
Two Views of Interpretation: Value-Pluralism and Monism

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1. Monism and Value-Pluralism: The Hedgehog and the Fox

This paper aims to compare two views of interpretation by contrasting value-pluralism and monism. It also attempts to reflect on the implications of these views in the context of the current legal situation in Japan.

Isaiah Berlin and Joseph Raz defend value-pluralism—a concept which suggests that the possibility of value-conflict can never wholly be eliminated from human life. Raz also takes up what he calls interpretive pluralism. The point of interpretive pluralism is that all incompatible interpretations can be good.

In contrast, Ronald Dworkin supports the interpretive approach which is a necessary condition for his legal theory, which he calls “law as integrity.” This conception suggests that values which justify legal practice are integrated, and integrated values require and guide the integrity of adjudicative decisions through interpretation. For Dworkin, Berlin’s value-pluralism, which suggests that politically important values conflict with one another, is the target to overcome.

In this paper, I would like to overview the value-pluralism of Berlin and Raz (chapter 2); give an overview of interpretive pluralism and legal interpretation (chapter 3); consider Dworkin’s criticism of value-pluralism and his conception of law as integrity (chapter 4); and finally, I would like to compare two views of interpretation—Raz’s interpretive pluralism and Dworkin’s law as integrity—and their implications for the current legal situation in Japan (chapter 5).

Before starting this discussion, let me refer to Berlin’s essay, “The Hedgehog and the Fox.” Berlin cites an aphorism from an old poet: “The fox knows a lot of things, and the hedgehog knows one big thing.”¹ He takes this phrase metaphorically and suggests the aphorism has the meaning that there are deep differences between human beings. On one hand, there are people who consider everything to be related to one single basic understanding or system, and they think according to this understanding or system. On the other hand, there are people who pursue various goals that have no relation to and conflict with each other. Berlin, suggesting that there is a deep gap between these two types of human beings, classifies the first type of person as “the hedgehog” and the latter as “the fox.”²

1 Isaiah Berlin, “The Hedgehog and The Fox,” in Isaiah Berlin, *Russian Thinkers*, second edition, edited by Henry Hardy and Aileen Kelly (London: Penguin, 2008), p. 22.

2 Cf. *ibid.*, pp. 22–23.

2. Value-Pluralism

A. Berlin's Value-Pluralism

In this chapter, I would like to reflect on value-pluralism defended by Berlin and Raz. Following the 9.11 terrorist attacks in 2001, Berlin's posthumous essay³ was published in the *New York Review of Books*. The essay was written in 1981, but it seems as if he wrote it when he heard the news of the 9.11 terrorist attacks. It is especially impressive to read the passage: "Compromising with people with whom you don't sympathize or altogether understand is indispensable to any decent society."⁴ It is the empirical fact that there is a plurality of values. Recognizing this plurality of values, Berlin offers his own liberal theory.

In his inaugural lecture "Two Concepts of Liberty" (1958), Berlin distinguishes between two concepts of liberty, that is, positive liberty and negative liberty. The former is liberty to realize self-mastery or self-realization by setting and pursuing one's own goals. Berlin suggests that there is a dangerous aspect in the concept of positive liberty because it suggests that a certain goal is true, and this gives legitimacy for states to force individuals to self-actualize themselves according to the 'true' goals. Berlin himself defends the concept of negative liberty. This is liberty to make choices without the interference of other human beings. For negative liberty, an important question is "how many doors are open?" The concept does not evaluate the doors' moral character. The important thing is that the doors are open. Here Berlin defends liberalism based on the concept of negative liberty.⁵

Berlin stresses the importance of the value of negative liberty. In this sense, he seems to defend monism, which supposes that the value of negative liberty has priority over other values. However, in fact, Berlin defends value-pluralism. He explains the difference between monism and value-pluralism as follows. There is a belief that "somewhere, in the past or in the future [...] there is a final solution. This ancient faith rests on the conviction that all the positive values in which men have believed must, in the end, be compatible, and perhaps even entail one another."⁶

