

SPINOZA'S
Theological-Political Treatise

A Critical Guide

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*Spinoza's curious defense of toleration**Justin Steinberg*

A little more than fifteen years ago an exchange between David West and Isaiah Berlin concerning Spinoza's "positive conception of liberty" was published in *Political Studies*. West aimed to rescue Spinoza from Berlin's procrustean critique of positive liberty by pointing to liberal features of Spinoza's thought, such as his methodological individualism and his defense of toleration. Berlin's response to West seems to reveal an embarrassing lack of familiarity with these liberal features of Spinoza's thought.¹ He claims that, according to Spinoza, "the obstacles to rational thought must be removed . . . all irrationality, heteronomy, passion, which resist or darken reason, must be removed, or at the very least controlled, by rational self understanding, education *and also legislation – that is, if necessary, the sanction of force, of coercive action.*"² There can be no question that Berlin is largely mistaken about this last point.³ However, Berlin's mischaracterization raises an interesting question: why exactly doesn't Spinoza think that we should attempt to snuff out irrationality and dissolution with the law's iron fist?

In this chapter I take seriously the force of this question. I will intensify the problem in the first section below by noting several features of Spinoza's thought that lead him to eschew skeptical, pluralistic, and rights-based arguments for toleration, and make his defense of toleration even more surprising. I follow this by delineating the prudential, anticlerical roots of Spinoza's defense, before turning – in the final section – to consider just how far and when toleration serves the guiding norms of governance, namely,

¹ Berlin's treatment of Spinoza in "Two Concepts of Liberty" and elsewhere is careless at best. We ought thus to be suspicious of Delahunty's claim that "no student of Spinoza has done more to illuminate [the relationship between knowledge and freedom] than Isaiah Berlin" (*Spinoza*, p. 256).

² Berlin, "A Reply," p. 298, my emphasis.

³ After all, Spinoza insists that most legislative attempts to make men wise and temperate are futile, at best. See for instance his claim that "simplicity and truth of mind are not instilled in men by the power of laws or by public authority, absolutely no one can be compelled to be happy [*beatus*] by force of law" (*TTP* Ch. 7; *G III* 116).

peace and positive liberty. Once we see how toleration is anchored in these norms, we form a clearer picture of Spinoza as a liberal perfectionist for whom the bounds of political toleration depend on pragmatic and circumstance-specific assessments of what conduces to the flourishing of the state. This will help to illuminate what is peculiar – and, arguably, commendable – about Spinoza's form of liberalism.

I THE ROADS NOT TAKEN

1.1 Why toleration must be justified

It has often been noted that there is something rather odd about the very idea of toleration. We may follow D. D. Raphael here in describing toleration as “species of allowing liberty . . . [that] implies that you really disapprove of what you are prepared to leave alone.”⁴ It seems to involve at least following three conditions:

- (1) One disapproves of another's activity.
- (2) One is capable of, or at least one believes oneself to be capable of, preventing such activity.
- (3) One allows – that is, refrains from attempting to prevent – such activity.

What makes toleration odd is that it is not apparent why one should *not* seek to prevent activities of which one disapproves when one is capable, or believes oneself to be capable, of doing so. This becomes a full-blown paradox if one assumes that to disapprove of something is to think that it should be prevented, since toleration would then imply adopting a policy of not preventing that which one believes should be prevented.⁵

Moreover, even if we deny that there is anything paradoxical about toleration, it must be admitted that toleration does not justify itself. On the face of it, it would seem that, other things being equal, one ought to prevent activities of which one disapproves, especially when the consequences of not doing so are thought to be significant. In other words, intolerance would seem to be the default position. It is toleration, then, that stands in need of justification. So how does one justify this, arguably queer, practice?⁶

⁴ Raphael, “The Intolerable,” p. 139. ⁵ See Mendus, “Introduction,” p. 4.

