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The Puzzle of Intolerant Tolerance

Abstract

Tolerance is part of the self-definition of democratic societies, one of the major foundations underlying secular democracy's sometimes unstated and always ambivalent claim to represent a higher form of civilisation. The transformation of tolerance from a type of indulgence to a type of virtue is explained in part by what it does. It helps to preserve peace in societies with a high level of ethnic and religious diversity, and it has also played an important part in eliminating the injustices that religious and racial minorities suffered when Western societies were more homogenous. Historically, intolerance has extended in extreme cases to persecution, segregation, violence and mass-murder. In more "normal" situations it has usually meant denial of civil and political rights and unequal treatment at law. A fair and decent society is obliged to address this injustice, not least by state and judicial action against groups which refuse to respect the freedom and rights of other people. Problems arise, however, when even groups which respect the freedom and rights of others, such as the Christian churches, are accused of discrimination and treated as intolerant for observing legitimate distinctions; for properly exercising a preference; and for defending the rights of others. In these cases the concept of intolerance, understood as a refusal to respect the rights of others, has been extended to encompass something which is not a form of intolerance at all; namely, the right we all have to refuse to validate choices with which we disagree.

The Puzzle of Intolerant Tolerance

M.A. Casey

1: When tolerance means intolerance

Tolerance is part of the self-definition of democratic societies, one of the major foundations underlying secular democracy's sometimes unstated and always ambivalent claim to represent a higher form of civilisation. The transformation of tolerance from a type of indulgence to a type of virtue is explained in part by what it does. It helps to preserve peace in societies with a high level of ethnic and religious diversity, and it has also played an important part in eliminating the injustices that religious and racial minorities suffered when Western societies were more homogenous. The West has undergone massive social and moral differentiation since the 1960s. In particular, the liberalisation of immigration laws and the liberalisation of morals, especially those concerning the family and sexuality, have increased the number of "minorities" considerably. It sometimes seems that everyone is part of a minority, which is perhaps one reason why the ideas of majority and minority sometimes seem to have been displaced in favour of the concept of diversity.

Historically, intolerance has extended in extreme cases to persecution, segregation, violence and mass-murder. In more "normal" situations it has usually meant denial of civil and political rights and unequal treatment at law. The "diversification" of Western societies occurred at the same time as these forms of intolerance were slowly and painfully being overturned. This was undoubtedly one of the great humanitarian achievements of the second half of the twentieth century. Some minorities continue to suffer from various forms of intolerance, although usually more at the level of discrimination than systemic violence or unequal treatment at law. A fair and decent society is obliged to address this injustice, not least by state and judicial action against groups which refuse to respect the freedom and rights of other people.

Problems arise, however, when even groups which respect the freedom and rights of others, such as the Christian churches, are accused of discrimination and treated as intolerant for observing legitimate distinctions (for example, between couples who can and cannot be married); for properly exercising a preference (for example, in the employment of staff for church agencies); and for defending the rights of others (for example, the unborn or the disabled). In these cases the concept of intolerance, understood as a refusal to respect the rights of others, has been extended to encompass something which is not a form of intolerance at all; namely, the right we all have to refuse to validate choices with which we disagree. These two very different refusals are run together and deliberately confused. At the same time, discrimination in any form has come to be treated not only as unjust, but as morally equivalent to the most extreme forms of intolerance—and possibly in light of the progress that has been made against them, as substitutes for them. When these two trends come together they produce absurdities full of menace, such as the claim that laws upholding marriage as the union of one man and one woman for life are equivalent to laws prohibiting marriage between men and women of different racial groups. It is an indication of where we are that some among the secular elites of the West find this claim unanswerable.

This tendency to treat the withholding of validation as a form of discrimination, and therefore as intolerance, has been powerfully reinforced by both the logic of radical individualism, and the elevation of diversity to the status of a supreme value. According to this line of thought, declining to validate the particular lifestyle choices of some individuals demonstrates intolerance of diversity. It also constitutes a refusal to respect the autonomy of others. Neither can be tolerated in a good society. For those who follow this reasoning, tolerance is no longer a concession made by the majority of a society to those who do not conform, but an entitlement, a right to validation, which state and society exist to guarantee. Nominally, this tolerance is owed by each individual to every other individual. In practice it is owed predominantly only to certain groups, although it can be evoked more widely when required. In this way, tolerance has ceased to be a *modus vivendi*, a way of coping with the different choices and demands that others are free to make, and become a mandatory requirement for participation in civil and political life.

There have always been limits to tolerance, and this continues to be the case. Historically, tolerance was limited by the nature of the relationship between an exception and a norm. Tolerance was an *allowance* accorded to an anomaly, in part as a way to contain it. This was the intention even when the anomaly comprised a sizeable population, such as the Catholic minorities in English-speaking countries. Tolerance as it is understood and practised today has reversed this relationship. It now serves as an *imperative* which enables the anomaly, through the demand for validation, to contain the norm—even when an anomaly has only a small membership.