Berlin suggests that this faith is false. "The World that we encounter in ordinary experience is one in which we are faced with choices between ends equally ultimate, and claims equally absolute, the realization of some of which must inevitably involve the sacrifice of others."⁷ For Berlin, "[i]f, as I believe, the ends of men are many, and not all of them are in principle compatible with each other, then the possibility of conflict—and of tragedy—can never wholly be eliminated from human life, either personal or society. The necessity of choosing between absolute claims is then an inescapable characteristic of the human condition."⁸

Berlin exemplifies values (such as freedom, justice and equality) which are equally supreme. He suggests that "[e]verything is what it is: liberty is liberty, not equality or fairness or justice or culture, or human happiness or a quiet conscience. If the liberty of myself or my class or nation depends on the misery of a number of other human beings, the system which promotes this is unjust and immoral. But if I curtail or lose my freedom in order to lessen the shame of such inequality, and do not thereby materially increase the individual liberty of others, an absolute loss of liberty occurs. This may be compensated for by a gain in justice or in happiness or in peace, but the loss

3 Cf. Isaiah Berlin, "Notes on Prejudice," in *New York Review of Books*, 18 October (2001).

4 I quote this passage from Isaiah Berlin, "Notes on Prejudice," in Isaiah Berlin, *Liberty: Incorporating Four Essays on Liberty*, edited by Henry Hardy (Oxford: Oxford University Press, 2002), p. 346.

5 Cf. Isaiah Berlin, "Two Concepts of Liberty," in Isaiah Berlin, *Liberty*, *supra* note 4.

6 *Ibid.*, p. 212.

7 *Ibid.*, pp. 213–214.

8 *Ibid.*, p. 214.

remains.”⁹

B. Raz’s Value-Pluralism

Let us turn to Raz’s value-pluralism. He is one of the most representative value-pluralists today. His pluralist liberalism has a great influence on the field of political philosophy.¹⁰ Raz suggests that “moral pluralism is the view that there are various forms and styles of life which exemplify different virtues and which are incompatible. Forms or styles of life are incompatible if, given reasonable assumptions about human nature, they cannot normally be exemplified in the same life. There is nothing to stop a person from being both an ideal teacher and an ideal family person. But a person cannot normally lead the life both of action and contemplation, to use one of the traditionally recognized contrasts, nor can one person possess all the virtues of a nun and of a mother.”¹¹

Raz characterizes value-pluralism as follows: value-pluralism is a well-known doctrine these days. Its “core is the affirmation (a) that there are many distinct values—that is, values that are not merely different manifestations of one supreme value—and (b) that there are incompatible values, incompatible in that they cannot all be realized in the life of a single individual, nor, when we consider values that can be instantiated by societies, can they be realized by a single society.”¹²

3. Interpretive Pluralism and Legal Interpretation

A. What is Interpretation?

As we have seen, Berlin and Raz defend value-pluralism. Raz, who is an heir to H. L. A. Hart’s analytical legal positivism,¹³ is one of the leading legal philosophers today,¹⁴ and supports interpretive pluralism.¹⁵ This chapter studies Raz’s interpretive pluralism.

First, let us consider Raz’s view of interpretation. According to him, interpretation is an activity to explain or express the meaning of an interpretive object. Interpretive objects are things that have meaning,¹⁶ such as historical events, works of art, religious rites or texts, personal relations, and the law.¹⁷

Raz explains that objects of interpretation are “cultural goods.” Cultural goods are things whose meaning depends on cultural practices. The first feature of cultural goods is that to benefit from them we need to know about them. For example, we need some understanding of what a theater play is to appreciate it. We need to know what friendship is to be a friend. We benefit from cultural goods by engaging with them and acting in ways which are appropriate to them.¹⁸

The second feature of cultural goods is their dependence on culture. Their existence, and our ability to enjoy and benefit from them, depends on the existence of social practices of engaging with them, benefiting from them and respecting them. The existence of the cultural goods in this

9 Ibid., p. 172.

10 Cf. Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986).

11 Cf. *ibid.*, p. 395. See also Joseph Raz, *Ethics in the Public Domain: Essays in the Morality of Law and Politics*, revised edition (Oxford: Clarendon Press, 1995), p. 179.

