1 Introduction: toleration in trouble

> When the King of Prussia entered Silesia in 1740, a small Protestant borough, jealous of a neighbouring Catholic village, came humbly to beg permission to put all the inhabitants of that village to the sword. The King replied: 'If that village came to ask me for leave to cut your throats, would you think me right to grant it to them?' To which they replied: 'O gracious sovereign, the case is very different: we are the true Church.'[1]

Defenders and critics of the United States agreed that the 11 September 2001 attacks targeted not just the nation's people and buildings, but its ideals and values – the 'American way of life'. Some interpreted the attacks as a traditionalist backlash against US or western liberal pluralism, the assertion of the Way against the West's pluralistic decadence, while others saw them as an essentially modern or postmodern phenomenon.[2] At any rate, the 9/11 outrages offered the most graphic illustration of non-assimilation to western ideals, and particularly the rejection of liberalism, since the end of the Cold War.

The 11 September attacks, and the subsequent bombings in Madrid, Bali, London, Istanbul and elsewhere, are only the most visible instances of the religious and cultural divisions that mark the post-Cold War period. Pope Benedict XVI's Regensburg lecture about Islam, the dispute over the Anglican Primate's remarks in 2008 predicting the absorption of Sharia into English law,[3] religious fundamentalism in education and in relation to security policy, artistic censorship, such as the withdrawal of the play *Behzti* by Birmingham Repertory, the *Jyllands-Posten* cartoons and the BBC television screening of *Jerry Springer: the Opera*, and British Airways' ban on the wearing of crucifixes by its employees also exemplify political disputes over toleration. Similarly, the murder of the Dutch film-maker Theo van Gogh in 2004 and the forcing into hiding of the

[1] Voltaire, *Treatise on Tolerance and Other Writings*, ed. Simon Harvey; tr. Brian Masters (Cambridge University Press 2000), 132.
[2] John Gray, *Al Qaeda and What It Means to Be Modern* (London: Faber 2004).
[3] See Chapter 6.

Somali Dutch activist Ayaan Hirsi Ali were held up as exemplars of religiously motivated intolerance. The stance of some religions towards homosexuality has also provoked conflict, both as disputes within the Anglican Communion over ordaining homosexual priests, and the proscription of Roman Catholic adoption agencies, which refused to make infants available for adoption by same-sex couples. Controversy attended the proposed Koran-burning by a US fundamentalist pastor, the proposal to build a 'Ground Zero Mosque' (in fact an Islamic community centre) near the site of the 11 September attacks in New York, and the French Senate's proscription in 2010 of wearing the burqa in public.

So toleration remains politically contentious. A notable feature of these disputes is that attributions of intolerance are not only made by one side rather than the other: the language of toleration readily lends itself to appropriation by either party to the disputes.[4] For example, the controversy over Catholic adoption agencies invited accusations of intolerance on each side: by same-sex couples denied access to adoption by the agencies, and by the agencies who regarded this denial as a matter of religious conviction. The threatened Koran-burners could be seen as intolerant, but could also lay claim to toleration under the First Amendment. Similarly, those who disseminated an incendiary film about Islamic intolerance on the internet in September 2012 could be seen – while taking advantage of the tolerant culture of free expression – as themselves sponsoring intolerance against Muslims. Was the proposed Islamic centre near Ground Zero intolerant of the memory of victims of the 2001 killings, or were activists who sought to prevent its construction acting intolerantly, or perhaps both? Similarly, the French burqa ban might be regarded as intolerant of differences in religious dress, or as itself an act of toleration, in that it bore down on female repression within Islam. Appeals to toleration often seem not to resolve political conflicts, but to perpetuate them.

Toleration in political conflict

This book does not try to set out another theory of toleration. Writers who do offer such a theory generally aim either to analyse toleration as a concept,[5] or to give an account of justified toleration that can explain what should and should not be tolerated. Sometimes, again, the aim is

[4] Glen Newey, *Virtue, Reason and Toleration: the place of toleration in ethical and political philosophy* (Edinburgh University Press 1999), ch. 5.
[5] Newey, *Virtue, Reason and Toleration* ch. 1 offered such an analysis.

to provide a rhetorical anatomy of toleration, for example in the form of an immanent critique. This is a little closer to the goal of this book, in that it takes seriously the idea that the language of toleration in liberal democracies is vulnerable to political manipulation and that theories that ignore this fact risk becoming, in the pejorative sense, ideological. But the ulterior aim is not to debunk toleration – to expose it as a bogus ideal. It is rather to reaffirm a feature of toleration that is in danger of becoming obscured both in the heat of political argument and in philosophical theory's quest for conceptual clarity.[6]