New minorities have appeared in abundance as a wide range of anomalous practices and arrangements have become normalised. Yet despite being normalised, they remain anomalies. It is a strange situation. Doubtless more than this was intended, or hoped for, by those who invested their faith in the liberations of the 1960s and 1970s. But it is precisely because the promised deliverance has not been completed that no allowance can be made to the major normative traditions of the West, for these traditions do not accept that every choice is equally valid. As a consequence, confidently asserting these traditions against the clamour of the anomalies, or simply as an alternative to them, has come to constitute a form of gross intolerance which cannot be tolerated. At the same time, the incomplete nature of the liberations asserted forty years ago allows moral energy to be mobilised against these traditions and the discrimination and injustice they allegedly cause. In this way we arrive at the puzzle of intolerant tolerance; the puzzle of secular democracies, committed to tolerance as a central part of their identity and purpose, increasingly resorting to intolerance as the normal means of fostering a tolerant society.

Examples are now legion. In March 2009 a student who had almost completed a graduate counselling course at the Eastern Michigan University asked her supervisor to refer a homosexual client to another counsellor because her Christian convictions precluded her from affirming homosexual relationships. When she refused to take part in a “remediation” program to correct her convictions, she was dismissed from the course on that grounds that she had violated the ethical obligations imposed by the university and the American Counselling Association. These included obligations not to discriminate against clients on the basis of sexual orientation, not to impose personal beliefs on clients, and to “tolerate different points of view”. Even though she had not met the client and had simply declined the case

after reading his file, she was accused of “unethical, threatening [and] unprofessional conduct”.¹

As one commentator has observed, there was in fact no “conduct” involved in this matter at all. The student had merely informed her supervisor of her beliefs and the limits they placed on what she could do professionally. She was punished not for misconduct but for “misbelief”. Treating disapproved beliefs and the expression of them as conduct, as actual discrimination, is part of a wider trend. In a tolerant society, no one wants to think that they are involved in censoring people’s opinions or violating their consciences. So, unacceptable speech and beliefs become forms of conduct which authorities can legitimately constrain and penalise to protect the rights of others.²

The transformation of homosexuality’s status in Western society is one of the most stunning developments of the last twenty years. From being tolerated, as an exception to the norm, validation is now commanded from the majority under various penalties for non-compliance. Tolerance of homosexuality has come to require approval of it, and approval of homosexuality is one of the small number of “enforceable understandings” of the political religion of secular democracy. It is also a crucial means of imposing this political religion. In the United Kingdom, Christian street preachers have been arrested, jailed, and fined for publicly stating biblical teaching on homosexuality.³ The legalisation of same-sex marriage and civil unions in some countries, and even the debate about them, has led to people being brought before human rights tribunals for defending traditional marriage.⁴ Civil marriage registrars or celebrants have been bullied by their employers and forced to resign, or fined by human rights commissions for declining to officiate at civil partnerships or same-sex weddings because of their religious convictions.⁵ In these jurisdictions, belief in traditional marriage is approaching the status of a prejudice which is outlawed in certain circumstances.⁶

A similar pattern has emerged over the issue of adoption and fostering by same-sex partners. In Boston and the United Kingdom, Catholic adoption and fostering services have been forced to close by anti-discrimination laws which would have required them to consider applications from same-sex couples. Requests from various groups for the laws in question to be amended to protect the right to freedom of religion were rejected. The English philosopher Anthony Grayling argued that this was justified because “These groups are trying to be exempt from the effort to be a fair society, and we are faced with the threat of a possible return to the dark ages. We are trying to keep a pluralistic society, and elements in the Christian church and other religions are trying to destroy it”.⁷ In 2009 a major government-funded adoption service, the British Association for Adoption and Fostering, described those

¹. Wendy Kaminer, ‘Criticising gays: a secular form of blasphemy?’, *Spiked*, 24 March 2010, www.spiked-online.com. See also ‘Tensions between rights of conscience and civil rights’, *Pew Forum on Religion and Public Life*, 3 June 2010 <http://pewforum.org>.

². Kaminer, ‘Criticising gays: a secular form of blasphemy?’

³. For two cases from 2010, see Nathalie Rothschild, ‘Thou shalt not criticise homosexuals’, *Spiked*, 31 March 2010, www.spiked-online.com; & ‘Christian preacher arrested for saying homosexuality is a sin’, *The Telegraph*, 2 May 2010.

⁴. For example, the Catholic Bishop of Calgary, Bishop Fred Henry, spent two years fending off complaints brought against him before the human rights commission in the Canadian province of Alberta for a 2005 pastoral letter opposing same-sex marriage and re-stating Catholic teaching on sexuality.

⁵. See for example, ‘Christian registrar loses same-sex partnership case’, BBC, 15 December 2009, <http://news.bbc.co.uk>; & ‘Gay Marriage Refusal Case Tests Rights’, *National Post*, 10 May 2010.

⁶. Cf. David Quinn, ‘We’ll pay a heavy price for allowing same-sex unions’, *Irish Independent*, 12 March 2010.