12 Cf. Joseph Raz, *The Practice of Value*, edited by R. Jay Wallace (Oxford: Clarendon Press, 2003), p. 43.

13 Cf. H. L. A. Hart, *The Concept of Law*, second edition with ‘Postscript’ edited by Penelope A. Bulloch and Joseph Raz (Oxford: Oxford University Press, 1994).

14 Cf. Joseph Raz, *The Authority of Law: Essays on Law and Politics*, second edition (Oxford: Oxford University Press, 2009).

15 Cf. Joseph Raz, “Interpretation: Pluralism and Innovation,” in Joseph Raz, *Between Authority and Interpretation: On the Theory of Law and Practical Reason* (Oxford: Oxford University Press, 2009).

16 Cf. *ibid.*, p. 299.

17 Cf. *ibid.*, pp. 300, 315–318.

18 Cf. *ibid.*, p. 305.

meaning depends on the existence of the social practice to engage with cultural goods, receive benefit from them, and respect them. For example, our ability to read with understanding and pleasure Tolstoy's *War and Peace* depends on the existence of a culture in which people write, read, and discuss novels.¹⁹

B. Interpretive Pluralism and Innovative Interpretations

Now, let us consider Raz's interpretive pluralism. According to him, we can understand interpretive pluralism in a moderate way. For example, it is often possible that different interpretations, even by different interpreters, of one novel can be parts of a more comprehensive interpretation.²⁰

Interpretive pluralism does not refer to this fact. The point of interpretive pluralism is that several *incompatible* interpretations of the same object can all be good. If an object has two or more meanings, there may be two or more interpretations of the meaning. However, we cannot understand the importance of interpretive pluralism if we suggest that there are two or more meanings of the same object (e.g., "bank" means both the bank of a river and the bank in the High Street).²¹

As we saw, the point of interpretive pluralism is that "it is possible for all *incompatible* interpretations to be good."²² Raz suggests that the explanation of pluralism is related to the explanation of innovation. Now, let us consider Raz's argument about the possibility of innovative interpretations. Interpretations explain the current meaning of their objects. Some interpretations reveal new meanings in their objects.²³ Thus, there can be innovative interpretations. Raz suggests that "some good interpretations are innovative, in a strong sense. That is they are not merely new in having been hitherto unknown to some or all. They are innovative in that the meaning they explain is not one the object had independently of them."²⁴

C. Interpretive Pluralism and Legal Interpretation

Raz illustrates three different cases for innovative interpretations; that is, interpretations of the arts, personal relationships, and the law.²⁵ He tries to suggest how pluralistic interpretation can play a meaningful role in the law. The role of legal interpretation is different from that of art works or personal relations, or it may have an additional role. That is, legal interpretation has a different function, and having such a function is a necessary feature of law. Raz says that "[l]aw is a structure of authority, and central to its functioning is the interplay between legislators and other authorities on one side, and the courts, which are entrusted with delivering authoritative interpretations of its norms, on the other side. Judicial interpretations are authoritative in being binding on the litigants, whether they are correct or not."²⁶

The finality of judicial decisions is an essential feature of the law and of the judicial process. The finality is expressed by doctrines such as *res judicata* or double jeopardy. Judicial interpretation

19 Cf. *ibid.*, p. 306.

20 Cf. *ibid.*, p.302.

21 Cf. *ibid.*, pp. 302–303.

22 Cf. *ibid.*, p. 302.

23 Cf. *ibid.*, pp. 303–304, 321. Raz explains how there can be innovative interpretations. Cf. *ibid.*, pp. 305–313.

24 Cf. *ibid.*, p. 302.

25 Cf. *ibid.*, pp. 315–318.

26 *Ibid.*, p. 320. Yasutomo Morigiwa points out that "Raz argues that the reason we interpret is to bring authority and stability. This is the type of explanation we seek to clarify the function of interpretation". Yasutomo Morigiwa, "Interpretation by Another Name," in Yasutomo Morigiwa, Michael Stolleis, and Jean-Louis Halperin (eds.), *Interpretation of Law in the Age of Enlightenment: From the Rule of the King to the Rule of Law* (Dordrecht, Heidelberg, London and New York: Springer, 2011), p. 134. Morigiwa explores the particular sense of judicial interpretation, that is, the German term: *Rechtsfindung*. *Rechtsfindung* is finding the law in a case. Cf. *ibid.*, p. 126. Morigiwa suggests that "*Rechtsfindung* provides us with interpretation of the law, which in turn means that it provides us with the public good of authority and justice". *Ibid.*, p. 137.

