

DIGNITY IN THE LEGAL AND POLITICAL PHILOSOPHY OF RONALD DWORKIN, (2018)
Edited by Salman Khurshid, Lokendra Malik and Veronica Rodriguez-Blanco, Oxford University Press, New Delhi.Pp. 511 Pages,Price Rs.995/-.

A great share of world's libertarian philosophy spins around the concept of individual dignity. Libertarian philosophers who treat individuals a unit of social analysis argue that social analysis has to start with the individual because only individuals make choices and can take responsibility for those choices. Constitutional courts of the civilized world persistently adventure with the concept 'dignity' while dealing with the issues of *reproductive rights, racial equality, gay & lesbian marriages* etc. For Judges and jurists dignity is an important legal value, but failed to elucidate its actual meaning. Jeremy Waldron in his article "How Law Protect Human Dignity" ventured even to define this term "dignity" as "Dignity is the status of a person predicated on the fact that she is recognized as having the ability to control and regulate her actions in accordance with her own apprehension of norms and reasons that apply to her; it assumes she is capable of giving and entitled to give an account of herself (and of the way in which she is regulating her actions and organizing her life), an account that others are to pay attention to; and it means finally that she has the wherewithal to demand that her agency and her presence among us as human being be taken seriously and accommodated in the lives of others, in others' attitudes and actions towards her, and in social life generally."

Emmanuel Kant, has originally used dignity as a '*value idea*', but later he too discoursed of '*respect*' which a person requires to accord to others and talked more about it as a matter of status. Professor Ronald Dworkin, an eminent philosopher of the post-war era and one of the most pungent and articulate critics of consequentialist theories of law, moral duties, political morality, and personal ethics in his striving and far-reaching "*Justice for Hedgehogs*" offered an alternative approach. He argued that respect for human dignity causes two requirements, self-respect and authenticity. Dworkin adopts an interpretive approach to Kant's ethics as the basis for his two principles of dignity. Therefore, in a profound sense, Dworkin has moved into the realm of critical idealism, which now lies at the very core of his comprehensive liberal philosophy.

An edited volume by *Salman Khurshid, Lokendra Malik and Veronica Rodriguez-Blanco* triumphs the market recently which discovers Ronald Dworkin's thoughts on concept of dignity. It also sheds light on contemporary judicial and moral conundrums, such as freedom

of speech, freedom of religion, and the complex relationship between dignity, human will, and responsibility. The advent of this book on dignity not only refers to various juristic writings of Ronald Dworkin but also surpasses the traditional confines of human dignity, such as: how can we (if we can) provide firm moral ground for a universalizable political theory? Can ‘dignity’ fragment the metamorphosis between the ascriptive and descriptive dimensions of humanity by providing a uniform and common standard of attainment such as Universal Declaration of Human Rights? Does it educe standards for the suitable interaction of equality and inequality in social life, a question that has bedevilled many political theorists? The book contains contributions from eminent philosophers and thinkers from leading Universities of the world. Divided in four parts, this book provides a thorough analysis of Dworkin’s work on dignity.

Jonathan Crowe’s “Integrity and Truth in Law’s Empire tests Dworkin understands integrity as intrinsic and defends an instrumental conception of integrity. His efforts to demonstrate the role integrity plays in respecting basic values and the common good. Dworkin’s *Perfectionism* authored by James E Fleming and Linda C. McClain while diagnosing three gaps in Dworkin’s theory proposed a mild view on constitutional perfectionism. Alexander Brown in this piece “Interpretation in Normative Domains” efforts to compare Dworkin’s methodology with Rawls’s idea of reflective equilibrium and resorts to the views of William Lycan and Mark Timmons to better understand Dworkin’s view on moral conviction. In *Justice, Integrity and the Common Law*, Professor T. R. S. Allan converses the tension between Dworkin’s view on moral conviction and the idea that the law is firmly established to permit plausible disagreement. Allan examines two different views first, a moral principle plays no role in adjudication unless it justifies acknowledged legal rules and second, rules and principles are indistinguishable. Thus, a rule is a convenient summary of the weight of relevant principles in a specific context that can be changed by further moral judgements. He also points out that judges own standard of justice cannot diverge too far from those of the members of the community because otherwise he or she will be unable to provide and interpretive answer continuous with the institutional history. In his view, interpreter’s moral judgment is engaged throughout all the process of adjudication. Judges moral conviction about fit and settled rules are political and not mechanical and therefore, there is no genuine threshold of fit that is detached from the judge’s moral judgement. Imer Flores’s “Taking Human Dignity and Rights Seriously” shows that Dworkin’s interpretive methodology is truly innovative because it defends a theory of the nature of law that is constructive,