⁷. Quoted in Stuart Jeffries, ‘Faith’, *The Guardian*, 26 February 2007.

opposed to homosexual adoption as “retarded homophobes”, and foster parents who have indicated that they are unable to promote homosexuality to those in their care have been disqualified from fostering again, often despite years of doing so successfully.⁸ In one case a magistrate who asked not to be assigned to cases dealing with adoption applications by homosexual couples was forced to resign.⁹

Another area where intolerant tolerance is increasingly encountered is in healthcare and medicine. Here the operative imperative is respect for autonomy, although it remains entwined with respect for diversity and follows the same logic to pursue the same end: namely, to confine the major normative traditions of Western culture as an anomaly to the practice of modern medicine, if not to exclude them altogether wherever possible. In the Australian state of Victoria, doctors and nurses are obliged by law to facilitate abortion, regardless of their religious or conscientious objections, if the procedure is necessary to save the life of a woman. In all other cases, doctors with conscientious objections must refer a patient seeking an abortion to a physician who will provide it.¹⁰

Amnesty International, which was founded to defend freedom of conscience, made no objection to this law, and a prominent local bioethicist attacked critics of the law for seeking to protect the right of doctors to impose their moral views on patients, rather than upholding their obligation as professionals to respect the autonomy of their patients.¹¹ Once the law was passed, an Australian medical defence organisation announced it would not cover doctors who defied the legislation, with one indemnity expert saying “a doctor’s conscience does not entitle you [*sic*] to break the law”.¹² In the United States, where individual healthcare workers have been sued or dismissed from employment for adhering to their religious or conscientious convictions, laws protecting religious freedom and freedom of conscience in medicine are attacked as “refusal” or “denial clauses”; so called because in protecting the right of institutions and individuals to provide care in accordance with their religious and conscientious convictions, patients are allegedly “refused” or “denied” the “full range” of medical services.

In these examples there is at least a consistency to the practice of intolerant tolerance. When it comes to religion itself, however, the situation seems to lack coherence. On the one hand there are cases, from the United Kingdom for example, in which a teacher was dismissed for offering to pray for a sick child,¹³ and an airline worker was suspended for wearing a small cross on a necklace, while her colleagues of other faiths were allowed to wear turbans and the hijab.¹⁴ On the other hand, laws prohibiting hate-speech and defamation of religion, and even public order laws,¹⁵ have been proposed and used to shield believers

⁸. ‘Slurred by the adoption Nazis: Critics of gay parenting are branded ‘retarded homophobes’’, *Daily Mail*, 19 May 2009; ; & ‘Foster parent ban: ‘no place’ for Christianity in the law, High Court rules’, *The Telegraph* (London), 28 February 2011.

⁹. ‘Gay couple adoption appeal lost’, BBC, 31 October 2007, <http://news.bbc.co.uk>.

¹⁰. *Abortion Law Reform Act* (Victoria, Australia) 2008, s.8.

¹¹. Leslie Cannold, ‘Conscience vote meaningless unless it is a two-way street’, *The Age*, 10 September 2008.

¹². ‘MDO won’t cover GPs who flout abortion law’, *Australian Doctor*, 24 October 2008.

¹³. ‘Sacked for prayer offer to sick girl’, *The Telegraph* (Sydney), 21 December 2009.

¹⁴. ‘BA drops ban on wearing crosses’, 19 January 2007; & ‘Christian’s BA costs bid refused’, 25 September 2009, <http://news.bbc.co.uk>.

¹⁵. An issue peculiar to the United Kingdom is the use of the Public Order Act by the police to arrest or charge people who have caused “offence” by criticising Islam, even in private conversation. See for example ‘Muslim hotel row case dismissed’, 9 December 2009, <http://news.bbc.co.uk>, in which the owners of a hotel faced criminal prosecution for an argument they had with a Muslim-convert client over Islam.

from intolerance. The purported intention of these measures is to protect individuals from being “offended” by the intolerance of others. The practical effect, however, is to protect religious beliefs and practices from criticism, but usually only the beliefs and practices of minority religions, and often only those of Islam.

The reasons for this arise from the complicated relationship that Western democracies have with their Muslim minorities. It is a relationship sometimes characterised on both sides by misunderstanding, ignorance, fear, and wishful-thinking. On some occasions it has also given rise to intimidation and appeasement. This is not the whole story, and the situation varies considerably between Europe, North America and Australia. Attitudes to immigrants, the size of a Muslim community, the national origins of different Muslim populations, the particular traditions of Islam to which they adhere, and the quality of political and community leadership, tend to produce different situations in different places. There is no doubt that Muslim communities in the West, with other religious minorities, are victims of intolerance from time to time. This needs to be addressed. It is essential that Muslims be treated like everyone else; fairly and justly.

For present purposes, however, it is sufficient to note how the suffering caused by actual intolerance to individuals and communities is appropriated for symbolic purposes. Muslim minorities are made to serve as a particularly significant anomaly, an exception urgently warranting further containment of the normative traditions of the West; for example, through the *de facto* acceptance of polygamy. We have not quite reached the point where the refusal to validate polygamy, whether for Muslims or as the next item on the agenda after same-sex marriage, has become a form of discrimination, but the possibility cannot entirely be excluded. In this way the existence of Muslim minorities in the West is invoked as a further reason for intolerant tolerance, particularly against religion, but not necessarily against the actual intolerance that may exist or occur in Muslim communities.

