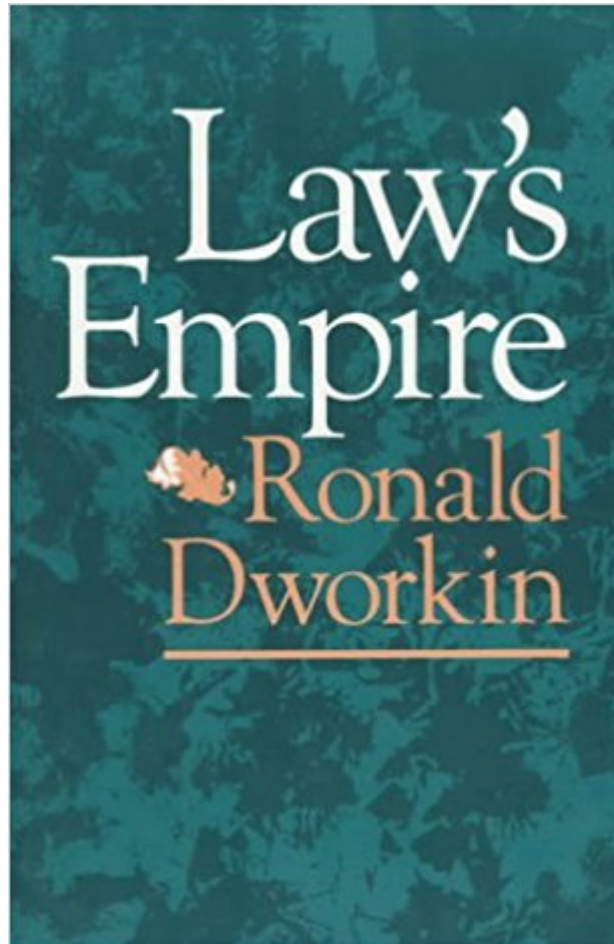




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# Law's Empire



## Synopsis

With the incisiveness and lucid style for which he is renowned, Ronald Dworkin has written a masterful explanation of how the Anglo-American legal system works and on what principles it is grounded. *Law's Empire* is a full-length presentation of his theory of law that will be studied and debated by scholars and theorists, by lawyers and judges, by students and political activists for years to come. Dworkin begins with the question that is at the heart of the whole legal system: in difficult cases how do (and how should) judges decide what the law is? He shows that judges must decide hard cases by interpreting rather than simply applying past legal decisions, and he produces a general theory of what interpretation is in literature as well as in law and of when one interpretation is better than others. Every legal interpretation reflects an underlying theory about the general character of law: Dworkin assesses three such theories. One, which has been very influential, takes the law of a community to be only what the established conventions of that community say it is. Another, currently in vogue, assumes that legal practice is best understood as an instrument of society to achieve its goals. Dworkin argues forcefully and persuasively against both these views: he insists that the most fundamental point of law is not to report consensus or provide efficient means to social goals, but to answer the requirement that a political community act in a coherent and principled manner toward all its members. He discusses, in the light of that view, cases at common law, cases arising under statutes, and great constitutional cases in the Supreme Court, and he systematically demonstrates that his concept of political and legal integrity is the key to Anglo-American legal theory and practice.

## Book Information

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## Customer Reviews

In this first full-length exposition of his theory of law, Dworkin, who teaches jurisprudence at Oxford University and New York University, maintains that society should ensure for all its members a legal system that functions in a coherent and principled manner. In prose accessible to the lay reader, he discusses at length several views of American constitutional law such as "passivism" and "framers' intention." Rejecting both conventionalism and pragmatism, he advocates law as integrity which holds that propositions of law are true if they derive from justice, fairness and procedural due process in accordance with the community's legal practice. Citing examples, he further argues that law should be more than a collection of formal guidelines and that it should uphold more abstract moral principles, distinguishing between issues of policy and matters of principle affecting rights of the individual. Uniting jurisprudence with adjudication, Dworkin sees each judge as a link in a chain of law of which his or her judgment becomes a part. Copyright 1986 Reed Business Information, Inc. --This text refers to an out of print or unavailable edition of this title.

Dworkin (Jurisprudence, Oxford; and Law, NYU) sets out a theory of how judges determine what the law is and its application in hard cases where no settled or clear rule of law disposes of a matter, testing his theory in common law cases turning on statutes and constitutional cases. He posits that propositions of law are correctly established not because they represent a consensus or an efficient means to social goals, but because they answer the requirement that a political community act in a coherent, just, and principled manner toward all of its members. An exceedingly complex work which echoes certain of his previous writings, this volume will be of primary interest to scholars with an intense disciplinary interest. For subject collections. Merlin Whiteman, Dann Pecar Newman Ta lesnick & Kleiman, Indianapolis Copyright 1986 Reed Business Information, Inc. --This text refers to an out of print or unavailable edition of this title.

The great book of legal philosophy in the 20th century was Hart's "The Concept of Law," but I would put this book at number two. It is beautifully written and meticulously worked out. There is much to learn from this book about the law and about how to think creatively about any subject!