⁶ In what follows I will be exclusively examining philosophical, rather than religious, arguments for toleration. The most prominent Dutch advocates of toleration in the seventeenth century – from Dirck Coornhert and the Arminians in the early part of the century to the Collegiants and other heterodox Christians of mid-century – based their arguments for toleration primarily on scriptural grounds (see Israel, “The Intellectual Debate,” and Kossmann, “Freedom”). Indeed, Spinoza himself offers a sort of religious argument for toleration when he uses his interpretation of Scripture to show that philosophy and faith have separate domains, thereby undercutting the grounds for religious

1.2 *The argument from epistemic humility*

One natural way to defend the practice of toleration is to point to the fact that we are cognitively limited and prone to mistakes. Because of our fallibility, we ought to avoid dictating how others should live.⁷ Let us call this the argument from epistemic humility. The extreme, fallibilist version of this view claims that any one of our beliefs could turn out to be false. But one need not embrace this position to make an argument from epistemic modesty for religious toleration, since even if there are some firm, self-justifying beliefs, beliefs about, for instance, what is necessary for salvation are not likely to be among them. Because we are liable to make mistakes concerning the nature of the divinity and what is required for salvation, we ought to refrain from imposing such highly fallible beliefs on others, lest we suppress the true religion. Epistemic humility is also often cited in defense of tolerating the *ethical* beliefs and practices of others. Indeed, Susan Mendus has argued that “twentieth-century liberalism . . . frequently bases its commitment to toleration on moral skepticism.”⁸

The argument from epistemic humility was in relatively wide circulation in the early modern period. Many classical skeptical texts, including the works of Sextus Empiricus, had been rediscovered in the sixteenth century, providing philosophers with a new set of tools for combating various forms of dogmatism. During this same period, wars of religion were being waged throughout Europe. It is no surprise, then, that as political thinkers sought ways to resolve religious disputes, skepticism was often used as an instrument for toleration.⁹ The works of Castelleo and Montaigne, for instance, contain examples of how skepticism might be invoked in support of toleration.¹⁰

persecution. In focusing on philosophical arguments, then, I do not wish to downplay the role of religious arguments in the history of tolerationist thought.

⁷ Epistemic humility, or moral skepticism of the sort I am referring to, is to be distinguished from moral non-cognitivism. Moral non-cognitivism – which claims that moral judgments do not have any cognitive content or truth value – does not give one an obvious reason to refrain from imposing one’s own non-cognitive judgments on others. The recognition that one’s own judgments are not factual would not necessarily undermine one’s commitment to these very attitudes. See Harrison, “Relativism and Toleration.”

⁸ Mendus, “Introduction,” p. 2.

⁹ It should be noted that, as Richard Tuck has so effectively pointed out, skepticism in the early modern period did not always support toleration (“Skepticism and Toleration”). It often supported acquiescence to an intolerant authority.

¹⁰ In *Concerning Heretics*, Castelleo argues that “dissensions arise solely from ignorance of the truth” (p. 132). It is folly, therefore, to persecute others on the basis of something that we ourselves do not understand. And Montaigne, in *Des Boiteux* (“Of Cripples”), argues that “to kill men, we should have sharp and luminous evidence” (*Essays*, p. 789) – evidence that Montaigne believes that we quite obviously lack.

But however popular this mode of argument was, it is clear that Spinoza's defense of toleration is not grounded on epistemic humility. Indeed, one can hardly imagine a less skeptical philosopher when it comes to our knowledge of God's nature and of the precepts of ethics.¹¹ The geometric method deployed in the *Ethics* give us demonstrative proof that there is only one substance,¹² God or Nature (*Deus sive Natura*), that everything that exists exists in and through God,¹³ that everything follows from the necessity of God's nature,¹⁴ that nature never acts for the sake of some end,¹⁵ and so forth. These tenets, like all truths of reason, are self-certifying; once grasped, they lie beyond doubt.¹⁶ The same can be said of the dictates of reason, or the ethical prescriptions, that Spinoza presents in *Ethics* Part 4, and the cognitive therapy that he lays out in *Ethics* Part 5. The geometric method leaves no room for skepticism or epistemic humility concerning these matters. So, however common skeptical arguments were in the early modern period, it should be apparent that Spinoza rejects them.¹⁷

1.3 The argument from pluralism

An argument that is sometimes conflated with the argument from epistemic humility is the argument from pluralism. Unlike the skeptic, the pluralist does not necessarily claim that we cannot know the truth about religion or morality; rather, the pluralist claims that there is not a single truth about religion or morality. Strictly speaking, the pluralist does not offer an argument for toleration, since she does not think that activities that deviate from her own conception of what is good necessarily warrant disapproval. Thus, condition (1) from the above account does not necessarily obtain. Nevertheless, since the pluralist whom we will be discussing presents a case *against* intolerance, we may regard her as a tolerationist, at least in a loose sense.

Pluralism is sometimes presented as an argument for *religious* toleration. Gary Remer, for instance, portrays Bodin's defense of toleration in the

¹¹ See Popkin, *History of Scepticism*, pp. 229–248.

