

**PHILOSOPHY AND PUBLIC AFFAIRS:
A PHILOSOPHER'S PERSPECTIVE
ON GOVERNMENT COMMITTEES OF INQUIRY**

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I want to approach the general question of the relation between philosophy and public affairs, that is, the possible contribution of philosophy to practical politics, in a sideways and particular rather than a direct and abstract way.

We live in an age in which people increasingly demand open government. We all of us require to be ruled, not by all-knowing philosopher-kings, but by persons who, no better than ourselves, are entrusted for the time being with the task of inching us along towards a better society, and we essentially need to know who they are, so that we can give them the benefit of our views. The ideal of society towards which we are supposed to be moving must not be the mere partisan whim of a particular government, designed to suit their book and keep them in power. It must be an ideal shared by the consensus of society. How is a government to ensure that it satisfies this demand, or at least seems to do so? It is, after all, a very proper demand from a society which attempts to educate people, within which indeed education is an absolute right, and which has universal

suffrage. The point of universal education, as well as universal suffrage, is to entitle **everyone** to share, if not in power, then at least in understanding, and give them a basis from which to criticize, if they wish to, what is being done. And so, every measure of government increasingly has to be justified, supported by arguments which may, in principle, be understood and accepted, or, indeed, rejected by **everyone**.

It is natural for governments, faced with decisions on controversial matters, at some stage to turn to a Committee of Inquiry or Royal Commission. The immediate appeal of such bodies is twofold. In the first place a government may buy time. By setting up a committee, a government will be seen to have recognized the problem, to have taken it, as they say, 'on board'. Yet the moment of action will be decently postponed. On the other hand, the committee, if properly selected, may be hoped somehow to come up with an agreed and agreeable solution to the problem, whatever it is, so that legislation may thereafter be easy to get through.

The kinds of issues with regard to which governments may have recourse to such committees are various; but all of them involve **moral dilemmas** to which, as a matter of fact, there can be no one 'correct' solution. I believe that more and more political issues will in future be seen not as party issues, but as matters of **conscience**, to be decided on in Parliament by a free vote. There is, after all, very seldom a moral problem, even a personal and private problem, to which there is one and only one possible solution. In a mixed, religiously various, intolerant, racist, sexist, multi-ethnic society, such as most of us belong to, agreement on a moral issue is even more unlikely. Yet it is just such issues that Government has, time and again, to face and on which it has to propose legislation and try to get it through Parliament. No wonder that it is on such issues that committees of inquiry are most often appointed.

So what do such committees do? How are they appointed? Who are their members? What is their precise relation to Government? Above all, do they work? I shall

attempt to suggest answers to some of these questions by reference to the Committee on Human Fertility and Embryology, one of the two committees of inquiry of which I have been chairman (the other being a committee which reported in 1978, on the education of the handicapped).

I am often asked about the composition of these committees in the United Kingdom. How are the members chosen? There exists in the depths of the British Civil Service a list known as the list of the Good and the Great (its official title is simply 'the central list'). It was once, in the 1960s, described as a collection of people 'all of whom are aged fifty-three, live in the South East, have the right accents and are members of the Reform Club'. During the Labour Government of 1974, a considerable and partly successful effort was made to widen the range of those on the list. It now numbers nearly 5,000, of whom half come from the South East of England, and half from the rest of the United Kingdom. Three hundred and twenty four members are under forty, eight hundred and twelve are women. It is from this list that committee members are, for the most part, chosen. People are entitled to nominate themselves for membership (but I'm not sure that they ever do); and those who are already members may sometimes be asked for names to add. Otherwise it is a mystery how people first get onto it. Some are struck off, if, on a particular committee, they misbehave, have a poor record of attendance, or breach confidentiality. When it comes to selecting the members of a particular committee of inquiry, to be set up to advise a particular minister, the appropriate civil service department first, with the minister himself, select a chairman from the list. They then settle down to what must be the enjoyable task of choosing the other members, some of whom, in order to cover all the aspects of the problem, may be new, not hitherto on the list, but about to join. Members have to be chosen, not formally to represent different interests, but at least to bring various different areas of knowledge and understanding to the committee.

