

Duquesne University

Duquesne Scholarship Collection

Hallowed Secularism

The Collective Works of Bruce Ledewitz, Adrian
Van Kaam C.S.Sp. Endowed Chair in Scholarly
Excellence and Professor of Law

5-2-2016

May 2, 2016: The Response by Professor Freeman

Bruce Ledewitz

Duquesne University, ledewitz@duq.edu

Follow this and additional works at: <https://dsc.duq.edu/ledewitz-hallowedsecularism>



Part of the [Constitutional Law Commons](#), and the [Law and Philosophy Commons](#)

Repository Citation

Ledewitz, B. (2016). May 2, 2016: The Response by Professor Freeman. Retrieved from <https://dsc.duq.edu/ledewitz-hallowedsecularism/1013>

This Article is brought to you for free and open access by the The Collective Works of Bruce Ledewitz, Adrian Van Kaam C.S.Sp. Endowed Chair in Scholarly Excellence and Professor of Law at Duquesne Scholarship Collection. It has been accepted for inclusion in Hallowed Secularism by an authorized administrator of Duquesne Scholarship Collection. For more information, please contact beharyr@duq.edu.

Title: The Response by Professor Freeman

Date: 2016-05-02T18:38:00.004-04:00

5/2/2016—I posted on this blog a letter to the editor that I wrote to the New York Review criticizing Professor Samuel Freeman’s defense of the commitment of several thinkers of the left to forms of moral realism. I claimed that the figures he was defending, most notably John Rawls and Ronald Dworkin, are in fact guilty of this charge of relativism.

Professor Freeman wrote back to me a short, elegant response. I would post it, but I have learned that it is unfair unless one has specific permission to post someone’s email online. So, let me just say that Professor Freeman makes three points: first, that Dworkin and Dworkin relied on the Kantian idealist tradition specifically to derive objective moral truths; second that my own intuitionist approach presupposes the existence of God and is hardly convincing; and third that I am mistaken that liberalism can only be justified by relativist principles. Finally, as an aside, my assertion that moral realism can only be based on the derivation of an ought from an is false. There is God’s will and there is also the account that claims that there are fundamental moral laws or principles that are constitutive of practical reasoning.

My response is not going to be as well organized as his criticism. As for Rawls, speaking only for that aspect of A Theory of Justice that relies on the hypothetical social contract of the original position, it does not produce theories of justice that are objectively true. It is not possible to be certain what principles of justice the participants in the original position would consent to. It might be justice as fairness or it might not. What Rawls is actually relying on is a different moral principle—that people are properly bound by what they consent to or would consent to under certain stated circumstances. But I am not willing to grant that this principle is objectively true.

As to the matter of the justification of liberalism, I don’t mean to suggest that principles of liberalism can only be justified on relativist grounds. I am making a kind of political/rhetorical point that the left in law only does justify liberal principles—in certain matters, such as gay rights—on relativist grounds. If there is some other account, and I believe there must be, Freeman should criticize the reasoning in the Lawrence case. I would like to see that.

Finally, as to the ought and the is. Dworkin is making the point that the existence of God is irrelevant to the moral truths of religion. This is on pages 26-27 of Religion without God. That is probably so. But let us consider Dworkin’s example. When I see someone threatened with danger, I have a moral responsibility to help if I can. But it is not the fact of the danger, but the background moral truth that people have a general duty to prevent suffering, not the mere fact of the threat that created the ought—that I ought to intervene.

But now ask, what is that background duty based on? To extend Dworkin’s analysis, that ought is based on the is that a person is objectively worthy. And thus worthy of saving. A rock is not, but a person is.

I can put this more simply. The principle that Dworkin is supporting is intrinsically both an ought and an is—it is morally wrong to let someone suffer unnecessarily. Or, later, cruelty is wrong.

Dworkin tries to wriggle out of this self-contradiction by changing Hume’s categories. An ought

cannot be justified by “some scientific fact”. (27). But the point of Dworkin’s book is that something like cruelty is a fact. And the moral wrong of letting someone suffer is also a fact.

So, moral obligations do derive from the state of the world.