¹² E1p14. ¹³ E1p15. ¹⁴ E1p29. ¹⁵ E1app. ¹⁶ E2p43s.

¹⁷ Ultimately, we can imagine Spinoza regarding the argument from epistemic humility as too weak. His account helps to point out that most religious conflicts of the day were based on a confusion. The anthropomorphic, providential conception of God that undergirds and animates religious schisms does not exist; immaterial, immortal souls that provide the foundation for disputes about salvation do not exist. The views that drive persecution are not just *probably* false, they are demonstrably false. So, while the argument from epistemic humility allows the possibility that the intolerance/persecutor may be right, even if his beliefs are not justified, on Spinoza's account, the intolerance/persecutor's beliefs are both false and unjustified.

Colloquium as grounded in religious pluralism: the truth about religion is not monistic, it is “complex” and “multifaceted.”¹⁸ The full truth, according to Bodin, can only be ascertained through the expression of a diversity of perspectives.¹⁹ More often, though, pluralism is invoked in the service of *moral* toleration. John Stuart Mill’s *On Liberty* contains perhaps the greatest expression of moral pluralism. In this work Mill, under the influence of Wilhelm von Humboldt, makes an impassioned plea for “experiments in living” and the individual pursuit of happiness. Part of his defense of liberty hinges on his belief that there is no single blueprint for a good human life: “Human nature is not a machine to be built after a model, and set to do exactly the work prescribed for it, but a tree, which requires to grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing.”²⁰

However, at best, pluralism just shows that we should not interfere with others’ affairs *just because* they run counter to our conception of a good life. But a pluralist might have independent reasons for preventing certain activities, for instance if they fall outside of the range of acceptable activities *for anyone*, or if securing a certain degree of uniformity would have salutary social consequences. In order, then, to move from pluralism to toleration, we need an additional argument. One such argument, offered by Mill, would be to claim that we stand in a privileged – though not infallible – epistemic position when it comes to determining what a good life consists in *for us*.²¹ The state cannot hope to be in as good a position to determine how we ought to live as we are, so it ought not to restrict our choices, at least in matters that concern only ourselves.²²

Having suggested how pluralism could be used to support toleration, we may now consider whether Spinoza himself argues in this manner. To answer this question, we must first ask whether Spinoza was, in fact, a pluralist. Some recent commentators think so. For instance, Steven B. Smith has argued that Spinoza rejects a “monistic view of human flourishing, the one-size-fits-all model of the good life. Instead his awareness of diversity

¹⁸ Remer, “Bodin’s Pluralistic Theory,” p. 121.

¹⁹ One could read Gotthold Lessing’s *Nathan the Wise*, published in 1779, nearly two centuries after the completion of Bodin’s *Colloquium* in 1588, as advancing a similar version of religious pluralism. The famous ring parable in this work seems to exhort us to give up the notion of one true faith and to allow that a plurality of faiths may have legitimate claims to truth.

²⁰ Mill, *On Liberty*, p. 56.

²¹ See Mill’s claims that “with respect to his own feelings and circumstance the most ordinary man or woman has means of knowledge immeasurably surpassing those that can be possessed by anyone else” (*On Liberty*, p. 71).

²² Admittedly, this is, on its own, a rather weak argument for toleration.

both within and between human beings . . . makes the *Ethics* an important, although frequently unacknowledged, source of moral pluralism."²³ And David West, in his attempt to save Spinoza from Berlin's critique, highlights what he regards as Spinoza's pluralism,²⁴ citing it as one of the primary grounds for toleration: "the outcome of a rationalized *conatus* is potentially different for every individual and understanding must be exercised by everyone for themselves, so *no one can justifiably impose their interpretation of virtue or the good life on one another.*"²⁵

Smith and West ground their interpretation of Spinoza as a moral pluralist on the fact that we each have distinct and complex bodies, with our own ratios of motion and rest, which will lead us to express our striving in unique ways. What preserves and empowers your body/mind may be rather different from what preserves and empowers mine, a point that Spinoza makes in the scholium to E4p45:

It is the part of a wise man, I say, to refresh and restore himself in moderation with pleasant food and drink, with scents, with the beauty of green plants, with decoration, music, sports, the theater, and other things of this kind, which anyone can use without injury to another. For the human body is composed of a great many parts of different natures which constantly require new and varied nourishment.²⁶

While it is evident that Spinoza does think that sensual pleasures and diversions can contribute to one's power of acting, and that he accepts that these restorative sources of pleasure and amusement often vary from person to person, it is far less evident what follows from this.

