by feeling" — has natural appeal to me.

So I don't think anything Ronny says in *Justice for Hedgehogs* should really come as a 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 that term is now often used — with overtones of autistic judgement — but it's worth realising that analytic studies seek precisely the same kind of confidence Ronny sought in interpretive truths. On his own terms, there is an interpretive justification for pursuing analysis.

That last visit was made especially memorable by the fact that Stanford had just published the third edition of my book on him, and he hadn't yet seen a copy — so I could present him with one. He seemed delighted. After about an hour, Reni said Ronny needed to 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*