Both in the selection of members and in the actual

servicing of the committee, such committees are, to a large extent, in the hands of the civil servants. It is sometimes suggested that committees of inquiry are really extensions of the civil service, empowered to say things more forcefully than civil servants can, but saying, nevertheless, exactly what the civil servants want to be said. For example, the late Sir Herbert Andrew, a one-time Permanent Secretary at the Department of Education and Science, thought that committees were 'for presentational reasons only'. When a committee was set up, he said, 'we had to write all the stuff for it. We could write it for ourselves just as well'. I do not think this is accurate. But it has to be admitted that it is quite difficult to assess the degree to which a committee is influenced by the current civil service orthodoxy, whatever that may be. For when the committee first meets, the chairman has already spent a good deal of time with the member of the civil service who will act as secretary to the committee, as well as with the senior civil servants ultimately responsible for the liaison with Ministers. If, as may often be the case, the chairman is ignorant of the subject of the committee's work, these early briefing sessions may be extremely influential. At the first meeting, the civil servants have to produce an introductory paper for discussion. This paper itself may dictate to a considerable extent the direction the committee will take, but it is essential, if the committee is to do its job, that the paper is not **simply** a product of civil service thinking. Already, at this early stage, the chairman must bring a detached and analytic concept of the **general** problems to bear on the particular issues to be considered. I personally am very much against giving advice to ministers which I know for certain cannot be acted on because it is too expensive or too generally outrageous. I am, therefore, myself prone to be influenced by the civil servants as to what the probable costs would be of putting this or that into practice. In such ways, as chairman, I think I may have seemed always to err on the side of the cautious, the reasonable and the middle of the road, sometimes to the dissatisfaction of members. It is certainly true that, in the case of the fertility committee,

I quite often felt myself to be an honorary civil servant, lined up in common exasperation against at least some of the members. But this was, I think, not so much over the content of the report, as over the extreme difficulties we had in getting anything written and agreed, let alone in getting anything ready for our deadline. The secretariat and I equally wanted to get on and get published. There were members who had no such desire, and would quite happily be sitting there arguing to this day.

Here, I believe, philosophy becomes relevant. In my view, there is no such thing as a perfect or 'correct' report, any more than there is such a thing as a 'correct' solution to a moral or any other philosophical problem. It is futile, therefore, to go on and on with the evidence, the arguments and the redrafting, as if in the end something could emerge incapable of being improved on. Nor is a committee of inquiry the place for profound analyses of moral problems of a **purely** philosophical or historical nature. Obviously, analysis is important; but it is important only because you need analysis to produce **good law**, the establishing of which must be the long-term goal of the committee. Philosophers are professionally good at, and committed to, analysis. But if they lend themselves to the public service, they, like everyone else, must also be committed to action, and the rationalization or justification of action.

The other main aim of a committee such as ours is to **educate**. This means that, first, the committee members themselves must be educated in the particular subject which is their concern. Secondly, they must be able to produce an intelligible and informative account of the issues involved, with recommendations and arguments in favour of them. Within these constraints, the report must be as short as possible. It cannot exert any influence unless it is read; and the reading capacity of the public, and perhaps especially of ministers, is strictly limited. Here again, in the matter of intelligibility, a teacher, and especially a teacher of philosophy, may have a particular role to play — a particular usable expertise.

It was for this sort of reason that I found myself out of

sympathy with those who constantly appealed for more time. Writing a report is not unlike writing an undergraduate essay or an article for a popular journal. Time will not necessarily make a better end-product. It is thought and hard work that are needed. The instincts of the journalist must here be combined with those of the academic philosopher.