It is no coincidence that the practice of intolerant tolerance should come into focus over questions of life, love, sexuality, and religion. Two key premises of the revolutionary developments of the 1960s and 1970s were that radical cultural change requires a significant proportion of the population to adopt new assumptions about these questions, and that living out these assumptions will commit individuals and the culture to a new direction. When Christianity was brought to the Roman world it also worked from these premises, for radically different purposes and with world-transforming results.¹⁶ This is one reason why conflicts over the meaning and purpose of sexuality, for example, often seem to be at only one or two removes from public arguments over issues as disparate as religious freedom and biotechnology. The definition of the human person in the present age depends on which understanding of life, love, sexuality and other key human capacities (such as reason) prevails in the culture. The outcome of this struggle also depends on what happens to religion, and Christianity in particular. Intolerant tolerance is a taking of sides on this question; an attempt to foreclose better possibilities for individuals, communities, and democracy itself.

¹⁶. Rodney Stark, *The Rise of Christianity: A Sociologist Reconsiders History* (Princeton NJ: Princeton University Press, 1996)

2: Two views on tolerance

Two concepts of tolerance, one ancient and Christian from the Roman writer Lactantius, the other modern and secular from the American philosopher John Rawls, are helpful in providing some perspective on intolerant tolerance.

Lucius Caecilius Firmianus Lactantius was a Christian writer born in the North African provinces of the Roman Empire around 240AD. Late in his life, in the early years of the fourth century, he was summoned to the court of the emperor Diocletian to teach rhetoric. Lactantius was not born into a Christian family and was for most of his life a pagan, only converting to Christianity perhaps soon after arriving at court. His timing was unfortunate, for in 303 Diocletian unleashed the last major persecution of Christians, which continued in the eastern empire until his successor Galerius revoked it on his deathbed with the Edict of Toleration in 311. In 312 Constantine became emperor in the west, converting to Christianity in the years that followed. In 313 the Edict of Milan extended religious freedom throughout the empire, restoring civil rights to Christians and placing them on an equal footing with followers of the traditional religions. Lactantius survived the Great Persecution, living in poverty after he resigned or was dismissed from Diocletian's court sometime after 303, until he joined Constantine's retinue sometime between 306 and 310 as tutor to Constantine's son. He continued at court after Constantine became emperor and died in 320.

Lactantius' major work was the *Divine Institutes*, written between 305 and 310. He used classical poetry, philosophy and mythology to demonstrate the reasonableness and truthfulness of Christian claims to an educated and influential readership, which included Constantine himself, during a time of persecution. One scholar describes the *Divine Institutes* as "the most comprehensive and sophisticated Christian treatise in Latin before Augustine's *City of God*".¹⁷ It also provides "the first arguments in support of mutual religious toleration... that rest on a well-developed theoretical basis".¹⁸

The phrase "freedom of religion" was coined by Tertullian, who argued for toleration as a matter of principle on the grounds that compulsion in religion is irreligious. "Unwilling sacrifice is meaningless", and religious devotion, if it is to be genuine, must be freely given. It was left to Lactantius to develop these ideas. In doing so he drew on a tradition of Roman thought, exemplified by Cicero, which emphasised that if there is impiety in the practice of religion, it should be left to God to punish; and that in true worship, "purity of mind and piety are much more important" than outward conformity to ritual.¹⁹ Lactantius argues that "nothing requires free will as much as religion... because religion is absent when observance is forced".²⁰ For this reason, those who sought to compel Christians to conform to the traditional religions "merely exhibit[ed] their bankruptcy". For the same reason, Christians were precluded from retaining people "against their will..." because the person who lacks the requisite conviction is 'useless to God...'. Bringing people to change their religion "is something that must be accomplished by words rather than wounds, so that it may involve free will".²¹

¹⁷. Elizabeth DePalma Digeser, *The Making of a Christian Empire: Lactantius and Rome* (Ithaca & London: Cornell University Press, 2000), pp.7-13.

¹⁸. *Ibid.*, p.113

¹⁹. *Ibid.*, p.112-13

²⁰. *Ibid.*, p.109

²¹. *Ibid.*

Lactantius bases his argument for tolerance on principle. If religious devotion is to be genuine, it must be adopted freely. Coercion contradicts the very nature of religious belief and is therefore precluded. If there is to be punishment for following a false religion, it should be left to God. In short, respect for religion requires respect for freedom. The importance of principle in Lactantius's concept of tolerance brings it close to modern definitions, which distinguish between forbearance, toleration and concord. A state practises *forbearance* when it simply "avoids force and puts up with behaviour it finds objectionable". *Toleration* is forbearance, but practised out of respect for a religious, moral or political principle, such as respect for freedom. A second element to toleration is accepting that differences will continue into the long-term, without any ambition or intention to resolve them. *Concord* is forbearance practised out of respect for principle, but in the hope or expectation that dissenters will eventually change their behaviour and conform to what the state deems acceptable.²² It was a policy of concord—forbearance from principle, but also as the means for bringing polytheists to conversion and Christianity—which Constantine eventually adopted, partly under the influence of Lactantius's teaching.

