

It does not need much perspicacity to realize that this country is passing through a phase of moral confusion which is at least as great as the political confusion about its identity amongst the nations of the world. Nor, mercifully, is this confusion entirely displaced to matters of sexual morality. There is, it is true, *Oh! Calcutta!*, but there are also the *Stop the Seventy Tour* campaign and now its successor, and the Aid lobby. And what is important about the latter is that they demonstrate the continuing vitality of a spring of moral feeling on a matter not directly the subject of legislation. In other words, these campaigns seem to prove the existence of that moral consensus and shared system of values and ideas, however inarticulate, which Lord Devlin *par excellence* has done us the signal service of submitting is the true mainspring and justification of the law and especially the criminal law (*The Enforcement of Morals*, 1965).

At the same time, the moral consensus involved here is by no means that of the whole community. What we are witnessing once again is the actual process of change of the general moral sense of the community under the pressure of an initially small minority. This is where perspicacity is required, to discern the governing principles. And this involves disentangling the critical issues as a first task. These would seem to be fourfold. The first is whether some sort of at least minimal moral consensus is necessary to make and sustain a society. The second is whether the law is dependent upon, although necessarily not coincident with, such a moral consensus and needs to be invoked to enforce it where such matters as homosexuality, suicide, race relationships, abortion, divorce, birth control facilities and, soon, euthanasia seem to call for specifically legal attention. Thirdly, whether, granted both these principles, how any process of change in the moral consensus is to be negotiated. And, fourthly, where and how a Christian minority in such a pluralist society is to stand and act.

These four issues are closely inter-related, but can be taken separately.

On the first two issues, we have had the benefit of the illuminating exchange of argument between Lord Devlin (*op. cit.*) and Professor Hart (*Law, Liberty and Morality*, 1963). There is obviously room for disagreement here, but we should ourselves submit that even at the level of sheer reason, Lord Devlin has on the main points gained the better of the debate. There is, however, quite another way of looking at this argument, drawing upon a more sociological universe of discourse than a jurisprudential one. According to Mill's 'famous sentence', 'the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others' (*On Liberty*, 1859, p. 72). Now,

could it not be said that the whole 'structure of feeling' epitomized here and revived recently by, say, the Wolfenden Committee and Professor Hart has no real positive content but is rather the defensive rationalization of a breakdown of a shared system of values by society as a whole? Contrariwise, on this showing, do not such apparently diverse impulses as the New Left and *Culture and Society* movements, student protest and the whole hippy thing have as their implicit thrust the felt need once more of a sense of society as a whole and therefore of certain basic shared values? To borrow an ugly but useful word from the vocabulary of the New Left, what the liberal tradition of Mill lacks and what so many are groping by way of reaction to retrieve is a 'totalization' of society.

It may well be that any movement for totalization can all too easily degenerate into totalitarianism, whether of the left or of the right, just as the liberal tradition can too easily degenerate into mere indifference. Yet the two traditions have, on the most sympathetic interpretation, positive but partial values within them, the mutual and complementary adjustment of which can, ideally, resolve our third issue. For together they make up a working whole by providing just those principles of majority rule and minority dissent which in practice such diverse spokesmen as Raymond Williams (*Culture and Society*, pp. 312–313, 319–321), Lord Devlin (*op. cit.*, pp. 15–20, 118–119) and Professor Hart (*op. cit.*, pp. 75–77, 77–81) agree upon.

Now if this way of looking at our problems has any validity, then it also throws light on the problem of the Christian in a pluralist society, which is our fourth issue. His duty can be said to be twofold. As a citizen, he has the duties but also the rights of any other citizen. He has, therefore, to share in the process of making prudent judgments about what society as a whole should demand or enable and can take, just as by the same token he has the right to be in a minority, even an actively dissident minority. Where his faith begins to make a difference is in two respects. Firstly, he belongs constitutively to a community which is the prototype of all communities—the sign and instrument of the unity of all mankind—and in virtue of at least an implicit sense of *communitas*, he should be working for whatever sort of shared society as a whole that lies within his power. But, secondly he is also as a Christian committed to a belief that certain values have objective validity and cannot consistently with truth be made the subject of haggling, even under such grandiose names as consensus, collective conscience, cohesive sentiment, the general will, or self-preserving social integrity. This latter fact must not make him opt out of the process of 'government by discussion', to use a phrase of Bagehot recalled by Mr Stevas, but it may on certain issues at least make his participation, in a quite literal sense, crucial.

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