

of humanity', will occasion interest with its exploration of sin and confession sequestered to sociological concerns. Expiation is given a social rather than a Divine universe of understanding. Rosati's second essay on 'evil and collective responsibility' uses moral taint to provide the interconnection.

In his conclusion, Pickering seeks to rehabilitate the notion of theodicy for sociology but in ways that draw attention to the limits of Durkheim's concerns with evil and suffering. The difficulty emerging from this study, as also in Mauss on prayer, is that what is of the interior and of the subjective is sacrificed in Durkheim to attenuate the significance of the objective, what is of social fact, and of the collective. The perplexities within the sacred and its relationship to the profane are given an original interpretation in this collection. In the end, Pickering is right to conclude that Durkheim does not start with evil and suffering in his sociology, but rather treats them as outcomes of social forms of society (p. 168). Because evil is never personified, nor indeed adequately classified in his sociology, Durkheim seems doomed to treat it as a form of damage to society but in ways that block off exploration of the sensibilities of the individual, most noticeably in regard to fear. This dread renders evil malign, both for the individual and for society. Where evil eludes sociological understandings is where theological reflection on its origins begins.

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**LIBERTY OF CONSCIENCE** by Martha C. Nussbaum, *Basic Books*, New York, 2008, pp. viii+406, US\$28.95 hbk

Martha Nussbaum presented her credentials as a philosopher and a classical scholar in 1978 with a book on Aristotle's *De Motu Animalium*. Since then she has been a prolific author, at first chiefly in the field of ethics, but more recently, since she joined the Chicago Law School, addressing philosophical issues connected with law. In *Hiding from Humanity* (2004) she criticised the advent into American penal practice of subjecting offenders to public shaming, and the weight given by legislators and judges to feelings of disgust as a ground for prohibiting behaviour that arouses them and as an excuse for violent reactions they allegedly inspire. In *Liberty of Conscience* she examines judicial decisions on appeals concerning religious freedom and religious establishment. Although the cases she discusses all belong to the United States, her book is highly relevant to current debates in Britain about disestablishment, about state funding for religious schools and adoption agencies, and about conscience in health care. She refers particular issues back to general principles with great clarity and philosophical rigour. And her book has something more that has almost disappeared from academia if not from the law courts: she writes with eloquence. You feel not only that she believes what she says, but that she cares about convincing you of it too.

Nussbaum bases her reasoning on two related but distinct principles. First, everyone should be free to practice any religion or none. On the basis of this she argues for giving religious people exemptions from certain general laws, for instance about military service, dress, drugs and absence from work on sacred days. She also relates it (p. 286) to depriving pupils at religious schools of benefits like free transport which the state ought to provide equally to all, and even (pp. 338–9) to depriving religious institutions of charitable status if they make sexual discriminations their religion requires, though she thinks that could not happen in America. To the question why religion should have this special treatment, her answer in brief is that it is required by respect for conscience (pp. 167–9). No doubt she would agree that before the sixteenth century not

many societies had this concept of conscience, but she may argue that in America at least it has always been sacrosanct.

Her second principle is that the state should do nothing that either endorses or shows disapproval of any religious beliefs, including negative beliefs like atheism. She notes that this is not accepted in Britain or generally in Europe – she charges France with having a ‘secular establishment that is more obtrusive than any of the current European religious establishments’ (p. 83). And she argues not only against referring to a monotheistic God in constitutional documents, but also against official displays connected with particular religions: private bodies may put up crucifixes, nativity scenes, or the Ten Commandments, but public bodies should not.

She is opposed even to the most uncoercive forms of establishment because she attaches the highest value to equality. Above all else a political society must ensure, not just that everyone has equal rights in law, but that everyone has equal respect. Any endorsement by the state of any form of religion (or irreligion) sends a message, she says (pp. 234, 252, 263, 310–11), to some citizens that they are second-rate members of the society, ‘not quite fully equal Americans’. Like Hume’s Wollaston and Pope John Paul II she holds that actions make statements that are not expressed in words. It is certainly desirable that citizens should enter society on equal terms; but there is such a thing as over-sensitivity, and English Catholics who complained that the Protestant establishment makes them feel less than fully English would be thought absurd. Every civilised society known to history has sought the blessing of Heaven on its most cherished public enterprises and its whole continued existence. Must we say that equality has such value that in the modern world this apparently natural instinct can no longer be accommodated?

Professor Nussbaum is well equipped to treat questions about religion even-handedly. Her upbringing was Protestant (on her mother’s side she is descended from the Warren family that went to America on the Mayflower), she has become a Reform Jew, she provides her readers with a sobering history of American anti-Catholicism, and she has made working visits over a number of years to India. We have much to learn in Britain from her sensitive and rational approach.

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