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Between Domination and Justice: The Concept of Toleration

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Rainer Forst

We are not the first to live in societies marked by profound differences in ways of life and morals. Europe's Christian ancestors, for example, struggled with the issue of how one can live together without seeing the devil's handiwork in other people's actions. We can still gain an inkling of the extremity of such conflicts from present-day discussions of questions surrounding abortion. But same-sex marriage and the right to adopt for same-sex couples, Islamic dress codes, the vilification of religious leaders, or the question of whether fascist parties should be outlawed, point to conflicts that also catapult us back like a journey through time into historical epochs in which the concept of toleration was coined.[1]

However, the concept of toleration is itself the focus of such conflicts and not their neutral counterpart—or so it seems at any rate. While some people consider a ban on right-wing political activities to be required in terms of the limits of democratic toleration, others regard this as intolerant. Some are in favor of tolerance towards same-sex partnerships, but not of equal rights; others see this in turn as intolerant and repressive.

Thus not only is it controversial how far toleration should go; some of the examples cited also raise the question of whether toleration is even a good thing—because, on the one hand, it can go too far and, on the other, it can legitimize denying equal rights. Is toleration even the mark of an asymmetrical policy or a refined form of domination involving the disciplining of minorities, as when Goethe says: "Tolerance should be a temporary attitude only; it must lead to recognition. To tolerate means to insult" (1998, p. 116, translation amended).[2]

What exactly, we would like to know, is the meaning of the concept of toleration in the first place? It denotes an attitude that, analytically speaking, involves three components. Let us first consider when we say that we "tolerate" something, such as the opinion of a friend, the smell of a particular food, or the action of a group. We

say this only when something bothers us about this opinion, smell, or action. Thus the first component of toleration is that of *objection*.[3] We object to convictions or practices that we tolerate as false or bad. Otherwise, our stance would be one of indifference or affirmation, but not of tolerance.

To this a second component must be added, that of *acceptance*. It specifies reasons why what is wrong or bad should nevertheless be tolerated. The acceptance reasons do not cancel the reasons for objecting. They only stand alongside them and tip the balance in the case of toleration.

Finally, a third component must be considered, that of *rejection*—thus negative reasons once again. These mark the limits of toleration. Evidently, these negative reasons must be more serious or weighty than the first-mentioned reasons for objecting, since they cannot be trumped by acceptance considerations.

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From this analysis it is apparent that toleration is not always the correct recipe against intolerance. Racism, for example, is a widespread cause of intolerance. But when we call for tolerance as a response to racist attacks, what are we doing? Do we want “tolerant racists,” that is, people who remain racists, only do not act according to their beliefs? No, we should instead work towards overcoming racism; and that means that here the reasons for objecting are already the problem.

Revocation of the Edict of Nantes (1685)

Continuing the analysis, we must distinguish different *conceptions* of toleration, which have evolved historically. Here I will cite just two. The first I call the *permission conception*. We find it in the classical toleration laws, such as in the Edict of Nantes (1598), which states: “[N]ot to leave any occasion of trouble and difference among our Subjects, we have permitted and do permit to those of the Reformed Religion, to live and dwell in all the Cities and places of this our Kingdom and Countreys under our obedience, without being inquired after, vexed, molested, or compelled to do any thing in Religion, contrary to their Conscience…” (cited in Mousnier, 1973, pp. 316-17). Toleration on this conception is an authoritarian attitude and practice that permits minorities to live according to their faith yet within

a framework prescribed unilaterally by the permission-giving side. All three components—objection, acceptance, and rejection—are in the hands of the authorities, and the tolerated are marked and indulged as second-class citizens, and hence rely on protection by the monarch. This is the notion of toleration that Goethe has in mind in his critique, because here to be tolerated also means being stigmatized and dominated.

During the long history of democratic revolutions, by contrast, a horizontal conception of toleration develops in modern times—the *respect conception*. The key idea in this case is that toleration is an attitude of citizens towards each other who know that they do not agree on central issues of the good life, yet still accept that their shared institutions must be based on norms that all free and equal persons can share and are not simply stipulated and legislated by the system of values of one group. The objection components remain part of the space of reasons of individuals or their communities, but the components of acceptance and rejection are defined in a process of legitimation that aims at norms which can be justified in a general way—*independently* of the particular, non-generalizable beliefs of individuals. Tolerance is the virtue of tolerating beliefs and practices with which one does not agree, but which do not violate any principles that reflect the equality and freedom of all.

We would be mistaken if we optimistically believed that in our democratic age we had overcome the former (permission) conception in favor of the latter (respect). Many contemporary disputes involve conflicts between proponents of both conceptions, and the permission conception reappears in a majoritarian guise. While in Europe some people think that minarets and mosques should be tolerated provided that they confine themselves to the framework laid down by Christian majorities, others insist that having suitable places of worship is a basic right. While some people believe that, although toleration forbids proselytizing, it does not require the removal of crosses or crucifixes from public classrooms, others insist on their removal in the name of equal respect. Something similar holds for Muslim headscarves, same-sex marriages and the like. Should same-sex partnerships be “tolerated” only with the framework laid down by a heterosexual majority, or can they demand equal respect and equal rights?

2009 Swiss referendum posters support banning construction of minarets on mosques

The normatively dependent concept of toleration itself does *not* tell us from what we should take our guidance here. And many values or principles suggest themselves—freedom and autonomy, on the one hand, social stability and peace, on the other. Depending on where the emphasis is placed, we arrive at different conclusions.

I think, by contrast, that we should adhere to the principle of *justice*. For what else is the question of what status and rights minorities or other groups have in a society than a question of justice? What is at stake here is a form of justice that calls on us to rethink and, if necessary, to abandon time-honored conceptions of political life. The central connection between justice and toleration consists in the following question: Does my *objection* to a practice rest not only on reasons that reflect my own ethical or religious position that others might not and need not share, but also on moral reasons that are sufficient to proceed to a *rejection*—reasons that, for example, are sufficiently strong to justify prohibiting this practice with legal means?

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In the attitude of tolerance that accords with the respect conception, I must accept that I owe to others who live with me under a shared system of norms reasons for such norms that we can share as equals. The name we give to this ability to recognize suitable reasons in theoretical and in practical political use, and to discover them jointly in discourse, is *reason*. Therefore, tolerance, correctly understood, is a virtue of the public use of reason.

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Translated by Ciaran Cronin (slightly modified)

Notes

[1] Important recent analyses can be found in Dobbernack and Modood (2013).

[2] Such entanglements of tolerance and power are the themes that Wendy Brown and I discuss in our book *The Power of Tolerance* (Brown/ Forst, 2014). There I build on my systematic historical reconstruction of the debate on toleration from antiquity to the present that I presented in *Toleration in Conflict* (Forst, 2013).

[3] My analysis of the components of toleration essentially follows that of Preston King (1976) (if not in every detail).

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Rainer Forst is Professor of Political Theory and Philosophy at Johann Wolfgang Goethe University, Frankfurt.

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