If moral pluralism amounts to no more than the claim that there is *some* variation in what contributes in *some* way to the flourishing of individuals, it would be a trivial doctrine that seemingly everyone in the history of philosophy accepts. However, I presume that moral pluralism claims that the *central features* of one's flourishing may vary significantly between individuals and that the sources of value between individuals are incommensurable. If this is the case, it is not at all clear that Spinoza would qualify as a pluralist.

For Spinoza, the basic contours of a fully active, flourishing life are the same for all humans. Blessedness, or one's highest flourishing, is achieved when one comes to understand things through God's essence, resulting in an intellectual love of God.²⁷ The content of this knowledge is the same for everyone. Flourishing also consists in gaining intellectual control over one's

²³ Smith, *Spinoza's Book of Life*, p. 149. ²⁴ West, "Spinoza on Positive Freedom," p. 292.

²⁵ West, "Spinoza on Positive Freedom," p. 296; my emphasis. ²⁶ E4p45s; G II 244.

²⁷ E5p32c ff.

affects²⁸ and in acting from reason.²⁹ While it is true that the measures that are taken to acquire this knowledge and gain control over oneself may vary a bit between individuals,³⁰ the actual rational control that is gained is the same for everyone. Moreover, whatever differences exist between human beings, Spinoza insists that human beings share a rational essence.³¹ For these reasons, it seems that, *pace* West, Berlin might actually be right in characterizing Spinoza as a monist about truth and goodness; while the procedures for becoming rational and virtuous may be narrowly pluralistic, reason itself, and the virtues themselves, are universal.³² And even if one admits that the sources of restorative pleasures vary from person to person, the sources of the most durable and important forms of joy are the same for all humans. And, finally, even if there is a meaningful and important sense in which Spinoza is a pluralist, he seems to have no sympathy for the epistemic privilege view advanced by Mill that would enable him to use this pluralism in defense of tolerationism. So, even if Spinoza were a pluralist, which I have suggested he is not, this position does not appear to play a role in his defense of toleration in the *TTP*.³³

1.4 *The argument from rights*

Some have supposed that any satisfactory theory of toleration must be able to show not just that intolerance is impractical or harmful in certain

²⁸ Spinoza provides a digest of how such control is achieved in E5p20s. ²⁹ E4p18s ff.

³⁰ Spinoza indicates in E5p10s that gaining control over one's affects requires habituation, and one's regimen must be tailored to one's own proclivities, e.g., "if someone sees that he pursues esteem too much, he should think of its correct use" (E5p10s).

³¹ See, e.g., E4p35 and its attendant corollaries and scholia.

³² This same reasoning could be applied to the response that Spinoza gave to his landlady when asked if he believed that she could find salvation in her religion (reported by Colerus), which was: "your Religion is a good one, you need not look for any other, nor doubt that you may be saved in it, provided, whilst you apply yourself to Piety, you live at the same time a peaceable and quiet life" (Colerus, *Life*, p. 41). Let's assume that Spinoza was not being ironic here. On the face of it, the suggestion that salvation could come through leading a good Christian life rather than through Spinozism appears to betray a pluralism that leads Spinoza to tolerate the beliefs of his landlady. But I think a more plausible reading requires noting that for Spinoza salvation (*salus*) may be a graduated concept: it comes in degrees. Spinoza has simply calculated that (1) his landlady already leads a relatively peaceful, content life, and (2) her tranquillity would likely be disturbed by Spinozism. Her best hope of maximizing her power of acting, then, lies in maintaining her religion rather than trying to become a Spinozist.

³³ The closest that he comes to offering an argument from pluralism occurs in the preface to the work, where he writes: "as men's ways of thinking vary considerably and different beliefs are better suited to different men . . . everyone should be allowed freedom of judgment and the right to interpret the basic tenets of his faith as he thinks fit" (*TTP* Preface, p. 7). If we examine this passage in context, however, it is clear that all he is saying is that different people will be moved to obedience on the basis of different beliefs; so we ought not to worry about people's beliefs, provided that they are obedient to the state.

circumstances, but further that it is wrong, *full stop*.³⁴ Perhaps the most plausible way of providing a principled defense of toleration is to show that intolerance is a violation of the rights of individuals. If it can be shown that at least certain freedoms are actually rights – i.e., “political trumps held by individuals,” to use Ronald Dworkin’s formulation³⁵ – then it will be apparent that any attempt at scotching these liberties will be intrinsically and absolutely wrong.