That feature is the awkwardness of toleration or tolerance[7] as a political ideal, evident in the examples already given. The awkwardness itself helps to explain why toleration comes under political and theoretical pressure. In the face of this pressure it becomes hard to reassert the value of toleration against the impulse in political theory and practice towards normative simplification. The attractions of simplicity are plain. But it can lead to distortion, and if what is distorted has normative content, a misrepresentation and indeed loss of value may result. I explore this process in the chapters that follow. Toleration grinds and jolts against other political values such as equality, democracy, security and justice. It then becomes tempting to discard it, downgrade it, or transform it into something thought to be more normatively manageable – such as one of these other political values.

Its vulnerability comes out both in theories of toleration and in the uses to which toleration is put in political advocacy. To say that toleration has been distorted assumes, of course, that there is something that toleration is, which is being misrepresented. My aim is to keep this content largely implicit. That said, the underlying thought is that there is political space for the idea that, though a practice may be distasteful, regrettable, even deplorable, there is reason not to stop or censure that practice. This is not, it should be clear, a lexicographical point. At this high level of generality, what matters is whether a concept with this shape has a political point, or role. That in turn leads one to ask what it is for something to have a political point. The idea is that politics is a public arena which is incompletely deliberated – which poses a question about collective action. The fact that some practice is deplorable, distasteful, etc., raises a political question about the response appropriate

[6] For a defence of this role for toleration, see John Horton, 'Why the Traditional Conception of Toleration Still Matters', *Critical Review of International Social and Political Philosophy* 14:3 (2011), 289–305.
[7] I shall not distinguish these terms.

to it, and the very openness of that question leaves room for a concept with the broad shape just mentioned.

This way of seeing things gives priority in political action to deliberative accessibility. It is often a real question – a political one – whether a certain course of action is, from here, accessible to political deliberation. Any political concept is liable to undergo deformation or, less tendentiously, 'decontestation'[8] as part of the deliberative process. Political actors adopt a specific interpretation of the concept in arguing their case, such as a libertarian conception that stresses freedom to appropriate, rather than freedom from others' acquiring exclusive property rights. The very idea that political actors decontest key concepts counsels against naively reading off the concept from its political use. But that does not mean that the concepts should or even can be abstracted from their role in political argument. To do so risks offering merely another form of decontestation, not obviously more authoritative than others. Insofar as this book presents a single argument, it is that a concept with the general shape already outlined is likely to persist – to have an enduring political use – just because of ineradicable remainders in political thought and action.

That does not mean that policies of toleration, or policies answering to a concept shaped like the one above, are ineradicable. It means that the concept is liable to have a deliberative use to the extent that there is politics. The instability lies in the tension between the openness of deliberation and the drive in politics to reach a decision; this is a constitutive tension. The impulse to closure in the face of deliberative remainders pulls against the open-endedness of political action. Faced with a state of affairs or practice that certain interests object to and want suppressed, the initially open question of what to do can be closed by complying with or opposing their demands. In this sense, as long as there is the option of using political means to deal with the practice, a political question exists. The resolution that comes with a decision is not final. That could only come from an end not only to the objected-to situation, but to the possibility of its arising again. The fantasy of a final determination is in this sense one of an end to politics – an end which lies in eliminating deliberative remainders.

This suggests that attempts to formulate ideal conditions for toleration, or at least for failing to suppress or censure what is found objectionable, may commit a category mistake. Such theories offer a

[8] Michael Freeden's term. See his *Ideology: a very short introduction* (Oxford University Press 2003), 54–60; also his *Ideologies and Political Theory* (Oxford University Press 1998). For an acute analysis of the role of disagreement in political argument, see Andrew Mason, *Explaining Political Disagreement* (Cambridge University Press 1993).

static analysis of well-ordered societies in which toleration prevails, and so does not pose itself as a political problem. The theories explain why, if a problem does emerge, one side or other has made a mistake, and perhaps suggest what it or the political authority should do to rectify it. Theorists who highlight the political significance of normative controversy respond to problems of toleration, to which such controversy is central, by making further controversial normative claims. One can insist on a normative standard which political life fails to meet. But it is possible to take a different view, by noting the persistence of conflict in political life and the very general sources from which it springs – the openness of deliberation to which I have already referred, and the fact of normative complexity.