CAME ON TIME. GOT THIS FOR MY DAD. I AM SURE HE WILL ENJOY IT! I WILL BE READING IT NEXT LOL

Ronald Dworkin is one of the most prominent law philosophers in the common law tradition. Known both in America and Britain for his strong democratic positions, baptized by Duncan Kennedy

`orthodox centrism', Dworkin is an acid critic of the paradigms of the contemporaneous jurisprudence. Teaching law both in London and New York, the author unites the best of the old and the new world's linguistic and philosophical theories. He is well aware of the main `external' influences of law studies, such as the linguistics of Wittgenstein, the utilitarianism of Austin and Bentham, the categorical imperative of Kant, the dialectical approach of Habermas, and many more epistemic precursors of the modern law science. And from the legal benches he invites to debate scholars as Hart, Nozick, Rawls, etc. This book follows his theoretical controversies initiated in *A Matter of Principle* and *Taking Rights Seriously*. Dworkin has the `humble' objective of deconstructing the base of the legal theory, forging a new conception of law itself. Facing the legal positivism creed (as in Kelsen) with the skeptical panorama (legal realism as in Holmes), this author proposes a third way of law interpretation which he calls `law as integrity'. Integrity conception of law is inspired in the third motto of the French Revolution: `fraternity'. Law is seen as a product of a `community of principles', as in the Roman adage *ubi societas ubi jus*. For him any interpretation of the law, the common law or the Constitution must be impregnated with the will of integrity, noted as a commitment with the political morals of a given society in a given time. He sees the Constitution as the repository of the three biggest law principles: adjective due process, fairness and justice. His works (as all things in life) owe applauses and reproves. Its strong points are the impact of his critics, surely shaking the base of the `obvious arguments' of law. Ancient myths as objectiveness and law fidelity of the judge had been collapsed. Notwithstanding the foregoing, what he calls a new proposal - `law as integrity' - is an old hermeneutic method of the jurist from the Romanist systems (as in Brazil, where I come from). Law interpretation grounded in principles is a well-known method in other juridical, non-utilitarian practices. Long ago a Portuguese scholar named Canotilho constructed a method in which the mining (or creating) of the legal rule to a concrete situation is done in the light of the Constitution and its basic political principles, such as: equality, liberty, morality, good faith, *inter alia*. This kind of `principiologic' conception perhaps came from a tradition in which law and justice were reputed as equals, and principles were expressions of natural rights given by god or breed in reason. Nevertheless, I am not trying to underestimate the Herculean (to use a metaphor from his book) work of Professor Dworkin, his bridges between the opposite notions - legal rule and precedents, conventionalism and skepticism, objectivity and subjectivity - are themselves diligent analysis of the law phenomena. I can also say - with no fear of overstating - he is an untamable critic and an intransigent adversary of any kind of academic (or even pragmatic) hypocrisy in law.

Ronald Dworkin is one of the most prominent law philosophers in the common law tradition. Known both in America and Britain for his strong democratic positions, baptized by Duncan Kennedy 'orthodox centrism', Dworkin is an acid critic of the paradigms of the contemporaneous jurisprudence. Teaching law both in London and New York, the author unites the best of the old and the new world's linguistic and philosophical theories. He is well aware of the main 'external' influences of law studies, such as the linguistics of Wittgenstein, the utilitarianism of Austin and Bentham, the categorical imperative of Kant, the dialectical approach of Habermas, and many more epistemic precursors of the modern law science. And from the legal benches he invites to debate scholars as Hart, Nozick, Rawls, etc. This book follows his theoretical controversies initiated in *A Matter of Principle* and *Taking Rights Seriously*. Dworkin has the 'humble' objective of deconstructing the base of the legal theory, forging a new conception of law itself. Facing the legal positivism creed (as in Kelsen) with the skeptical panorama (legal realism as in Holmes), this author proposes a third way of law interpretation which he calls 'law as integrity'. Integrity conception of law is inspired in the third motto of the French Revolution: 'fraternity'. Law is seen as a product of a 'community of principles', as in the Roman adage *ubi societas ubi jus*. For him any interpretation of the law, the common law or the Constitution must be impregnated with the will of integrity, noted as a commitment with the political morals of a given society in a given time. He sees the Constitution as the repository of the three biggest law principles: adjective due process, fairness and justice. His works (as all things in life) owe applauses and reproves. Its strong points are the impact of his critics, surely shaking the base of the 'obvious arguments' of law. Ancient myths as objectiveness and law fidelity of the judge had been collapsed. Notwithstanding the foregoing, what he calls a new proposal - 'law as integrity' - is an old hermeneutic method of the jurist from the Romanist systems (as in Brazil, where I come from). Law interpretation grounded in principles is a well-known method in other juridical, non-utilitarian practices. Long ago a Portuguese scholar named Canotilho constructed a method in which the mining (or creating) of the legal rule to a concrete situation is done in the light of the Constitution and its basic political principles, such as: equality, liberty, morality, good faith, *inter alia*. This kind of 'principlologic' conception perhaps came from a tradition in which law and justice were reputed as equals, and principles were expressions of natural rights given by god or breed in reason. Nevertheless, I am not trying to underestimate the Herculean (to use a metaphor from his book) work of Professor Dworkin, his bridges between the opposite notions - legal rule and precedents, conventionalism and skepticism, objectivity and subjectivity - are themselves diligent analysis of the law phenomena. I can also say - with no fear of overstating - he is an untamable critic and an intransigent adversary of any kind of academic (or even pragmatic)

hypocrisy in law.

This book is truly foundational: one of the few books of legal philosophy that almost every law student is encouraged to read. Many of its ideas are intriguing and illuminating. But the more deeply you think about it, the emptier it becomes. It is flawed by a failure truly to engage with the arguments it attacks, which are distorted or misrepresented until they seem too silly to be worth attention. Much turns out to be rather empty assertion. Some of the examples Dworkin uses are highly questionable; as a practicing lawyer I have become less and less convinced over the years that Dworkin really knows or understands the practices of adjudication that form the center of his book. He is like a person who, having once or twice visited a doctor and looked at a medical textbook, proposes a unified theory of surgery. Despite grand(iose?) claims, the argument does not deliver what it promises. On the whole, Dworkin's brilliance works much more effectively on a smaller canvas. His essays (especially those in *Taking Rights Seriously*) are far more convincing than this longer book. They have cut and thrust and dash; in the end, this is rather stodgy, rather worthy, rather smug.

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