is part of a process that aims to achieve an authoritarian decision, so its role is different from the role of interpretation of art or personal relationships. Its role is not to admit diversity or individuality within a relatively stable framework, but to maintain uniformity in action. If courts want to fulfill their role, their decisions must be acknowledged to be binding. They need not be acknowledged as justified or correct.²⁷

The power of the courts to set binding precedents is no more than an extension of the power to settle authoritatively the litigation before the court. That is, it is an extension of the power of the courts from authoritatively setting out a particular cause of action to deciding what law will bind the litigants before them and lower courts in the future.²⁸

Raz suggests that this is the reason why innovative judicial interpretation changes the law. Interpretation itself does not change the law. Rather, the power of the courts to set precedents means that judicial decisions can change the law, and therefore, judicial decisions do change the law when they are backed by innovative interpretations.²⁹

D. The Interplay and the Communication between Legislators and the Courts

As we saw, Raz considers “the interplay between legislators [...] and the courts” to be important. He also suggests that when we confront the law-making power of the courts, we face a number of questions. One of these questions is how is the exercise of this power different from legislation? That is, why confer such powers on courts? This question has been studied by theorists.³⁰

Jeremy Waldron suggests that many legal philosophers are mainly interested in adjudication, and he makes an argument to restore the dignity of legislation.³¹ Other theorists, using methods of Hart and Raz’s “analytical jurisprudence,” try to develop a certain type of jurisprudence of legislation, that is, “legisprudence.”³²

Andrei Marmor, by reference to Berlin’s value-pluralism and John Rawls’s “the fact of reasonable pluralism,” argues that we should not value legislative integrity.³³ He also suggests that there is a strategic form of communication between the legislature (the most familiar aspect of legislation is that it is almost always a result of a compromise) and the courts.³⁴

4. Dworkin’s Conception of “Law as Integrity” and Criticism of Pluralism

A. Interpretive Approach and Constructive Interpretation of Law

In this chapter, let us conduct a survey of Dworkin’s legal theory “law as integrity,” which contrasts with Raz’s interpretive pluralism, and Dworkin’s criticism of Berlin’s value-pluralism.

It is useful to consider Dworkin’s interpretive approach to understand his legal theory. For Dworkin, interpretation relates to the explanation of how our judgments about values in various areas can be just. To understand art works we need to use an interpretive approach to explain their

27 Cf. Joseph Raz, “Interpretation,” *supra* note 15, p. 320.

28 Cf. *ibid.*

29 Cf. *ibid.*

30 Cf. *ibid.*, p. 321.

31 Cf. Jeremy Waldron, *The Dignity of Legislation* (Cambridge: Cambridge University Press, 1999).

32 Cf. Luc J. Wintgens, “Legisprudence as a New Theory of Legislation,” in *Ratio Juris*, vol. 19, no. 1 (2006); Tatsuo Inoue, “Tokusyu ni Atatte” [Introduction to Feature Articles], *Jurist*, no. 1369 (2008), pp. 9–10. An international academic magazine *Legisprudence: A New Theoretical Approach to Legislation*, edited by Wintgens, is published from Hart Publishing.

33 Cf. Andrei Marmor, “Should We Value Legislative Integrity?” in Andrei Marmor, *Law in the Age of Pluralism* (New York: Oxford University Press, 2007). For “the fact of reasonable plurality,” see John Rawls, *Political Liberalism*, paperback edition (New York: Columbia University Press, 1996), Lecture IV.