In the opening paragraph of the *TTP*, Chapter 20 Spinoza appears to appeal to something like a right-based defense of freedom of thought or conscience, writing: “any sovereign power appears to harm its subjects and usurp their rights when it tries to tell them what they must accept as true and reject as false.”³⁶ Michael Rosenthal has suggested that this passage reveals a significant juridical dimension to Spinoza’s defense of toleration.³⁷ However, if there is indeed a juridical component to Spinoza’s defense, it must be, as Rosenthal himself recognizes, a rather peculiar one, since Spinoza’s notion of right (*ius*) is itself deeply peculiar.

Spinoza rejects traditional normative conceptions of right (*ius*). For instance, he explicitly rejects Grotius’s notion of right as “a moral Quality annexed to the Person, enabling him to have, or do, something justly.”³⁸ Grotius is here advancing the notion of a subjective right – to have a right is to have a title to something, which entails that others have corresponding duties to respect this right. If this were the sense of right that Spinoza is using in Chapter 20, then one could reasonably conclude that he has principled, normative grounds for opposing toleration. However, Spinoza consciously rejects the notion of right as title. Instead, he adopts the view that one’s right is coextensive with one’s power (*TTP*, Chapter 16).³⁹ The whole aim of Spinoza’s analysis of right (*ius*) in Chapter 16 is to eviscerate traditional, normative conceptions of rights, rather than to propound a new theory. Once we recognize that the bounds of our power fix the limits of our right, we can see that the reason that the sovereign should not seek to

³⁴ For instance, Mendus claims that it is a mark against an account of toleration if it only shows that intolerance is imprudent rather than morally wrong (“Introduction,” pp. 2–3).

³⁵ Dworkin, *Taking Rights Seriously*, p. xi.

³⁶ *TTP* Ch. 20; *G* III 239.

³⁷ Rosenthal, “Spinoza’s Republican Argument,” pp. 330 and 333. Rosenthal adds that “the importance of this point, that belief cannot be compelled, cannot be overstated” (“Spinoza’s Republican Argument,” p. 332).

³⁸ Grotius, *Rights*, I.I.4. This is one of three senses of right (*ius*) for Grotius. The other two are “that which may be done without Injustice” (I.I.3) and “the Rule and Dictate of Right Reason, shewing the Moral Deformity or Moral Necessity there is in any Act, according to its Suitableness or Unsuitableness to a reasonable Nature” (I.I.0).

³⁹ For a helpful discussion of this point, see Curley, “Kissinger, Spinoza, and Genghis Khan.”

regulate the minds of its subjects is simply that it does not have the power to do so, for “it is impossible for one person’s mind to be absolutely under another’s control.”⁴⁰ The argument, then, amounts to this: one cannot entirely control another’s mind, so to attempt to do so is to attempt to do something impossible, which is irrational.⁴¹

Even leaving aside the peculiarities of Spinoza’s conception of right, there are reasons to think that Spinoza’s “argument from rights” is not especially strong, certainly not strong enough to support the level of toleration that he advocates. Immediately after pointing to the right that we have over our minds, Spinoza concedes that “a person’s judgment, admittedly, may be subjected to another’s in many different and sometimes almost unbelievable ways.”⁴² That is, even if we always retain some right over our conscience, this right may be seriously limited by the power of others to manipulate our beliefs. Spinoza’s apparently right-based defense of freedom of thought is thus not only devoid of normative force, it is also deeply limited. Fortunately, this rather brief argument gives way to a battery of other more effective arguments in favor of toleration to which I will now turn.

2 THE PRUDENTIAL, ANTICLERICAL BASIS OF SPINOZA’S TOLERATIONISM

We are now in a position to see the full force of the question with which this chapter began. If toleration in general is puzzling, it is especially puzzling for someone like Spinoza. Why would one who never doubts the correctness and universality of his own ethical and religious views, and who eschews normative accounts of rights, be willing to tolerate activities of which he disapproves? Why doesn’t Spinoza believe, as Berlin supposes he does, that the sovereign should try to extirpate irrational and destructive behavior through legislative means? In this section we will consider Spinoza’s thoroughly prudential reasons for opposing attempts to use laws to make people virtuous (henceforth: “moral legislation”). But first let us add one last wrinkle to the puzzle by noting that on certain matters Spinoza was actually relatively intolerant.

⁴⁰ *TTP* Ch. 20; *G III* 239.

⁴¹ Waldron reads Locke as offering a similar argument for toleration (“Locke”).

⁴² *TTP* Ch. 20; *G III* 239.

