

FIFTY YEARS AFTER: THE LEGACY OF RONALD DWORKIN'S MODEL OF RULES

BY **Professor Nigam Nuggehalli**
Azim Premji University

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ABSTRACT

In 1967, Ronald Dworkin's article, *The Model of Rules*, was published in the Chicago Law Review. *The Model of Rules* was Dworkin's first sustained attack on legal positivism, criticising it as a deficient theory of law that ignored the pervasive presence of *principles* in the law. Dworkin argued that legal positivism's main tenets, that of a master test for legal rules contained in a rule of recognition and the exercise of judicial discretion by judges when the rules ran out, were incapable of explaining the presence of principles in the law. However, Dworkin's principles were unlike anything legal philosophy had ever seen. In equal parts bewildering and beguiling, Dworkin's principles incline judges towards decisions but do not necessitate any particular decision. Principles can be weighed against each other, they are limitless, they develop and shift endlessly and no one can ever agree on their application. To say that such principles are what the law is made of is a remarkable argument to make, considering that law has long been considered as bringing stability and certainty to public order, instead of confusion and controversy.

The legacy of *The Model of Rules*, if any, is in confounding legal philosophers and yet at the same time unsettling received notions of the certainties in the law. I will suggest that Dworkin's principles provide us with some important insights in both legal philosophy, by telling us something new about the standards applied in judicial decision-making and in political philosophy, by emphasising a sharp distinction between legislative and judicial decision making.

ABOUT THE SPEAKER



Nigam Nuggehalli teaches in the School of Policy and Governance at Azim Premji University, Bangalore, India. Before joining academia, he worked as a tax lawyer in New York, and he is a member of the New York Bar and the India Bar (Karnataka). Dr. Nuggehalli holds a DPhil in legal philosophy from the University of Oxford Faculty of Law and a BA., LLB (Hons.) from the National Law School of India University, Bangalore. Dr. Nuggehalli's broad research interests lie in the legal and philosophical foundations of development. As a lawyer and as a law academic, he has practiced and taught a variety of legal subjects (contracts, commercial law, corporate law, taxation) with reference to the legal regimes in the United States, the United Kingdom and India. At Azim Premji University, he teaches courses for post graduate students on political philosophy, law and justice, and the philosophical basis of political institutions.

Participation is By Invitation Only

To register your participation, please contact Ms Yvonne Lim at lawylhh@nus.edu.sg.