And this brings me back, for a moment, to the composition of committees such as ours. Committees are hard work, and require a continuity of effort, otherwise consistency is lost, and much time wasted, going over the ground for members who have been absent for a key discussion. Bad attenders are a menace on such committees. Yet obviously attendance is difficult, indeed impossible, to enforce. For example, our inquiry could not have gone forward without at least two lawyers (you always have to have two in the United Kingdom, one for England and Wales, the other for Scotland). But lawyers, if they are any good at all, tend to be practising QCs, and are likely therefore often to be in court, quite unable to predict when a particular case will be over. The ideal committee members are people who can arrange their own work pattern or who are retired. This sort of consideration is partly what makes the Good and the Great so elderly, established, and academic. It is simply no good expecting someone whose future depends on not taking time off work, whether in industry, commerce, the law, or in self-employment, to be able to take on a commitment, often of a number of years, which involves constant absences.

To return, then, to the aims of our particular committee. Our terms of reference were 'to consider recent and potential developments in medicine and science related to human fertilization and embryology; to consider what policies and safeguards should be applied, including consideration of the social, ethical and legal implications of these developments; and to make recommendations'. It was a tall order; and one of the first things we had to decide was how far into the future to look. How should we understand 'potential' developments? Were we to think of the next decade or the next

century? How were we supposed to distinguish between a real future and science fiction. 'Science fiction' tended, among our members, to be used as a term of abuse. But to do them credit, the civil servants didn't take that line. They rightly appreciated that science fiction is often an expression of what people fear; and that, in any case, what looks preposterous now may well be commonplace, if not tomorrow, then at least the day after tomorrow. In fact, during the time we were meeting, some things foreseen as part of an indefinite future became actual, and much more has become commonplace since. We had to make up our minds how far ahead it was reasonable to look.

But first we had an easier task. As I have said, we had to educate ourselves, in order that, in the end, we might hope to educate others. For the first year, we had to read the endless pages of opinions people had been invited to send to us, evidence, not of facts, but of what people *felt* about what they knew of the facts. In addition, we had to acquaint ourselves with what was currently going on, and what scientists believed was possible. And, since our brief covered not just the exotic, but the painfully humdrum, we had to find out what sort of provision was being made for the infertile up and down the country at that time. We had to seize on what looked like best practice, and urge that this sort of provision should be made available to everyone, wherever they lived, under the National Health Service. All this part of our work was easy. We had early on agreed that infertility was a malfunction which causes endless misery, and for which treatment should be available to all. We simply had to think what we wanted to recommend, in the way of the extension and widening of the scope of such provision. So far we had no moral dilemmas.

It was after this that our troubles began. There were two main issues on which the committee, when they had to put their own ideas together, found it impossible to agree. The first was the issue of surrogacy; the second, far more fundamental, was that of research using live human embryos *in vitro*. In order to illustrate my general observations about philosophy, and the ways in which Government must come

to decisions, I shall use only the second of these issues. This is not only because it is, in my view, by far the most important, but also because it was at the centre of the bill which came before Parliament. The difficulty of making a decision about whether such research should be permissible, subject to strict control, or whether it should be totally ruled out by law, is demonstrated by the fact that uniquely the bill contained a clause, clause 11, which contained two alternatives between which members of the House of Lords (where the bill started) had to decide. In the event, the bill went forward to the Commons amended so as to permit research. But on that issue members of the House had to vote according to their individual consciences.

However, my present concern is not so much the subject matter on which we in the committee disagreed (and the House of Lords also disagreed, though as in our committee a very large majority held that research using human embryos should be permitted, subject to controls), as the manner of our disagreements, and the difficulty both we and the House of Lords had in settling them. Even when it became clear on the committee that we could not agree, it was still far less clear how we would set out the arguments for our contradicting views. The question was to what extent the committee could for the time being turn themselves into philosophers and justify their judgements rather than simply asserting their opinions. It was helpful to have at least one professional philosopher on the committee to enable such arguments to be formulated, though no philosopher, I believe, could have produced unanimity, whether in the committee or the House.

