

4. Value and Interpretation

Essential

- Dworkin, LE Chs. 2, 3, 4, and 7
- Dworkin, MP Ch 7; Ch2 pp 34-57
- Raz, 'Dworkin: A New Link in the Chain', *74 California Law Review* 1103

Further

- Dworkin, 'Natural Law Revisited' 34 U. FLA. L. REV. 165 (1982)
- Finnis, 'Natural Law and Legal Reasoning' in George (ed.), *Natural Law Theory*
- Dworkin, 'Roe in Danger', in *Freedom's Law*

Essay

Does Dworkin need something like a RR in order to identify his pre-interpretive materials?

Discussion Questions

Interpretation

What is theoretical disagreement? How does it differ from other sorts of disagreements? What is it about?

How is theoretical disagreement related to the distinction between concepts and conceptions? Think of an example of the latter distinction.

Compare the role of paradigms in Hart and in Dworkin's theories.

What is Dworkin's requirement of fit? How good need fit be? Does Dworkin need to provide criteria of adequacy of fit?

How does established practice constrain interpretation? Is the point of the practice dependent upon what most practitioners think of as its point? Is it the same? How about what most think of as paradigmatic instances?

How does Dworkin use the distinction between consensus of convention and of conviction?

How do values enter into the business of Dworkinian interpretation? Why does he think that law cannot be separated from morality? Does he think they are the same? If not, how can he distinguish them?

What is Dworkin's 'best-light' requirement? Can you think of examples of interpretation where the requirement seems plausible? Can you think of examples of interpretations that seek to show their object in a bad light?

What is the impact of Dworkin's view that law cannot be separated from morals on his right-answer thesis?

What is the role of integrity in Dworkin's scheme?