2.1 Spinoza's anticlerical intolerance

At the heart of Spinoza's defense of toleration lies a deep anticlericalism.⁴³ As we shall see it is a distrust of the moral crusades driven by the clergy that underlies much of his general distrust of moral legislation. But before turning to this, I want to consider the intolerant or illiberal features of Spinoza's anticlericalism.

In certain contexts, Spinoza was perfectly willing to countenance a fair amount of intolerance. For instance, with respect to religious liberty, Spinoza was hardly a liberal by contemporary standards.⁴⁴ He argues quite forcefully for the Erastian view that "authority in sacred matters belongs wholly to the sovereign powers."⁴⁵ Religious injunctions acquire "the power of law only by decree of those who exercise the right of government,"⁴⁶ so it devolves on the sovereign to make ultimate determinations in matters of religion.⁴⁷ The sovereign is, thus, the sole authority on both civil and religious law. The rationale behind this claim is that piety must be understood as practicing justice, and there is no standard of justice prior to and independent of the will of the sovereign.⁴⁸ Thus, Spinoza concludes, "no one can rightly cultivate piety or obey God, without obeying edicts of the sovereign authority."⁴⁹

It is only through curbing the power of the clergy that the sovereign can protect the public from superstition and bigotry. In the preface to the *TTP*, Spinoza warns the reader of zealots who "take the outrageous liberty of trying to appropriate the greater part of this authority and utilize religion to win the allegiance of the common people."⁵⁰ And Spinoza's intolerant attitude towards rabble-raising religious figures reveals itself in even the most tolerant sections of the *TTP*. When, in Chapter 20, Spinoza identifies

⁴³ The first of his stated reasons for writing the *TTP* is to oppose "the prejudices of theologians. For I know that these are the main obstacles which prevent men from giving their minds to philosophy" (*Ep.* 30).

⁴⁴ As many have noted, Spinoza's toleration is not fundamentally a defense of the freedom of worship, but rather of the freedom to philosophize. Jonathan Israel writes: "in Spinoza, freedom of worship, far from constituting the core of toleration, is very much a secondary question . . . The gulf separating Locke's and Spinoza's conceptions of toleration, originating in Locke's concern for saving souls and Spinoza's for ensuring individual freedom, is thus widened further by Spinoza's anxiety to whittle down ecclesiastical power" (*Radical Enlightenment*, pp. 266–267).

⁴⁵ *TTP* Ch. 19; *G* III 228. ⁴⁶ *TTP* Ch. 19; *G* III 228.

⁴⁷ *TTP* Ch. 16; *G* III 199–200. The full passage reads: "it follows that the supreme right of deciding about religion, belongs to the sovereign power, whatever judgment he may make, since it falls to him alone to preserve the rights of the state and to protect them both by divine and by natural law" (*TTP* Ch. 16; *G* III 199).

⁴⁸ *TTP* Ch. 19; *G* III 229–230; cf. E4p3782. ⁴⁹ *TTP* Ch. 19; *G* III 233. ⁵⁰ *TTP* Preface; *G* III 7.

as seditious anyone who would challenge the authority of the sovereign, or recognize an alternative authority,⁵¹ he evidently has in mind the very zealots described in the preface. And just as it would be wise for the state to “restrain the indignation and fury of the common people,”⁵² it seems equally wise to limit the activities of religious leaders who promulgate superstition and galvanize this anger.⁵³

Understood in this light, we can agree with John Christian Laursen’s claim that many of the illiberal features of Spinoza’s philosophy can actually be understood as expressing underlying concern for toleration, since his intolerance is, ultimately, an intolerance of intolerance.⁵⁴ In order to protect the freedom to philosophize we must curb the power of the religious zealots who spread venomous superstition and persecute freethinkers. By subordinating religious authority to civil authority, and “not allow[ing] religious dogmas to proliferate,”⁵⁵ Spinoza hopes to liberate the citizenry from the destructive forces of fear and superstition.

This intolerance of clerical power and religious enthusiasm seems to lend credence to Berlin’s assessment: Spinoza *is* seeking to remove obstacles to rational thought through state interference. However, this misses much of what is most important about Spinoza’s anticlericalism, which is that it provides him not only with an argument for *limited* intolerance, but also with a powerful argument for toleration. I want to turn now to the anticlerical grounds for toleration.

