

*Justice for Hedgehogs*, Ronald Dworkin. Harvard University Press, 2011, 487pp., £24.95

‘The Law is the true embodiment/of everything that’s excellent./It has no kind of fault or flaw/and I my Lords embody the Law’. In this, his thirteenth large book on law and morality, Professor Dworkin does not quite echo W. S. Gilbert’s Lord Chancellor, but he can sound alarmingly close. The larger part of the book is not, however, about the law but about the excellences of ethics and morality. Although Dworkin dismisses with some contempt the idea that there is a proper philosophy *of* ethics and morality, or meta-ethics as philosophers call it, the bulk of the book defends his well-known view that there are right answers to moral questions, and that he knows how to find them. Moral truth is single, objective, consistent and coherent. There are no foxy pluralisms or clashes of conflicting values. There are no dilemmas where it might be virtuous to stay forever in two minds, but only the single, overarching, coherent interlocking moral truth, known by the hedgehog of the title. Although saying such things sounds like staking out a particularly jaw-dropping meta-ethical position Dworkin denies it, claiming instead that it is no more than good morality. Good folk must think this way, he holds, and our practices reveal that we do.

Be that as it may, it certainly invites the meta-ethical question of how this truth is to be known. Dworkin gives his own forthright answer: we know it as lawyers know the law, by interpretation. As we live we implicitly deploy concepts such as reason, dignity, freedom, responsibility, justice, honour, or decency. Interpreting these concepts means extracting the most coherent moral theory justifying them all, each in the light of the others, and the rules and principles embedded in that theory will determine the objective moral truth.

For those of us who look a little askance at Gilbert’s Chancellor, Kant’s old question bubbles up: how out of this crooked timber can anything straight be made? Our culture’s concept of many things—take, say, prevailing concepts of masculinity or femininity—might not bear too much inspection. When we look at our history we find concepts that we are thankful to have outgrown, and who is to say that now we only have notions that do not deserve the same fate? It seems a little complacent not to worry that moral improvement might come less from interpreting

our current concepts, and more from developing and improving them. But this idea would open the door to indeterminacies, or areas of creation, choice and policy, rather than answers determined by already extant rules and principles, and in Dworkin's view that door must be kept firmly shut. So rather like Plato's Forms or God's own word, but without their supernatural credentials, our concepts pop straight out of their crooked origins to serve as moral authorities all by themselves.

Or more likely 'interpretation' is the wrong word. Had Dworkin been content to point out that we have to muddle our way through our problems as best we can with whatever moral notions we possess, few could have dissented.

The crooked timber problem is salient when law is integrated, as Dworkin insists that it is, within morality. For on the face of it, what the law is and what it ought to be are two very different things. Dworkin allows as much, admitting that there are legally unenforceable obligations, but he nevertheless holds the right way of determining what the law is on any issue is to use the hedgehog's moral theory, to discover how the law it justifies decides the case. This is an odd view. In the United States, for instance, is it really plausible that the partisan, geriatric, moral anosognosics so often found ornamenting the Supreme Court have unerringly enshrined nothing except every kind of excellence into American law? It might seem likely that even such moral and political ideas as are visible in the better parts of that law are absent in the worst parts. Although it has been the crux of his attack on 'positivism', in this work Dworkin simply sidesteps the issue, urging that the problem of bad law is 'of almost no practical importance', and that whether we say that bad laws are no laws at all is 'sadly close to a verbal dispute'. Sadly too, I suppose, when Sophocles wrote *Antigone* he mistook this for a real problem.

When it comes to articulating and defending actual first-order moral and political principles, Dworkin offers two central theses. Firstly there is a principle of self-respect: 'each person must take his own life seriously: he must accept that it is a matter of importance that his life be a successful performance rather than a wasted opportunity'. Secondly each person has 'a special, personal responsibility for identifying what counts as success in his own life; he has a personal responsibility to create that life through a coherent narrative or style that he himself endorses'.

The strenuous New England tone of these is confirmed when Dworkin goes on to hymn the ‘objective importance’ of one’s living as one should. Not just important to me, or to those whom I affect, but objectively so. This is quite difficult to parse: he offers as a gloss that it would be a mistake for me not to care how I live, which may indeed be true, but it scarcely implies that it would be a mistake for me not to care how, say, Paris Hilton lives. Nor does it imply that this is important not just to Ms. Hilton and her entourage, but objectively so, perhaps to the cosmos at large, *sub specie aeternitatis*.

Happily for our own peace of mind ‘I do not deny the equal importance of human life by refusing to make admirable sacrifices’. Recognizing that your children are ‘no less important objectively’ than my own, I can still ‘dedicate my life to helping my children while I ignore yours. They are after all my children’. Dworkin certainly does not intend to defend any Condé Nast lifestyle that comfortably coexists with billions of people whose desperate poverty it ignores—he insists that we have to find a place for charity—but I could not suppress the subversive thought that when it comes to reaching into our pockets, objective importance turns out to be rather unimportant.

What it does instead is to define a set of rights circumscribing the decent behavior we owe to each other, in a way familiar from much modern Kantianism. Fat men may sleep easy, for you must not treat them as a mere means to an end, pushing them under trolleys in order to prevent some mayhem, although you may deflect the same mayhem-bent trolley from others towards them, if they are unfortunate enough to be in the way.

Dworkin is a very impressive writer, with what his early prey, H. L. A. Hart is said to have described as a ‘fluent and somewhat elusive analytic style’. He has a keen lawyerly eye for the way to present a case, and is indefatigable in doing so. He knows a great deal, and deploys what he knows with admirable skill. His works are proper objects of wonder, if not always sources of conviction.