In disputes concerning public policy, the immediate assumption must be that broadly utilitarian arguments will be deployed, showing the advantageous consequences which will flow from one course of action, to be weighed against the lesser advantages or harms that will result from the adopting of the opposite policy. But in this case utilitarianism was not a wholly effective weapon. For there were those who held that human life, at whatever stage it might be, should be held absolutely sacred and protected by

the full force of the criminal law; that a four- or eight-cell embryo had just as strong a right to life as a child or an adult (even, as the Duke of Norfolk was to put it, as a Member of the House of Lords). Such people rejected utilitarianism absolutely. No increase of pleasure or welfare over pain or harm could in their eyes justify the abandonment of the principle of the sacredness of human life, at however early a stage. And so arguments that relied on future benefits whether to individuals or to society at large became irrelevant.

But if utilitarianism was rejected, what was left? Utilitarianism has always been, and to a certain extent must always be, the philosophy to be embraced by legislators. For they have been elected to look after the good of, that is, the benefits to people in general. They must think about 'the greatest happiness of the greatest number', or they will not be doing what they were elected to do. And we, as a committee, were set up to provide advice to legislators. To some extent, then, we were obliged to be utilitarians. We did not resolve our disagreements. Neither were they resolved in the House of Lords, or the House of Commons. Nevertheless, it seems to me absolutely right that our committee and then both Houses should first and foremost concern themselves with the consequences to society of the measures they were considering; and in the contentious issue of embryo research, we, and they, have to listen to those who understand the benefits that will follow on such research.

But there was a further difficulty in the committee, of some relevance to the work of such committees in general. Most of the members were not in the least familiar with philosophical thinking. When they deployed a consequentialist argument, therefore, they simply said, 'Think of the benefits', or 'Think of the family'. When that sort of argument failed to persuade, they generally fell back on saying, 'I feel it's wrong', or 'I can't see anything against it'. Now this is, of course, how most people, perhaps everybody, actually conducts an argument about what is right and what is wrong. Philosophers, on the other hand, have always, as their trade, been accustomed either to pointing out into

what contradictions, absurdities or paradoxes popular views of morality may lead, if carried to a logical conclusion, or applied in an inappropriate way; or to attempting to lay bare the foundation of the popular views themselves. Asked to consider the basis of their immediate moral reactions, those not accustomed to philosophy tend to retreat. Ever since Socrates, and before, philosophy has been regarded as a threat to morality, a corrupter, and not just of youth.

It was, at the beginning, difficult to get members of the committee of inquiry to state their moral positions at all. The doctors among them were happy to talk about 'medical ethics', which consisted in the duty not to take over other doctor's patients, and a few related rules. Morality they regarded as something else. It was not their business, as doctors, to delve into such murky things. Those inexperienced in committee work, on the other hand, were simply shy about making their views known, where they had views. And when at last they could be persuaded to say what they thought about, let us say, the morality of bringing up a child in ignorance of the circumstances of his birth, they felt they had done their bit when they had said, 'I don't like it', or 'I'm not happy', or whatever the current modest non-judgemental phrase might be. If asked to go further, and try to explain their views, they fell silent. They reminded me of my mother, who used to say to her children, 'I'm not going to listen to you, you're talking LOGIC', and who thought logic simply a weapon used by the disagreeable to muddle her. So it was difficult to be sure what sorts of moral arguments were being used. Yet we had to try to find this out and expose it to public view. This is, essentially, a **philosophical** task.