34 Cf. Andrei Marmor, *Philosophy of Law* (Princeton, NJ.: Princeton University Press, 2010), p. 154.

artistic character from the artists' conception of values. For Dworkin, the interpretive approach has fundamental implications for us in regard to problems of legal and political philosophy.³⁵

Dworkin suggests that creative interpretation is *constructive*. He explains constitutive interpretation as follows: "Roughly, constructive interpretation is a matter of imposing purpose on an object or practice in order to make of it the best possible example of the form or genre to which it is taken to belong."³⁶ He also suggests that "[g]eneral theories of law [...] are constructive interpretation. They try to show legal practice as a whole in its best light, to achieve equilibrium, between legal practice as they find it and the best justification of that practice."³⁷

B. Law as Integrity, and the Chain Novel Metaphor

Now, let us give an overview of Dworkin's conception of "Law as Integrity." In his *Law's Empire*, Dworkin suggests that we live in and by the law. We are subjects of the law's empire.³⁸ The courts are the capitals of the law's empire, and judges are its princes.³⁹ Lawyers and judges and ordinary people generally assume that some propositions of law can be true or false. Propositions of law can be very general: "the law forbids states to deny anyone equal protection within the meaning of the Fourteenth Amendment." Or, they can be much less general—"the law does not provide compensation for fellow-servant injuries"—or very concrete—"the law requires Acme Corporation to compensate John Smith for the injury he suffered in its employ last February."⁴⁰ Dworkin argues that "we *argue* about what [the law] has decreed, when the books that are supposed to record its commands and directions are silent; we act then as if law had muttered its doom, too low to be heard distinctly."⁴¹

Dworkin gives an account of the role of judges by using the chain novel metaphor. In the enterprise of the chain novel, "a group of novelists writes a novel *seriatim*; each novelist in the chain interprets the chapters he has been given in order to write a new chapter, which is then added to what the next novelist receives, and so on. Each has the job of writing his chapter so as to make the novel being constructed the best it can be."⁴²

Dworkin argues that law as integrity asks a judge deciding a common-law case to think of himself as an author in the chain of common law. The judge "knows that other judges have decided cases that, although not exactly like his case, deal with related problems; he must think of their decisions as part of his own judgment of how to make the developing story as good as it can be."⁴³

C. Criticism of Pluralism and Justice for Hedgehogs

We have overviewed Dworkin's conception of law as integrity. This conception suggests that values (such as liberty and equality) that justify legal practice are integrated, and integrated values require and guide integrity in adjudicative decisions. However, there is a powerful philosophical tradition, and this tradition is supported by many legal theorists. This is the tradition of Berlin's value-pluralism which suggests that politically important values, such as liberty and equality, conflict with one another, so we need to seek a compromise among these values. Such a

35 Cf. Arthur Ripstein, "Introduction," in Arthur Ripstein (ed.), *Roland Dworkin* (New York: Cambridge University Press, 2007), p. 9.

36 Cf. Ronald Dworkin, *Law's Empire* (Cambridge, Mass.: Harvard University Press, 1986), p. 52.

37 Cf. *ibid.*, p. 90.

38 Cf. *ibid.*, p. vii.

39 Cf. *ibid.*, p. 407.

40 Cf. *ibid.*, p. 4.

41 *Ibid.*, p. vii.

42 *Ibid.*, p. 229.

43 *Ibid.*, pp. 238–239.

compromise cannot be guided by more fundamental values, so we need to choose between values. Dworkin suggests that this fact challenges the ideal of integrity. Berlin has been the most powerful defender of value-pluralism to suggest that political values deeply conflict. Berlin's theory, which suggests that moral values conflict, challenges the ideal of integrity.⁴⁴

Dworkin's criticism against value-pluralism does not mean he denies it totally. His criticism is rather to undermine value-pluralism by pointing out that it is possible for the conflict between liberty and equality to vanish.