John Rawls provides one of the major modern accounts of tolerance. Apart from the distance of centuries between them, an important difference between Lactantius and Rawls is that while Lactantius argued the case for tolerance in a situation where state intolerance of non-conformists was taken for granted, Rawls was concerned with the limits of toleration in a tolerant society. For Rawls, the modern state is an "association consisting of equal citizens" governed by the principle of equal liberty—a basic fairness of freedom—which Rawls takes to be one of the foundations of justice. The state has no competence in religious, philosophical or moral matters, just as it has no competence in art and science, and so "has neither the right nor the duty to do what it or a majority . . . wants to do in questions of morals and religion". This means that the state cannot be based on a particular religious faith or a particular secular ideology—hence the idea that the state should be "neutral" towards different beliefs and values. "Its duty is limited to underwriting the conditions of equal moral and religious liberty", which include preserving "public order and security". The power to maintain order is a power that "government must have if it is to carry out its duty of impartially supporting the conditions necessary for everyone's pursuit of his interests and living up to his obligations as he understands them".²³

From all this it follows that religious freedom and freedom of belief, or "liberty of conscience", can only be limited "by the common interest in public order and security". Any limits placed on freedom of religion and belief must not undermine what they are intended to protect. The danger "to the security of public order should not be merely possible or . . . even probable, but reasonably certain or imminent", according to "ordinary observation and modes of thought".²⁴ The threat posed is not to be judged on religious or ideological grounds which cannot be contested (for example, by asserting that atheists on the one hand, or Catholics on the other, are intolerant by nature), but empirically, which allows other citizens to object when "the limits have been drawn incorrectly".²⁵

Being intolerant is not in itself sufficient "for limiting someone's liberty". "A more stringent condition is required: there must be some considerable risks to our own legitimate

²². *Ibid.*, pp.110-11

²³. John Rawls, *A Theory of Justice* (Cambridge MA: Harvard University Press, 1971), pp.212-13

²⁴. *Ibid.*, p.213

²⁵. *Ibid.*, pp.214-16

interests” in the preservation of equal liberty and our own security.²⁶ The intolerant have no right to complain when their rights are limited to protect the rights of others—if you do not respect the rights of others you can hardly complain when your own rights are limited—and when intolerance endangers freedom, citizens “can properly force the intolerant” to respect the rights of others. But importantly for Rawls, “the liberties of some are not suppressed simply to make possible a greater liberty for others”. The liberty of the intolerant is only to be limited “for the sake of equal liberty”, and when the political order is secure and liberty and the freedom of others is not in danger, “there is no reason to deny freedom to the intolerant”.²⁷

Rawls presents a highly principled argument for toleration. We are to accept that our differences will not be resolved, and forbear beliefs and behaviours with which we disagree out of respect for freedom and the demands of justice. Because the state is meant to be neutral in relation to beliefs and values and exists merely to preserve the conditions for equal liberty, theoretically it has no world view of its own. It neither agrees nor disagrees with any set of beliefs or values. It is affronted by none of them and so has nothing to put up with. The sole exception is in the case of intolerant groups. Those which pose a danger to freedom and the rights of others are forced to conform, but those which pose no danger are to be tolerated, and strictly speaking this is the only case in which the state is required to practise tolerance. The neutralisation of the state by liberal political theory pushes the burden of toleration back onto society and individuals. It is here that different groups must tolerate beliefs and behaviours with which they disagree and refrain from imposing their own views out of respect for the rights of others. For Lactantius, toleration was a problem for the state. For Rawls, it is a problem for society; and it is at this point that Rawls’ reasonable and apparently very sensible account of tolerance in modern democracy begins on the course that leads to intolerant tolerance.

A first clue is provided in Rawls’ brief discussion of the merits of tolerating intolerant groups which do not pose a threat. An important consideration in extending toleration is that it may eventually persuade the intolerant “to a belief in freedom”. Those who enjoy the liberties of a free society “acquire an allegiance to it over a period of time”. Assuming that the institutions of a democratic society are stable and working effectively, and that the intolerant group is not so strong or does not grow so rapidly that it can capture or overturn them, “it will tend to lose its intolerance” and eventually “convert” to liberty.²⁸ Rawls thus moves from tolerance to advocating a policy of concord: toleration offered in the hope or expectation that dissenters will ultimately conform their beliefs and behaviour to the demands of equal liberty.

In addition to this, the state’s role in protecting and maintaining the conditions for equal liberty naturally works its way out to encouraging everyone, very actively, to commit to tolerance as a foundation of civic and social life. Rawls’ emphasis on equality in his approach to freedom and justice is focussed to a significant extent on equality of outcomes. This necessarily involves the state in closer and closer supervision of society and continuing intervention to protect equal liberty and bring about equal justice; especially, for example, for groups which suffer discrimination.