It is often said that people must be able to give reasons for their moral judgements; and, indeed, it is sometimes supposed that the task of moral philosophers is to provide such reasons, to justify whatever moral pronouncements may be agreed upon. Certainly I imagine that the hope among members of government who set up our committee was that the chairman, being a philosopher, would be able to offer such reasons for whatever conclusions we drew,

and that the world at large would be persuaded by them, or otherwise would have to acknowledge themselves prejudiced, bigoted and fanatical. The drawback with such a theory is that in fact, as the philosopher Hume said, 'Morality is more properly felt than judg'd of'; that morality, if it is to exist at all, **must** to some extent rely not on arguments but on feelings, and that if moral sentiment were to be eliminated, morality itself would be found to have disappeared at the same time. Thus the claim, 'I just feel it's wrong', however inadequate by itself, cannot be disregarded or written off entirely as prejudice. Sometimes such utterances are accompanied by an elliptical argument which does leave a bit of room for persuasion by clarification. For example, some of those who say they feel it wrong to use human embryos in research say something like 'after all, they're human', as if this explained the repugnance they felt. But if they could be got to consider what the very early embryo was actually like, they might be persuaded that not all humans, at every stage of life, are equally to be protected by law.

Generally speaking, a moral judgement must be based on, or at least accompanied by, sentiment; and yet it must also be itself capable of being the basis of a law and thus, as I have said, partly utilitarian. For the primary concern of a committee is not just to express their own moral views (and we found this, as I have said, difficult enough to do); it is to advise ministers with a view to **legislation**. We had, therefore, to raise the age-old question, 'What is the relation between morality and the law?' In the case of research using human embryos, there was no law in existence. So, is the role of moral philosophy to determine what the law **should** be? There is a very familiar philosophical or jurisprudential question, namely: is it the function of a law to enforce the morality of society at large? But on these issues, there is no common received morality, to act as a guide to Parliament, or to be enforced by the law Parliament was to introduce. The problem for our particular committee, and the problem recently before the House of Lords, was this: utilitarian considerations, such as usually lie

behind good law, may lead in the direction of research, controlled no doubt, and subject to regulation, but involving the use and eventual destruction of early human embryos. Moral sentiment, in some people, seems to point the other way, and to suggest that all such research should be criminalized. For people who feel like that, as I have said, it seems that **utilitarian** considerations are irrelevant. To say that the utilitarian party were reasonable and their opponents irrational is of little help. It is the nature of morality to be at least partly irrational. So what were we to advise? In the end it was the concept of **regulation** which offered a partial solution. Nobody, either among those who sent us their views, or among the committee members themselves, wanted research to proceed totally unregulated. Everyone wanted a system whereby it would be possible to know what was happening and control it, according to clearly stated criteria. Some, of course, wanted this control to be absolute, amounting to a total ban, others wanted it to be limited. But, whichever view was taken, there was common ground: it was necessary to set up a **controlling central body** with an inspectorate, entitled to enter laboratories where research was carried out. To establish such a system entailed legislation, and we framed our advice accordingly. We suggested a time limit beyond which embryos might not be kept alive in the laboratory; and we urged that certain other particular procedures should be criminalized. But these suggestions were, in a way, details, for discussion. The central recommendation was that a permanent standing monitoring body should be established by statute. And on this we could all agree. For even those who were hostile to all research recognized that if research were to proceed, despite their objections, it was better for it to be regulated than not.

It is worth making one or two further remarks about our committee. It was not, and no such committee ever could be, a committee of experts. Though necessarily we dealt with facts, and were concerned with what was now being done, and what might be done in the future, our primary concern, as I have emphasized, was with morality. We were

interested in facts only because we were interested in values. And there is no such thing as an expert in moral values, or so I believe. In questions such as those we had to discuss, there is no such thing as 'correctness', and there is no such thing as **authority**. There is only a set of different opinions. Now some opinions may be well-founded, others ill-founded. Some people may be better than others at seeing all round an issue, and making their assessments by adopting what Hume called 'a steady and general point of view'. But such people are not especially expert; they are simply people of judgement. They may be found anywhere; and the committee chairman is lucky who has two or three of them, as I did, among the membership. But though such people may be very influential, no one will automatically defer to them. Nor will special expertise in philosophy give anybody the right to dictate to others in matters of morality, such central matters of life, death and birth as we were concerned with.