Dworkin argues that there is no general right to liberty. We have only "distinct rights to certain liberties like the liberty of free expression and of free choice in personal and sexual relations."⁴⁵ If there is no right to liberty, the conflict between liberty and equality vanishes and the argument for any given specific liberty may be entirely independent of the argument for any other.⁴⁶

In his recent book *Justice for Hedgehogs*, whose title is inspired by Berlin's aphorism "the hedgehog and the fox," Dworkin stresses his monist view. He defends the philosophical thesis of the unity of value, that is, ethical and moral values are dependent on each other.⁴⁷

5. Two Views of Interpretation: Their Implications for the Current Legal Situation in Japan

Contrasting the fox defending pluralism and the hedgehog defending monism, this paper has reviewed Berlin's value-pluralism and Raz's interpretive pluralism, and made a study on Dworkin's conception of law as integrity and his criticism of value-pluralism. In this chapter, taking two views of interpretation (Raz's interpretive pluralism and Dworkin's law as integrity) into consideration, let us reflect on the current legal situation in Japan.

For the last dozen years or so, judicial reform has been going on in Japan.⁴⁸ There are many points to the reform, and here I would like to consider the establishment of law schools (there were no American style law schools in Japan until 2004). As we saw, Dworkin suggests that we are subjects of the law's empire,⁴⁹ and the courts are the capitals of the empire.⁵⁰ If we imagine his theory is presented for the students of law school who want to be judges or lawyers, it is easy to understand the main point of theory.⁵¹

However, in lectures and seminars in "legal philosophy" at law school, students study not only Dworkin's legal theory, but also Hart's analytical legal positivism and Rawls's theory of justice and so on. Students also participate in lectures and seminars such as "sociology of law" or "legal history." It is also impressive that law school offers an important class in "ethics of jurists."⁵²

In Japan, there is undergraduate legal education. Some undergraduate students go on to law school, but many get jobs with private companies, enter government service, or get qualifications

44 Cf. Ronald Dworkin, *Justice in Robes* (Cambridge, Mass. Harvard University Press, 2006), p. 27.

45 Cf. Ronald Dworkin, "What Rights Do We Have," in Ronald Dworkin, *Taking Rights Seriously* (Cambridge, Mass.: Harvard University Press, 1977), p. 277.

46 Cf. *ibid.*, pp. 273–74, 277–78.

47 Cf. Ronald Dworkin, *Justice for Hedgehogs* (Cambridge, Mass.: Harvard University Press, 2011), p. 1.

48 Cf. Shigeaki Tanaka, *Genda Nihonhou no Kouzu* [The Structure of Contemporary Japanese Law] (Tokyo: Iwanami Shoten, 2000), ch. 2 and epilogue. See also Shigeaki Tanaka, *Hou eno Shizatenkan wo Mezashite* [The Search for the Change of Viewpoint of the Law] (Tokyo: Yuhikaku, 2006), chs. 3 and 6.

49 Cf. Ronald Dworkin, *Law's Empire*, *supra* note 36, p. vii.

50 Cf. *ibid.*, p. 407.

51 Cf. Ryuichi Nakayama, "Comment," in Makoto Usami and Shinichiro Hama (eds.), *Ronald Dworkin* [in Japanese] (Tokyo: Keiso Shobo, 2011), p. 236.

52 Cf. Yasutomo Morigiwa (ed.), *Housou Rinri* [Ethica Juris Peritorum: The Law and Ethics of Jurists], second edition (Nagoya: Nagoya University Press, 2011); Takeji Kojima, Makoto Ito, Shigeaki Tanaka, Shintaro Kato (eds.), *Housou Rinri* [The Law and Ethics of Jurists] (Tokyo: Yuhikaku, 2007).

(we have to pass national examinations to become judicial scriveners, administrative scriveners and so on, in Japan). Undergraduate students can study not only law but also politics. There is a graduate school of law (or graduate school of public policy) where graduate students research not only the judicial system but also legislation and administration.

As we saw, Raz is a value-pluralist and suggests the possibility of interpretive pluralism. He also stresses the importance of “the interplay between legislators [...] and the courts.”⁵³ Marmor, referring to Berlin’s value-pluralism and Rawls’s “fact of reasonable pluralism,” denies legislative integrity.⁵⁴ Marmor also points out that there is a strategic form of communication between the legislature and the courts.⁵⁵

The arguments of Raz and Marmor give us a viewpoint to grasp the interplay or communication between legislators and the courts. Thus, their arguments are very useful for us when investigating current legal issues in Japan such as the “inflation of legislation” or “twisted Diet.”⁵⁶

It seems that legal theorists in Japan facing current legal issues can learn both from Dworkin’s legal theory, which considers the courts as the capitals of law’s empire, and from Raz and Marmor’s legal theory, which pays attention to the interplay between legislators and the courts.