2.2 Spinoza’s anticlerical toleration

One of the primary reasons why Spinoza is distrustful of moral legislation is that, in general, such laws “are not made to restrain the ill-intentioned so much as persecute well-meaning men,”⁵⁶ and are promoted by hateful zealots, rather than by compassionate, truth-loving individuals.⁵⁷ Moral legislation is advocated only by those who will not brook any challenge to orthodoxy, i.e., those who are opposed to philosophical reflection and open

⁵¹ *TTP* Ch. 20; *G* III 241–243. ⁵² *TTP* Ch. 20; *G* III 244.

⁵³ He claims that regulating beliefs is generally not necessary, except in a “corrupt” state, “where superstitious and ambitious people who cannot tolerate free-minded persons, have achieved such reputation and prominence that their authority exerts greater influence with the common people than that of the sovereign powers” (*TTP* Ch. 20; *G* III 242–243).

⁵⁴ Laursen, “Spinoza on Toleration,” pp. 188, 191.

⁵⁵ *TTP* Ch. 19; *G* III 238. ⁵⁶ *TTP* Ch. 20; *G* III 244.

⁵⁷ Michael Rosenthal has argued compellingly that, on Spinoza’s view, intolerance is a sign of a poor character; a virtuous person, one possessed of *fortitudo*, or strength of character, will always act mercifully, generously, and tolerantly (“Tolerance as a Virtue”).

discussion. Spinoza reasonably suggests that these defenders of orthodoxy – chiefly, religious enthusiasts – are the ones who ought to be constrained, not the freethinkers: “the real schismatics are those who condemn other men’s books and subversively instigate the insolent mob against their authors, rather than the authors themselves, who for the most part write only for the learned and consider reason alone as their ally.”⁵⁸ So we should be very leery about campaigns of intolerance because they are usually driven by those who are corrupt and ignorant, and they often target the wise and the good.

Spinoza, of course, had plenty of experience to fuel his distrust of the intolerant. He was cast out of the Jewish community by an intolerant rabbinate.⁵⁹ But perhaps more disturbing was the treatment of his friend and fellow freethinker Adriaan Koerbagh at the hands of the magistrates. Koerbagh, who embraced many of the same metaphysical positions as Spinoza, including the view that God is identical with nature and that everything is governed by the necessary laws of nature, was tried and sentenced for blasphemy. While in prison under squalid conditions Koerbagh fell ill; he died soon after being released. This affair is generally believed to have precipitated the completion and publication of the *TTP*.⁶⁰

Also, the conflict between the Arminians and orthodox Calvinists that raged throughout the United Provinces in the first part of the seventeenth century might also have inspired some of this distrust. From Spinoza’s perspective, this dispute was a great object lesson about the source of intolerance. The peaceable Arminians regarded faith as primarily a matter of conscience and thus were opposed to expanding the political position of the Church.⁶¹ By contrast, the orthodox Calvinists, with their theocratic ambitions, misunderstood the very nature of religion and religious authority and sought to regulate civic affairs on the basis of these misguided principles. After the Synod of Dort, in 1618, Arminians throughout the United Provinces were removed from their offices and university posts.⁶² The Calvinist zealots in this case illustrated for Spinoza that “schisms do

⁵⁸ *TTP* Ch. 20; *G* III 246.

⁵⁹ Perhaps his own experience lies behind his claim that the sovereign alone ought to have powers of excommunication (*TTP* Ch. 19; *G* III 235).

⁶⁰ Nadler, *Spinoza*, p. 170.

⁶¹ See Nadler, *Spinoza*, p. 12. Jonathan Israel notes that “in his address on laying down the rectorship of the university, at Leiden, in February 1606, Arminius condemned theological strife between Christians as the worst of ills, a scourge nurturing doubt, atheism, and despair” (*The Dutch Republic*, pp. 422–423).

⁶² Israel, *The Dutch Republic*, pp. 452ff.

not arise from an intense passion for truth (which is the fount and origin of amity and gentleness), but from a great lust for power.”⁶³

Indeed, Spinoza’s entire account of the decline of the Hebrew commonwealth (*TTP*, Chapter 18) can be read as a rather thinly veiled warning about the effects of Calvinist fanaticism in the United Provinces. Accordance to Spinoza’s account, when the priestly caste gained political power, they not only destroyed peace, they also perverted religion. The final result was inextinguishable conflict.⁶⁴ Spinoza directly invites the reader here to consider the degree to which the Calvinists of his time resemble the Pharisees:

Following this example of the Pharisees, all the worst hypocrites everywhere have been driven by the same frenzy (which they call zeal for God’s law), to persecute men of outstanding probity and known virtue, resented by the common people for precisely these qualities, by publicly reviling their opinions, and inflaming the anger of the barbarous majority against them.⁶⁵

