
**A HISTORIAN’S COMMENT ON THE METAETHICS
PANEL AT *JUSTICE FOR HEDGEHOGS*:
A CONFERENCE ON RONALD DWORKIN’S
FORTHCOMING BOOK**

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I am not a metaethicist, nor even an ethicist, but a historian of philosophy. So as is appropriate to a historian, I will not offer arguments of my own but instead briefly try to draw a theme out of the three interesting presentations we have heard.¹ As is appropriate for the moderator, I will keep this Comment extremely brief. All three presenters dispute Dworkin’s claim that external moral skepticism fails or is untenable or is self-refuting,² albeit in different ways. None of the commentators are external moral skeptics, so all dispute Dworkin’s claims not to buttress external moral skepticism for its own sake, but in order to make a more general point about moral philosophical argument – i.e., that there are general moral arguments to be made that do not have substantial moral commitments. As Michael Smith repeated a number of times in his paper – these are distinctive philosophical theses.³ Insofar as the philosophical arguments the presenters offer are independent of their own preferred philosophical commitments, as I suspect their substantive moral views are as well, we have, both in the arguments offered and the very existence of this panel, evidence for the force and the independence of metaethical or philosophical argument. This seems to me also what is at stake in this discussion and what Dworkin has so forcefully put to the sword.

Shafer-Landau centers one part of his argument on Dworkin’s version of Hume’s principle – “that no evaluative conclusion can follow directly from

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¹ The published versions of the presenters’ remarks are included in this issue. Russ Shafer-Landau, *The Possibility of Metaethics*, 90 B.U. L. REV. 479 (2010); Michael Smith, *Dworkin on External Skepticism*, 90 B.U. L. REV. 509 (2010); Daniel Star, *Moral Skepticism for Foxes*, 90 B.U. L. REV. 497 (2010). Video of the panel is also available. Videos from *Justice for Hedgehogs: A Conference on Ronald Dworkin’s Forthcoming Book*, <http://www.bu.edu/law/events/audio-video/hedgehogs.shtml> (last visited Mar. 14, 2010).

² RONALD DWORKIN, *JUSTICE FOR HEDGEHOGS* (forthcoming 2010) (Apr. 17, 2009 manuscript at 17-25, on file with the Boston University Law Review).

³ Smith, *supra* note 1 *passim*.

exclusively non-evaluative premises.”⁴ One way of construing the disagreement between Dworkin and Shafer-Landau might be in terms of the breadth and application of Hume’s principle. Dworkin has suggested that *Justice for Hedgehogs* can be viewed as an extended brief for Hume’s principle.⁵ Shafer-Landau, like Hume himself as far as I can tell, takes the principle far more narrowly. He suggests that while the principle we have warrant to adopt narrowly governs deduction, it asserts that we cannot deduce evaluative conclusions from non-evaluative premises.⁶ However, this does not mean that we cannot provide probable support or cast doubt on evaluative premises with non-evaluative evidence. And this is just the sort of enterprise that a sophisticated external moral skeptic like Mackie was engaged in.⁷

Here Shafer-Landau’s view links up nicely with Star’s. If Hume’s principle holds only of deduction, there might be other ways of thinking about reasons. This provides evidence for Star’s view, which does not violate Hume’s principle, nor does it undermine external skepticism of the Mackie sort.⁸ Indeed, Star thinks reasons as evidence can provide forceful, external arguments against the skeptic.⁹ Star agrees with Shafer-Landau, who says, “[f]actual claims can nondeductively support or threaten moral claims, and that means that the arguments of the external skeptics cannot be dismissed in one fell swoop.”¹⁰ Again, this does not mean that the arguments given by moral skeptics are convincing to Shafer-Landau and Star, but rather that the grounds for judging the success or failure of external skeptical arguments might not be interconnected with or commit them to a set of substantive moral views. In addition, this suggests that the Mackie-style skeptic is engaging in a general philosophical argument, a piece of metaethics whether successful or not. More broadly, that means Mackie-style skeptics engage in an argument over the relevance of extra-moral considerations to moral argument.

Where Shafer-Landau and Star concentrate on Hume’s principle in connection with the plausibility of the error skeptic’s position, Smith takes a different tack.¹¹ First, according to Dworkin, the external skeptic who argues that moral judgments are false by claiming that all or some actions are neither obligatory nor forbidden must allow that all or some actions are permissible,

⁴ Shafer-Landau, *supra* note 1, at 483; *see also* DWORKIN, *supra* note 2 (manuscript at 19); DAVID HUME, A TREATISE OF HUMAN NATURE, bk. 3, pt. 1, § 1, at 455-70 (L.A. Selby-Bigge ed., Oxford Univ. Press 2d ed. 1978) (1740).

⁵ *See* DWORKIN, *supra* note 2 (manuscript at 15).

⁶ Shafer-Landau, *supra* note 1, at 485.

⁷ J.L. MACKIE, ETHICS: INVENTING RIGHT AND WRONG 15-49 (1977).

⁸ Star, *supra* note 1, at 502.

⁹ *Id.* at 504.

¹⁰ Shafer-Landau, *supra* note 1, at 487; *see also* Star, *supra* note 1, at 506.

¹¹ Shafer-Landau, *supra* note 1, at 487-93; Smith, *supra* note 1, at 512-16; Star, *supra* note 1, at 500-06.

which is a substantial first-order moral position.¹² Thus, Dworkin seems to undermine what I have just presented Shafer-Landau and Star as advocating. But this is a mistake according to Smith. Indeed, if external error skeptics say “that an act is obligatory, forbidden, or permissible, then the truth of what they say presupposes – falsely – that there is something that it would be for actions to be one of these ways when in fact there is not anything that it would be for them to be any of these ways.”¹³ In particular, the position does not entail the substantial first-order moral commitment that some or all is morally permissible any more than all is obligatory or forbidden.¹⁴ As Smith suggests, anyone who has been a moping teenager or has known one, knows that this position can be maintained at least for a few years without one’s head exploding.¹⁵

Smith also generates error skepticism from a different source: what he and Dworkin refer to as the crucial assumption of internalism, understood as the thesis that “a belief is a belief with the content that an act is obligatory only if someone who has that belief has a motivating reason to do what he is obliged to do.”¹⁶ The argument is described elsewhere¹⁷ so I will not detail it, but the point is that the argument goes forward on the basis of “plainly philosophical theses” (beliefs, motivations, etc.), “not substantive moral ones.”¹⁸ Smith’s third argument on behalf of the status skeptic where moral beliefs are entirely constituted by desires is similarly used to press “a distinctively philosophical thesis.”¹⁹

I think the underlying point for all the first panelists is that metaethical arguments or distinctively philosophical theses have independence from substantive moral ones. If the external skeptic can be dismissed in one swoop, then the space for such arguments is threatened as well.

¹² DWORKIN, *supra* note 2 (manuscript at 42).

¹³ Smith, *supra* note 1, at 512.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*; see also DWORKIN, *supra* note 2 (manuscript at 51).

¹⁷ Smith, *supra* note 1, at 514-16.

¹⁸ *Id.* at 516.

¹⁹ *Id.*