²⁶. *Ibid.*, pp.218-19

²⁷. *Ibid.*, pp.218-20

²⁸. *Ibid.*, 219

Opposition to equal liberty on any point is opposition to the rights of others and therefore a form of intolerance. Religious groups whose teachings or beliefs are alleged to be discriminatory, for example, find themselves placed under permanent suspicion of intolerance. Tolerance for them means that they are not required “to revise their opinions [or] give them up” (although in reality they may be placed under considerable pressure to do so). But they must acknowledge that “the principles of justice” legitimately “override [their] beliefs when there is a conflict”, and accept that their rights must be limited to protect the rights of others. “In this way the principles of justice can adjudicate between opposing moralities just as they regulate the claims of rival religions”;²⁹ and in this way religious freedom has come to be under significant pressure in free societies, in the name of tolerance.

Lactantius and Rawls cannot be placed properly on the same footing to make any meaningful comparisons, but looking at their writings on tolerance together allows us to grasp an important distinction. Lactantius bases his argument for tolerance on an attribute—freedom—and on the interior disposition which makes belief genuine. Rawls bases his argument for tolerance on an aspiration—equal liberty—and on the political arrangements necessary to realise this outcome. Leaving these two writers and their respective commitments to one side, there is a world of difference between the tolerance which has its beginning and end in respect for freedom, and the tolerance which operates as a means of bringing about a vision of a good or just society. In modern societies these two ideas of tolerance are often tangled together, so confusion is to be expected. But it is usually when tolerance is placed in the service of a particular project that it is most likely to produce intolerance.

3: From relativism to decisionism; from tolerance to intolerance

Great projects have of course become modernity’s substitute for truth. The Western habit of mind which brings philosophy and politics together to remake reality was not broken with the demise of totalitarianism. The ambition to establish a “new order of the ages” has been a part of modern democracy since its beginnings in the eighteenth century, with very different outcomes depending on whether it placed itself under the truth or assumed the supremacy to itself. Freedom is the central focus for both these approaches, and while it is usually regarded as an absolute, in fact it always exists in a relationship to something greater: the truth on the one hand, which permits it to come into its own; or the project on the other hand, in which case it is subordinated and circumscribed, and sometimes cancelled out altogether.³⁰

We do not need to look to the great dictatorships of the twentieth century to see what happens when a project displaces the truth and assumes the supremacy. Democratic societies have made autonomy and the maximisation of freedom into a project, and the consequences tell us all we need to know. Human rights, for example, go seriously and dangerously askew. The right to life is made conditional because autonomy requires the legitimation of abortion and euthanasia, which also has corrupting effects on medicine, science, and law. Freedom of expression becomes a mockery of itself because autonomy requires it to protect pornography—now its main function in contemporary democratic societies—which has malign effects on families, freedom and the culture. Freedom of conscience becomes a contradiction, because rather than enabling people to resist evil, autonomy requires that

²⁹ *Ibid.*, pp.220-21

³⁰ On this point, see Joseph Cardinal Ratzinger, *Truth and Tolerance: Christian Belief and World Religions*, trans. Henry Taylor, (San Francisco: Ignatius Press, 2004), pp.240-42.

conscience be compelled to facilitate it. Freedom of religion becomes diminished, because religion is treated as a source of discrimination and autonomy requires that discrimination is not to be tolerated.

Anchored to a project, rather than to the truth about the human person and the common good, freedom becomes an assertion of self against others, and ultimately a form of unfreedom—using freedom in a way that makes ourselves and others less free. In the same way, tolerance goes beyond seeking concord to become a means of imposing conformity, and therefore a type of intolerance. The repudiation of truth, the refusal to concede even the possibility that reason and human experience can lead us to know a truth not of our making and greater than any of our individual perspectives, is the first and crucial step on the path to intolerant tolerance. In the light of the copious plurality of human existence, the abundance of conflicting views, values and desires, and the adamant insistence on our own supremacy, truth appears to be not only implausible but tyrannical. It narrows existence, constrains the possibilities of knowledge, and limits freedom and autonomy. Its categories of good and evil and true and false, exclude and condemn, giving rise to division and intolerance. For those who follow this line of reasoning, relativism seems to be the only option to ensure respect not only for freedom and human rights, but also for knowledge and complexity. In this way, relativism has become the only form of moral philosophy safe for democracy.

Relativism reinforces the need for tolerance and elevates its importance. If different values are no more and no less than equally valid, and if truth—and therefore judgement between these values—is impossible, tolerance becomes imperative. In the absence of common beliefs or shared understandings, tolerance becomes the only basis of social and political life in a democracy. It is a very slender reed on which to base a life in common. Democracy becomes a means without an end, a process, with the state acting as both the facilitator and linesman for “the tolerant society”. In carrying out this task the state is meant to be neutral between the different but equally valid values and desires of its citizens, but life is not lived in neutrality. Where it is relativism rather than truth which shapes the moral life of a society, the capacity to call falsehood by its name, and to uphold the good against it, is hamstrung. Any consensual activity by adults which does not break the law becomes a “right” which cannot be resisted, regardless of the destructive effects it may have for individuals and the community. The practical effect of treating (for example) faithful marriage and sexual promiscuity, or peacefulness and consensual violence, as equally valid options which must be tolerated as such, is to create a society which always justifies the bad but is incapable of defending the good. There is no neutrality when the good cannot be preferred to the bad. When it is informed by relativism rather than some concept of the truth, neutrality works to favour the bad, with all the deeply discouraging consequences this has for families and communities which are trying to live out the good.