So this book is less concerned with prescribing when to tolerate, than with understanding how this complexity works itself through in political practice. This is not only because concepts, including that of toleration, have a history. That history includes its deployment in political argument as well as in theoretical writing – not that those, such as Przypkowski, Milton, Walwyn, van Limborch, Bayle, Spinoza, Locke, Toland and others, whose writings on toleration have come down to us from the early modern period, saw these as distinct activities. It was not their aim to devise a conceptual analysis of toleration and then to demonstrate how this analysis had political implications to which those who were reasonable were committed. It was rather to argue on political and religious grounds that a certain regime was desirable or justifiable – a form of advocacy. That already makes the relation between argument and rhetoric less discontinuous than more recent styles of analysis often assume.[9] It also means that arguments about toleration show less or more than their proponents aim for.[10] Early modern advocates of toleration find themselves espousing arguments at odds with other commitments, as in the tension between Hobbes's support of an autocratic basis for political power and his own preference, expressed in the English *Leviathan*'s 'Review and Conclusion', for religious pluralism.[11]

None of this means that philosophical analysis is of no use in understanding toleration. Indeed, one purpose analysis serves is precisely to

[9] See Quentin Skinner, *Visions of Politics*, Vol. I: *Regarding Method* (Cambridge University Press 2002), esp. essays 4, 5 and 10.
[10] I take Locke as a case in point in Chapter 6.
[11] See Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge University Press 1996), e.g. 486. Hobbes cut these remarks from the Latin edition of *Leviathan* published in 1668. I examine the tensions in Hobbes's views further in *Hobbes and 'Leviathan'* (London: Routledge 2008), ch. 9.

highlight tensions between political positions and the justifications offered for them. Conditions of public justification constrain what can be said, and the courses of action political language can be used to justify. Perhaps political actors can be brought within some entirely general scheme of justification. But it will not be adequately supported by norms that abstract from the actors' circumstances and then pronounce what they should accept, or would accept in some extravagantly contrary-to-fact situation. Often there is no reason to think that the counterfactuals have determinate truth-conditions, or that even when they do, their truth is dispositive for real-world actors.[12]

Toleration

To tolerate something is to accept it, despite disagreeing with or disapproving of it. Someone who has the power to take action against it, whether by preventing it from happening at all, or by censuring or otherwise penalising those who have done it already, decides not to use this power. This decision need not involve doing nothing, though often it will. In deciding to accept it rather than preventing or penalising it, the tolerator need not – in fact, probably will not, at least in the short run – regard it as a good thing that the action goes ahead. In tolerating an action, one need not regard it, or the people who do it, as being as good as some other set of actions or people.

These statements may well have the air of truism. If so, this is a good thing to the extent that truisms are at least true. I have set out the claims blankly, and without supporting argument, although each of them has been disputed by theorists in the extensive literature on the theory of toleration. Some of them are discussed in more detail in the following chapters, notably that about power and toleration,[13] about whether toleration entails disagreement,[14] and about whether the actions tolerated or the doers of them need be seen as good in themselves.[15] I shall deal here with a further claim, that the tolerator need not feel disapproval or distaste towards whatever she tolerates. Certainly, the term 'tolerant' can be applied to people who are not disposed to feel disapproval of others.[16] For instance, the Netherlands has often been described as a

[12] See Ronald Dworkin, 'The Original Position', in Norman Daniels (ed.), *Reading Rawls: critical studies of 'A Theory of Justice'* (Oxford: Blackwell 1975), 20f.
[13] See Chapter 8. [14] See chapters 4 and 5. [15] See Chapter 7.
[16] For an argument that a negative attitude is not necessary for toleration, see Peter Balint, 'Toleration as a Liberal Political Practice' (unpublished paper). Also Balint, 'Not Yet Making Sense of Political Toleration', *Res Publica* 18:3 (2012), 259–64.

tolerant society,[17] which is usually taken to mean not that the Dutch habitually feel strong disapproval which they strenuously suppress, but that they readily accept the differences of others. This might be called an *intransitive* understanding of toleration, since there is nothing and nobody at whom the toleration is directed: unlike emotions, indifference is not directed towards an object. By contrast, the disapproval that marks *transitive* toleration must have an object – persons, actions, or states of affairs.

This book mainly deals with transitive toleration. There is nothing wrong with the intransitive usage. But it leaves a puzzle: why describe people as tolerant if they feel no disapproval, but are simply indifferent to or actively approve of others? Can you be said to tolerate my clavicle? An obvious response is that the intransitive sense is just that, so it has no bearing when a certain object is in view. In this sense it signifies an absence, namely the lack of disapproval towards the idiosyncrasies of others. As by definition people are tolerant in the intransitive sense when there is no object towards which attitudes are directed, 'tolerant' in this sense signifies non-disapproval of what others might disapprove of, elsewhere or at other times. But where even the possibility of disapproval does not arise, nor does toleration, even in the intransitive sense. In this the concept of toleration resembles that of politics:[18] not everything is an object of toleration, just as not everything is political, but a concern becomes so when its being disapproved of, or an object of joint action, comes under consideration.