Moreover, there is no presumption whatever that 'moral experts', even if there were agreed to be such people, would necessarily agree with each other. To suppose that they would is to pretend that morality, like logic, is a matter of reason only; or a matter of external authority whose dictates can be known. I do not deny that reason, as well as a good judgement of how the future is likely to turn out, contribute greatly to the making of sound moral and legal judgements. But ultimately morality must, as I have said, be seen to rest partly not on reason but on conscience and sentiment.

Legislation cannot stray too far from moral beliefs. But not everyone can be consulted as to his moral beliefs, nor would a referendum be of the least use as guidance for Parliament on issues such as these. Parliament must, in the end, decide. And here I will, as I promised, return to the optimistic view that our committee has already done good, as have many other committees of inquiry in the past, many of whom may feel, in part, disappointed by their apparent failure to produce instant legislation. In an interview with the journalist Peter Hennessy, on Radio 3 some time ago, I

was accused of regarding committees of inquiry as the means of circumventing popular democracy, a charge which I gladly accepted. A democratically elected Parliament must, in the end, decide what form legislation shall take (and, of course, whether there is to be legislation or not). But Parliament must be informed before it can take sensible decisions. People, as I said at the beginning of my lecture, increasingly and properly demand that legislation shall be justified. When legislation follows a reasonably well set out and intelligible report, even if the advice in the report is not followed, the arguments are there for all to see, and the task of explanation is half done. Moreover, the committee has had **time** to collect evidence and sift it, and to think about the issues, having informed themselves, with the help of their civil service secretariat. And so they are in a position to help educate the public at large, and parliamentarians in particular. In our case, this course of education did, I believe, have some effect. When legislation finally came, there was, I suspect, slightly less ignorance, even if there is still quite a lot of prejudice about. The educational function of such committees then is truly central. Civil servants could themselves collect all the facts. They could write papers to one another, and finally provide ministers with advice. But they would not be **known** to be doing so, nor would they ever need individually to make their views public. Indeed, it would be contrary to their professional role to do so. Committees, on the other hand, are **open** in their deliberations. They publish their findings under their own names over their own signatures. They may be lobbied, attacked, derided. They may, if they wish, defend their views in public. This is, I believe, the great justification for their existence. They are able to — indeed, they are obliged to — fulfil the essentially philosophical task of **dialogue** with people who were not members of the committee itself. To this extent, then, we did, I believe, already fulfil a quite important educative function.

The Embryo Bill has, as I have said, now become law. I believe that philosophy, the habit of mind by which one is enabled to distinguish things that differ and seek out

underlying principles and presuppositions, had an influence both on the drafting of the bill and its discussion and treatment. In the end, the mixture of utilitarian considerations and considerations of human intuition which, as I have tried to explain, guided the committee of inquiry prevailed in Parliament. Members of Parliament stood back for a moment, forgot what each thought his constituents would prefer him to think, and thought for himself.

What I have been talking about has been just an example of the way in which philosophy, through a committee of inquiry, may come to have some effect on the way government makes its decisions. I do not believe that this example is unique. Indeed there are, as I have said, more and more issues where moral questions have to be addressed by Government and where party lines will seem crude and inadequate — there will, for instance, be an increasing number of questions about the environment which will be of this kind. It is essential in all such cases that people should become accustomed to the laborious task of examining principles, uncovering assumptions, taking out and looking at values hitherto perhaps not fully articulated. All such activities are philosophical activities. In an increasingly educated democracy, it is necessary, therefore, that philosophy should be widespread; nothing else will do. I believe that to say this has bearing on how philosophy should be taught in universities, and to how many people. This in turn has bearing on the nature of philosophy itself. But one thing we do know: philosophical arguments are slow and often tiresome, especially for legislators in a hurry. But government, any government, will, I believe, increasingly have to put up with that.

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