The neutrality of the state is heavily qualified from another direction by the policies of the party in power, by the fears and demands of the majority in representative politics, and by the influence of minorities and elites, all of which favour their own view over others and seek to make it the exclusive basis of decision making in a democracy. But irrespective of which party or group holds power for the moment, the logic of relativism continues to expand the compass of tolerance, gradually normalising more and more anomalies and reshaping culture and society in the process. It is a process which appears capable of going on forever, but inevitably there is a limit to how much diversity human beings can be required to validate. Relativism does not free us from answering questions about what constitutes a good society and the beliefs and behaviours which are to be preferred to bring it into being. However,

because it denies that there is any sure foundation from which to answer these questions, relativism forces democracy to resort to a form of decisionism.

Partly this is a question of procedure. A democracy's vision of a good society and the measures necessary to realise it might be decided by the verdict of the majority or the preferences of its governing classes, but once the appropriate procedure has been followed, the matter is settled. A decision made in this way—for example, to constitute democracy as a tolerant society—will of course be justified using the language of justice, rights and even truth, but it is the decision which matters and which to a significant extent determines what is “just” and “true” (or “tolerant”) in any particular case. Even when these decisions are contested by reference to other concepts of justice and truth, many of those actively involved in the broader political process are assiduous in rejecting any suggestion that democracy takes part in a moral order greater than any human creation or perspective, against which the truth and justice of democratic decision-making—on tolerance or on any other question—can be assessed reliably.

Decisionism is often taken to imply a practical nihilism: because people believe in nothing, they can accept whatever decision is made as long as it is made by the appropriate authority. In democratic societies, however, beliefs in justice, human rights, and even truth as realities not of our making continue to be strongly held, even if with a considerable degree of incoherence and contradiction. The problem is how to found and sustain these beliefs when relativism is taken to be the only moral philosophy that makes sense in a democracy. The solution lies in making a decision for justice and human rights, which is also a decision not to enquire about their philosophical foundations or how they might be shown to be true. We decide that justice and human rights are real, and our decision makes them so. In the absence of truth it is the decision which enables us to make commitments and to live them out. Richard Rorty has made a major contribution to giving decisionism a democratic formulation, arguing that most people do not require clear knowledge, or any knowledge, about the foundations of their beliefs (which Rorty does not believe is available in any case) to live them out with the utmost conviction.³¹

Decisionism is an attempt to escape from the logic of relativism through an assertion of the will. It fails because it remains part of this logic. Tolerance offers a good example. If there is no truth, if all beliefs are equally valid, then it is only through domination that one perspective can prevail over all others. Decisionism is a form of domination, even when it takes the form of a decision for tolerance in a context where relativism itself naturally suggests this decision. Once a decision has been made it must validate itself. In democracy reasoned argument and explanation is indispensable for this purpose, but it can only go so far because reason cannot point to anything beyond relativism. As a consequence, the most important source of validation for a decision is success. In part this means showing that a decision for tolerance builds a tolerant society by ensuring that the reach of tolerance extends to more and more people in anomalous situations. It also means eliminating the actual discrimination and injustice that arises when some refuse to respect the rights and freedom of others.

Success usually entails overcoming opposition. It is in the nature of things that as a decision succeeds, objections to it sooner or later fall away. The persistence of objections, even after a considerable measure of success, casts doubt on a decision and keeps it

³¹. Richard Rorty, *Contingency, Irony and Solidarity*, (Cambridge: Cambridge University Press, 1989)

provisional. This is obviously unacceptable when a decision has been made for something as self-evidently good as tolerance. Democratic decisionism is meant to bring a level of stability and certainty to the debilitating moral and social confusion which relativism so powerfully magnifies in already complex modern societies. It can succeed in doing so only if a matter is settled by the decision that has been taken; if the decision becomes the final word. Objections which do not fall away, especially those which are sustained by philosophical or religious convictions which repudiate relativism and argue for the truth, are fatal to decisionism, because they constantly call into question the presuppositions on which the decision relies.

A lot is at stake when democracy bases its vision of itself as a tolerant society on decisionism. It is a decision which cannot be allowed to fail. So, if the objections which Christians continue to maintain in defence of the dignity and freedom of the human person, in defence of human life from conception to natural death, in defence of marriage and the natural family, and in defence of religious freedom, conscience, human rights and social justice, cannot be answered “rationally”, the only way to eliminate the “discrimination” they cause is to treat these objections, and the beliefs from which they arise, as a form of intolerance, and act against them accordingly. This means excluding them from the range of acceptable argument in a democracy, and constraining the freedom of those who hold these beliefs to act upon them. Standing objections are a threat to decisionism and everything which is built upon it. If they cannot be discredited, they must be neutralised, at least to the extent of bringing about external conformity.