However, nothing can be tolerated if the very concept of toleration is incoherent, as numerous writers have argued. The paradoxical nature of toleration has been argued for on a number of grounds.[19] On some views, there is a contradiction in valuations that justify both the disapproval of some practice, and restraining oneself from acting to stop or censure it.[20] Suppose one disapproves of the wearing of the burqa in public by Muslim women. The toleration question that then arises is whether or not to prevent or censure it. But if a person calls on some principle that justifies not doing so, it may seem that contradictory

[17] See Arend Lijphart's classic study, *The Politics of Accommodation: pluralism and democracy in the Netherlands* (Berkeley: University of California Press 1968). The association of the Netherlands with toleration goes back a long way. See e.g. William Baron, *The Dutch Way of Toleration, Most Proper for Our English Dissenters Written at the Request of a Friend* (1699) (Ann Arbor: University of Michigan Digital Library, Eebo editions 2010).

[18] See also chapters 2 and 10.

[19] See John Horton, 'Three (Apparent) Paradoxes of Toleration', *Synthesis Philosophica* 7:1 (1994), 7–20.

[20] David D. Raphael, 'Toleration, Choice and Liberty', *Government and Opposition* 6:2 (1971), 229–34. See also Preston King, *Toleration*, 2nd edn (London: Frank Cass 1998), 29.

practical judgements are in play: one that says it is bad to permit the wearing of the burqa (say because it exemplifies patriarchal repression) and another that says it is bad to prohibit the wearing of the burqa (perhaps because this interferes with freedom of religious expression). It may be thought that these are not just conflicting but contradictory normative judgements. But, at the most general level, the tolerator's position merely exemplifies the familiar possibility that reasons for action may point in opposite directions.

Some argue that there is a 'paradox of toleration' on the following grounds: 'a tolerant society is always at risk of tolerating those who are intolerant, and allowing movements to grow which foster intolerance'.[21] For example, in responding to the resurgence of religious fundamentalism, liberal societies face what is sometimes thought to be a constitutive dilemma. Either these societies 'stand firm' against the 'threat' of terrorism by retrenching on basic liberties, or else they leave themselves 'open' to further attacks by creating an environment in which the planning and execution of terrorist atrocities can occur.

The fact that such a situation *could* occur shows that there is no paradox – which I take to be a collection of statements each of which seems to be true, but which cannot be true together.[22] At most it would show that there is something pragmatically self-defeating or self-undermining about toleration.[23] Whether that is really true is a matter for investigation. On a more optimistic view, toleration is more like a homoeostatic mechanism such as a servo, which is self-limiting but not self-defeating. If so, toleration is not self-defeating even in a negative way. After all, nobody thinks that toleration should or can be limitless. Some things merit intolerance, including by those who in other respects act tolerantly. Liberals think that people's differences in religion should be tolerated, but not human sacrifice. So religious practices like the Aztecs' should not be tolerated.

A perhaps superficially similar idea is that there is a paradox in 'tolerating the intolerant'. On this view, the question whether to tolerate the

[21] Anthony C. Grayling, *Liberty in the Age of Terror: a defence of civil liberties and Enlightenment values* (London: Bloomsbury 2009), 76. Cf. Karl Popper, *The Open Society and Its Enemies*, 2 vols. (London: Routledge 1946), and 'Toleration and Intellectual Responsibility', in David Edwards and Susan Mendus (eds.), *On Toleration* (Oxford: Clarendon Press 1987).

[22] On a stronger reading, a paradox consists in a pair of statements, the truth of each of which entails the falsity of the other.

[23] Worries on this score led John Rawls to move from the 'comprehensive' liberalism of *A Theory of Justice* (Oxford University Press 1971) to the 'political' liberalism of his later *Political Liberalism* (New York: Columbia University Press 1996). Rawls came to doubt that the institutions of liberty need engender allegiance among beneficiaries of liberty and thereby become self-reinforcing.

intolerant poses a dilemma for liberals:[24] either the question is answered 'Yes', and so tolerators promote or at least permit intolerance; or it is answered 'No', and toleration seems to fall prey to pragmatic contradiction. Others think that intolerance itself constitutes a due limit to what can be tolerated.[25] Grayling resolves the problem in this way.[26] But in fact there is no contradiction, even on the surface, in thinking that one should tolerate people who are themselves intolerant. This is a political problem rather than a paradox. There are reasons for disapproving of actions, and these reasons may include the fact that the actions are intolerant. If one took a purely consequentialist view, one might think that it would be odd to increase toleration by allowing a higher incidence of intolerance, though even then one could think that it was a matter of weighing the one against the other – again, a familiar and unparadoxical exercise. But if the question is how I should act, then consequentialist thoughts may not be uppermost: the question is what a tolerant person would do in my situation, and whether I should do that.