As mentioned in the opening sentence of this paper, Berlin distinguishes between the hedgehog and the fox, that is, the monist and the value-pluralist. Berlin and Raz defend value-pluralism—a concept which suggests that the possibility of value-conflict can never be wholly eliminated from human life. Raz also presents interpretive pluralism whose main point is that several incompatible interpretations of the same object can all be good. By contrast, Dworkin defends the conception of law as integrity. This conception suggests that values which justify legal practice are integrated, and integrated values can require and guide integrity at the adjudicative stage. In his *Justice for Hedgehogs*, Dworkin tries to defend the philosophical thesis of the unity of value, that is, ethical and moral values are dependent on each other.

Berlin suggests that Tolstoy wished he could have a sense of the hedgehog to conceive the reality as a whole. However, he was not a hedgehog but a parson who had fox’s eyes.⁵⁷ Tolstoy found his contradiction within himself and could not solve it at all.⁵⁸ Berlin suggests that “[t]he hypothesis I wish to offer is that Tolstoy was by nature a fox, but believed in being a hedgehog.”⁵⁹ That is, Tolstoy was “a fox, who wanted to be a hedgehog.”⁶⁰ Berlin himself, on the one hand, conceived the universality of one value (liberty). On the other hand, he defends value-pluralism that admires particularity and the plurality of values (such as liberty and equality). So, it seems that Berlin was also “a fox, who wanted to be a hedgehog.”⁶¹

Tolstoy could not solve the contradiction between monism and value-pluralism and died in anguish as a result. By contrast, Berlin was not troubled with the contradiction. He had learned from

53 Cf. Joseph Raz, “Interpretation,” *supra* note 15, p. 320.

54 Cf. Andrei Marmor, “Should We Value Legislative Integrity?,” *supra* note 33.

55 Cf. Andrei Marmor, *Philosophy of Law*, *supra* note 34, p. 154.

56 Cf. Tatsuo Inoue, “Rippougaku no Gendaiteki Kadai: Gikaiminsyusei no Saihen to Houriron no Saitei” [Contemporary Task of the Study of Legislation: The Restructure of Parliamentary Democracy and the Reorientation of Legal Theory], in *Jurist*, no. 1356 (2008); Takehiro Ohya, “Twisted Diet: A Failure in legislating Politics in Japan,” in *Legisprudence: International Journal for the Study of Legislation*, vol. 2, no. 3 (2009). It is also notable that Waldron’s *The Dignity of Legislation* is translated into Japanese. Cf. Jeremy Waldron, *Rippou no Hukken* [The Dignity of Legislation], translated by Yasuo Hasebe, Koji Aikyo, and Koichi Taniguchi (Tokyo: Iwanami Shoten, 2003).

57 Cf. Isaiah Berlin, “The Hedgehog and the Fox,” *supra* note 1, p. 74.

58 Cf. *ibid.*, p. 81.

59 *Ibid.*, p. 24.

60 Cf. Isaiah Berlin and Ramin Jahanbegloo, *Conversation with Isaiah Berlin* (London: Peter Halban, 1992), p. 190.

61 Cf. Claude J. Galipeau, *Isaiah Berlin’s Liberalism* (Oxford: Clarendon Press, 1994), note 2 at p. 166; Michael Ignatieff, *Isaiah Berlin: A Life* (London: Chatto & Windus), p. 173.

his study of the history of thought that humanity is “crooked timber” (Kant),⁶² and found that only contradictory conclusions come from humanity. In the light of Berlin’s understanding of humanity, when we consider the point of interpretation, it seems that we need justice both for the hedgehog and the fox.

⁶² Cf. Isaiah Berlin, *The Crooked Timber of Humanity: Chapters in the History of Ideas*, edited by Henry Hardy (London: John Murray, 1990).