One of the perils of following a train of logic is that it tends to produce an account of a problem which is neater and more streamlined than what we usually find in the real world. Logic does not always unfold in a straight line in the constant upheaval of modern democratic life. It is possible to cut across it, to bring other factors into play which can humanise it or ameliorate it, and perhaps even divert it at different stages along its course in other directions. Life is larger than any logic, and it is important to keep in mind the complexity of life and the unpredictability which complexity can create. It is also essential to remain clear that the future is always open. Logic is not a destiny which makes realism indispensable. While it is important to understand how the logic of a situation unfolds itself and to analyse the currents working within it, we also need to be attentive to the possibilities that may open up for something better.

In summary, intolerant tolerance is a puzzle with four parts. The first part is relativism, which in democracy gives rise to the second part, tolerance. Because there is no escaping questions about what constitutes a good society, least of all in a democracy, and because relativism is incapable of answering these questions, recourse is had to the third part of the puzzle; decisionism. Decisionism is an act of the will, and its validation depends on success, which requires the overcoming (or elimination) of objections and the achievement of concord, or at least conformity. Attempting to secure any good on the basis of decisionism will inevitably lead to intolerance, the fourth part of the puzzle, and when the good in question is the good of tolerance, the result is intolerant tolerance.

4: The exit: from tolerance to solidarity

Tolerance as it is understood and practised in contemporary democracy is fundamentally misconceived. The task of elaborating a better concept of tolerance and a surer foundation for it is the subject for a different paper, but it may be appropriate to conclude

with some brief preliminary observations about some of the premises which should inform the reconceptualisation of tolerance.

Because tolerance is currently proposed in opposition to the truth, and as part of a project which is meant to substitute for it, it is in real danger of becoming the opposite of the pursuit of the common good.³² We go wrong on most things when we go wrong on questions about the human person and transcendence, and this applies to tolerance as well. One way of recovering the situation is to anchor tolerance in solidarity.

Tolerance assumes estrangement from each other. There is no common moral understanding, and even the idea of a common human nature is disputed. The only way of resolving the conflict of values is through the assertion of will. The relativism that underlies tolerance fosters suspicion, mistrust, fearfulness and lack of confidence in the world. It also encourages hardness and self-assertion in imposing one's beliefs or defending them against the hostility of others. People either live alone with their convictions entrenched or come together with the like-minded, either aggressively or defensively. It is a situation which in some respects recalls Carl Schmitt's claim that the fundamental distinction in politics, to which all political action can ultimately be traced, is the distinction between the friend and the other, the stranger; between friend and enemy.³³

Solidarity assumes that we belong to a single family. As in a good family, this implies that rather than simply putting up with each other with hardened hearts we should aspire to accept each other as friends, and so be enriched by diversity, rather than grudgingly enduring it. Solidarity treats human beings not as isolated atoms but as persons who depend on others for their fulfilment and completion. We are autonomous, but our autonomy is shaped by reciprocity, by shared concerns for the good. This enables individuals to freely assume responsibility for each other, rather than thinking that they are only responsible for their own self-creation. When tolerance derives from relativism and decisionism it quickly becomes a form of indifference, including indifference to the sufferings of others. This undermines the acceptance which tolerance is meant to generate, and which is compromised in its own right by the refusal to extend acceptance to particular categories of people; the unborn, for example.³⁴

Solidarity corrects this by re-establishing tolerance in the truth. But how can this be done when truth remains the great stumbling block for modern philosophy and politics? Movement is required, from the obdurate refusal to countenance truth and transcendence, to a concession that perhaps truth is possible and available to us after all. Conceding the possibility of truth, that we share a desire to find the truth and to live in its light, changes the situation completely. Nothing is lost from diversity, disagreement, scepticism and dispute, but they are re-located within a common journey; one we might even call a pilgrimage. We become intelligible to ourselves again; trust, openness and mutual respect for each other in our differing moral commitments are strengthened, become easier. Conceding the possibility of truth also requires clarity that truth is not an answer in a box, a neat solution to a problem. It is contrary to the truth to use it as a cudgel, to make it a source of division or a form of coercion. Truth is the unfolding of reality, in which the life of each individual takes part. It

³². John M. Rist, *What is Truth? From the Academy to the Vatican* (Cambridge: Cambridge University Press, 2008), p.339

³³. Carl Schmitt, *The Concept of the Political* (1932), trans. George Schwab (1976), (Chicago: University of Chicago Press, 1996), pp.26-27.

³⁴. Cf. Benedict XVI, *Caritas in Veritate* (2009), n.28.

enables us to know reality with confidence, including the moral order of existence, but requires us to live in the tension created by joining this knowledge to compassion and justice: the compassion we owe to each other as creatures prone to making a mess of things, and the justice we owe to those who have been harmed by our wrong-doing.

When the commitment to tolerance in a democracy ends by treating people who respect and defend the rights and freedoms of others as intolerant, the concept of tolerance needs to be re-founded. For this to be achieved, the possibility of truth must be conceded again, and with it, the possibility that human beings share a common nature and a common destiny. Seeking the truth leads people in many divergent directions, but the acknowledgement that it is truth which is being sought provides a more durable foundation for life in common than relativism and decisionism. Intolerant tolerance has brought a presumption of enmity to democratic life. Our ambition should be to replace it with the presumption which animates solidarity; the presumption of friendship.