Then again, it can be argued that the ethical or other dispositions constitutive of toleration as a virtue are in radical tension with one another.[27] The ostensible paradox of the 'tolerant racist' illustrates the point. Suppose a white man, from previously having held no views about members of other races, acquires strong prejudices against black people. He continues to act in the same way towards them as before. Previously, he was neither tolerant nor intolerant towards black people; now, simply by dint of acquiring racial prejudices and behaving in the same way as before, he seems to have become tolerant towards them. This, if not a paradox, seems strongly counter-intuitive.

Some think that the problem should be solved by identifying certain attitudes as intolerant in themselves, so that someone who has, say, racial prejudices is necessarily intolerant.[28] However, the idea that there is a fixed list of attitudes that are necessarily intolerant raises the spectre of an illiberal liberalism: who decides on the list? If the response is that this is decided subjectively, the problem resurfaces, and leaves no room to say that someone whose attitudes are very different from one's own

[24] Grayling appears to conflate this problem with the idea discussed earlier, that toleration is empirically self-subverting.
[25] Cf. Jeffrey Murphy, *Kant: The Philosophy of Right* (Basingstoke: Macmillan 1970), 95: 'one makes a mockery of the value of toleration if one includes active intolerance among those things we ought to tolerate'.
[26] See Grayling, *Liberty in the Age of Terror*, 77f. Popper, *The Open Society and Its Enemies*, Vol. I, 265.
[27] The problem was first identified by Horton, 'Three (Apparent) Paradoxes of Toleration'. I discuss it in *Virtue, Reason and Toleration*, ch. 3.
[28] Horton argues for this position. For a contrasting view, see King, *Toleration*, xxi–xxii, 67f.

may, nonetheless, act tolerantly. There is also the problem that if toleration is already moralised, and hence a *pro tanto* good, one can no longer say that toleration can be misplaced, either because the disapproval itself, or the attitudes that counsel against interference despite the disapproval, are inadequately grounded.

It is more persuasive to say that the 'tolerant racist' need not instantiate a paradox. As often with philosophical examples, it makes a difference how the story gets filled in. Some attitudes seem intolerant, but much depends on how the disapproval is acquired and expressed, and what keeps it in check. The question is both how the man gained his beliefs and, more important, how he manages them. It is not just a question of what the man believes, but how he expresses the belief, and how far his holding it allows for readjustment in the light of further experience. Does he simply bite his lip out of fear, perhaps because he knows that expressing racial prejudice is legally prohibited or socially unacceptable? Or perhaps, despite himself, he subscribes to a principle of equal treatment or equal respect for persons. This may lead him to doubt the basis for the prejudices he feels, though he finds he cannot fully shake them off. In this case, there seems no compelling reason to deny that the man has gone from being non-tolerant to being tolerant, whatever is said about his belief that black people are inferior to others. One possibility is that the man tolerates, but does not display the virtue of toleration. Toleration involves a struggle between one's own dispositions, and an ability to keep due distance from them. Like other virtues, it involves not just doing certain things but doing them, as Aristotle says, in a certain way.[29]

More specific worries can attend to specific justifications of toleration such as that based on autonomy:[30] if toleration rests on autonomy, it faces the fact that the social context of toleration – that of Mill's 'punishment by opinion'[31] – is liable to prejudice the autonomy of those at whom toleration is directed. Scepticism is often thought to ground toleration, on the grounds that one cannot enforce views that may be mistaken; but everyone who believes in toleration believes also that there can be justifiable intolerance, scepticism notwithstanding; so they

[29] Aristotle, *Nicomachean Ethics*, tr. H. Rackham (Cambridge, MA: Harvard University Press 1934), 1105b8–9. I argue this at greater length in *Virtue, Reason and Toleration*, ch. 3.
[30] For a defence of the autonomy-based justification, see Joseph Raz, 'Autonomy, Toleration and the Harm Principle', in Susan Mendus (ed.), *Justifying Toleration: conceptual and historical approaches* (Oxford University Press 1988).
[31] John Stuart Mill, *Utilitarianism and On Liberty*, ed. Mary Warnock (Oxford: Blackwell 2003).