

TRIBUTE TO RONALD DWORKIN

It is a great pleasure to take part in this occasion honoring Ronald Dworkin. It is particularly appropriate that this should be an event sponsored by students. All of us, even if we have not been in his classes, have learned an enormous amount from Ronnie by participating in the Colloquium on Law and Philosophy, by reading his writings, or by having the luck to engage in marvelously stimulating and enlightening conversations with him. We are all his students, and I am delighted to be able to join with the students who have actually paid tuition in celebrating his brilliance and expressing our gratitude for all we have learned.

We also owe Ronnie an enormous debt of gratitude as citizens. Insofar as there is any deliberation going on in our democracy, much of it has been stimulated by his excellent articles in *The New York Review of Books*, which have raised the level of debate on virtually every important legal and political issue that has come before us in the last forty years, including abortion, affirmative action, equal protection, freedom of speech and pornography, freedom of speech and national security, the rights of prisoners and the accused, assisted suicide, and basic ideas of democracy.¹ His articles have had a remarkable and beneficial effect on thinking about these issues by everyone from citizens to politicians and Supreme Court justices.

It is an interesting question how Ronnie has managed to have this influence in a time in which philosophy is seen by many as irrelevant, or worse. When the issue is the propriety of judicial review, Ronnie of course has the advantage of having a well-developed theory of constitutional adjudication to deploy as an alternative to popular but superficial ideas of Original Meaning and brute judicial discretion. Looking over his articles, however, I am struck by the number of cases in which his arguments turn not on deploying an abstract theory but on calling the readers' attention to some important but overlooked distinction. I have in mind here, to mention only a few, his famous distinctions between rules, principles, and policies; between personal preferences and external preferences; between rights and values such as liberty and security, which are not rights; between internal skepticism and external skepticism; between beings that have moral importance and beings

1. See Robert Silvers, *Tribute to Ronald Dworkin*, 64 N.Y.U. ANN. SURV. AM. L. 19 (2007) (listing highlights of Professor Dworkin's contributions to the *New York Review of Books*).

that have a right to life; and between critical interests and experiential interests.

This raises another question about the wide influence of Ronnie's writing. Distinctions can be important, and for a philosopher there is a particular kind of pleasure in drawing a distinction in the right way. But this is an academic pleasure. For most people, drawing distinctions is a tedious, even pedantic exercise. When I say, in a lecture, that I am going to draw some distinctions, I can see the students' eyes already beginning to glaze over. But in Ronnie's hands, distinctions never have this effect. This is because he not only has unusual philosophical talent for seeing the relevant distinction but also the writer's talent of presenting this distinction in a dramatic way, so that the reader immediately sees its importance, because they feel the difficulty to which the distinction offers a solution. So, for example, in *Life's Dominion*, Ronnie makes apparent the unpalatable implications of either denying that a fetus has any moral significance at all or affirming that it has the moral status of a person.² The distinction he then draws, between having moral significance and being a person, comes as a welcome and enlightening interpretation of what we had been thinking all along, rather than a piece of academic line-drawing or dialectical one-upmanship. One can, of course, have different reactions to the different distinctions he draws. But at their frequent best, we welcome them because they have this revelatory character.

Even though I am a fan of distinctions, I don't want to give the impression that Ronnie is only an artful distinction-drawer. He is also a brilliantly inventive theorist and, to make the point stronger, an effective debunker of mistaken distinctions. One leading example of this is his sustained attack, in *Objectivity and Truth: You'd Better Believe It*, on the idea that we can distinguish between first-order moral questions and higher-order questions of meta-ethics, which have no first-order implications.³ Here the objects of attack are philosophers who try to force us into drawing too many distinctions rather than too few, but his argument has the revelatory effect I have described: seeing that we cannot draw the distinction he attacks frees us from the feeling that even if a moral judgment is as clearly correct as any such judgment could be, there is still some further question about whether it is *true*.

2. See generally RONALD DWORKIN, *LIFE'S DOMINION* (1993).

3. See generally Ronald Dworkin, *Objectivity and Truth: You'd Better Believe It*, 25 *PHIL. & PUB. AFF.* 87 (1996).

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So we should thank Ronnie for helping us to free ourselves from the confusions of our own thought, whether he does this by pointing the way to needed distinctions or showing us that we are drawing one distinction too many.

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