interpretative, evaluative and integrative. Pritam Baruah too contests Dworkin's view that interpretative concepts have a special conceptual nature.

The second part of the book begins with dignity, responsibility and free will by Allen Wood. Author underlined the fact that interpretation involves a special capacity or virtue and worries that Dworkin's ethics seems something too close to utilitarianism. Then comes Rodriguez-Blanco, who argues that Dworkin's conception of dignity is not adequately robust to guarantee the desired integration between our moral and ethical lives. Barbara Baum's "Does Dignity Help in Thinking about Paternalism" questions Dworkin's conception with little epistemic value regarding paternalism. This part ends with Isabel Trujillo's "Dignity, Rights and Virtues in the Department of Values with a claim that dignity is a key concept that adds something to other values."

Third section of the volume distillate on Dignity and Free Speech. David Richards in his paper argues that right to conscience and speech guards the moral power of rationality and the reasonableness leading our lives as agents. James Allen in his work "Ronald Dworkin and Free Speech" defends Dworkin's position on anti-hate speech laws and argues that legitimacy is a matter of degree and depends on what is at stake. Last article under this section intended to display that rights are part of another element of the moral horizon of societies and do not necessarily play a key role.

The last segment of this book begins with George Pavlalos's "Revamping Associative Obligations" which criticizes the voluntaristic conception of State and International law and asserted that Dworkin's own view of associative obligations should be extended to boundaries beyond the state and coercive institutions. Erin Daly's "Dworkinian Dignity" debates that dignity requires respect for the importance of the lives of others and equal concern for their lives which was at heart of Dworkin's later writings. He also highlights how constitutional courts across the world illuminate Dworkinian concept of dignity as the capacity to choose one's fact. Salman Khurshid's article "Ronald Dworkin's Judge: Philosopher Master of Rights" makes an important intervention by probing Dworkin's theory of adjudication and its application to Indian conditions especially in the interpretation of fundamental rights and directive principles of state policy. He shields Dworkin's adjudication by principle thesis with the help of recent verdicts of Supreme Court of India. Suhrith Parthasarathy in his work "A Dworkinian Reading of Indian Constitution" demonstrated with the help of Supreme Court's journey from *A K Gopalan* to *Maneka Gandhi* that how

Dworkin's rational strategy allows judges to interpret the constitutional principles in the light of political morality. This part terminates with the article of Mark Bennett and Petra Butler, which critically examined various conceptual themes viz. unity of value, ethics, morality, politics, privacy and dignity.

The thinking that our values and its repercussions are best recognised and reconciled on the foundations of human dignity must incite substantial debate. All the selected contributors of this classical work put flesh and blood on this ideal and spells out the roles it can serve in dealing with many problems. Each paper in this edited volume construes diverse facets of Dworkin's theses, and stimulates legal philosophers, practitioners and especially judges to comprehend and apply his jurisprudential reasoning in the process of decision-making. In all likelihood this book exhibits a thoughtful moral seriousness that captivates us and exhales fresh life into the task of living and thinking a good life in a just society. We are legitimately gratified that with the dusk of this decade, there is at least a bright light shown by three authors that renew our quest for authenticity and human dignity.

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