

“Law, Liberty and Morality”: Fifty Years On

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In 1962 H.L.A. Hart delivered the prestigious Harry Camp Lectures at Stanford University. The three lectures were published the following year with the title of *Law, Liberty and Morality* and were soon recognized as one of Hart’s most important contributions to legal and political philosophy. The context in which the lectures were written is well known. In the autumn of 1957 the Report of the Committee on Homosexual Offences and Prostitution, known as the ‘Wolfenden Report’, was published in London. The report stated that homosexual behaviour between consenting adults in private should not be a criminal offence, and that there ‘must remain a realm of private morality and immorality which is, in brief and crude terms, not the law’s business’. Lord Devlin, a prominent conservative judge, criticized the Report by arguing that since a society’s existence depends on the maintenance of a core set of shared political and moral values, any conduct that threatens these values thereby threatens the very existence of the society built around them. Conduct of this sort, Devlin argued, cannot be considered purely private and therefore is the legitimate target of criminal law sanctions.

Law, Liberty and Morality was written as a response to Devlin’s arguments. Hart criticized the connection instituted by Devlin between immorality and ‘social disintegration’ and defended the view that the only purposes for which criminal law sanctions can be legitimately inflicted are preventing harm or offense to others and (in some cases) preventing harm to self. Hart’s view is widely recognized, both by its defenders and by its critics, as the most powerful formulation that the liberal position had received since J.S. Mill’s *On Liberty*, and its influence on the philosophical debate of the last 50 years can hardly be overestimated.

The contributions to this symposium take a fresh look at this debate with the aim of critically engaging with the position originally defended by Hart as well as exploring new solutions to some of the issues that were raised in his exchange with Devlin. The first paper, by Jeffrie Murphy, closely focuses on *Law, Liberty and Morality*, raising some

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problems with the way in which vice and sexual liberty are discussed in Hart's text. Most of the remaining contributions, by Richard Arneson, Steven Wall, Leslie Green, Peter De Marneffe, and Danny Scoccia outline new ways of addressing some of the issues originally raised by Hart and move the debate forward by considering new approaches to the question of whether law can ever be employed to enforce morality. The last paper, by Mario Ricciardi, is an historical reconstruction of the place that *Law, Liberty and Morality* occupies within Hart's production, and particularly of the relationship between the volume and some of Hart's ideas on individual freedom defended in previous work. All the essays, even those more critical toward Hart's views, reveal how pervasive the influence of his ideas still is. All are a testimony to the enduring value of his work.