One of the greatest reasons, then, for fearing moral legislation, Spinoza suggests, is that it is the corrupt – e.g., the superstitious Pharisean Calvinists – who lead the crusades against honest and honorable people (like Koerbagh, Uriel Da Costa,⁶⁶ and Arminius). It was the clergy who recommended extensive laws to reform men, including sumptuary laws to prevent decadence and strict laws on blasphemy,⁶⁷ such efforts at reform were misguided and motivated by hatred and bigotry. This sociological observation, however, does not give us much reason to oppose moral legislation as such. Rather, it just gives us grounds for questioning the motives of

⁶³ *TTP* Ch. 20; *G* III 246. Spinoza offers the following dramatic story of religious corruption in the preface to the *TTP*: “as soon as this abuse began in the church, the worst kind of people came forward to fill the sacred offices and the impulse to spread God’s religion degenerated into sordid greed and ambition. Churches became theatres where people went to hear ecclesiastical orators rather than to learn from teachers. Pastors no longer sought to teach, but strove to win a reputation for themselves while denigrating those who disagreed with them” (*TTP* Preface; *G* III 8).

⁶⁴ *TTP* Ch. 18; *G* III 224. ⁶⁵ *TTP* Ch. 18; *G* III 225.

⁶⁶ Da Costa, a member of the Sephardic Jewish community in Amsterdam, published a book entitled *Examination of Pharisaic Traditions* [*Exame das Tradições Phariseas*], in which he denied the immortality of the soul. The work was denounced by Sephardic elders and burned by local authorities. He eventually committed suicide, just days after writing in his autobiography that the Amsterdam magistrates allowed “the Pharisees” – i.e., his co-religionists – to persecute him. See Nadler, *Spinoza*, pp. 66–74.

⁶⁷ Sumptuary laws were often proposed by the clergy in the United Provinces, but rarely adopted. Simon Schama writes that “the synod of Dordrecht in 1618 had urged the enactment of sumptuary laws in restraint of extravagant entertainment, but as in so many matters, the message of the clergy went unheeded by the magistracy” (*Embarrassment of Riches*, p. 186). Nevertheless, sumptuary laws were introduced periodically, including in 1672 (concerning the size and lavishness of banquets), prompting criticism from Spinoza (*TP* Ch. 10; *G* III 355).

the enactors of this legislation. But Spinoza has a second form of argument that deepens his critique of moral legislation.

2.3 Moral legislation as self-defeating

Even if it were the case that moralizing campaigns were led by virtuous people against the genuinely dissolute, Spinoza would still be skeptical about moral legislation on prudential grounds. As Parkinson puts it, on Spinoza's view, "an illiberal policy (Spinoza argues) would prevent the state from functioning properly."⁶⁸ In fact, I think Spinoza's claim is stronger than this: it is not just the case that moral legislation undercuts the proper functioning of the state – moral legislation undercuts its *own* aims. What is moral legislation supposed to accomplish? The general goal is to make people virtuous or pious. This is a perfectly noble objective *in abstracto*. If it were the case that moral legislation effectively promoted moral uprightness, or, say, social cohesion, Spinoza would almost certainly support it. However, he gives psychological and empirical reasons for believing that legislation is an unsuitable tool for realizing such ends.

It might seem that moral legislation could promote cohesion by imposing greater uniformity on the populous. The problem is that "there are many men who are so constituted that there is nothing they would more reluctantly put up with than that the opinions they believe to be true should be outlawed . . . they therefore proceed to reject the laws and act against the magistrate. They regard it as very honourable and not at all shameful to behave in a seditious manner."⁶⁹ Resistance to legislative interference can be traced back to the affect of "ambition" [*ambitio*], which Spinoza understands as the striving for others to approve of the same objects that we do.⁷⁰ Sometimes ambition will lead us to adjust our own judgments to bring them in conformity with others'; however, more often than not, we will seek to foist our views on others and oppose the efforts of others to do the same to us. Because of our natural ambition, outlawing certain expressions of belief will only further alienate offenders and deepen existing schisms. Moral legislation thus generally promotes disharmony and treachery, rather than loyalty and cohesion.

Moral legislation also fails to make people more upright in their dealings or more honest since if people were prohibited from expressing their true opinions, they "would be continually thinking one thing

⁶⁸ Parkinson, "Spinoza on the Freedom of Man," p. 53. ⁶⁹ *TTP* Ch. 20; *G III* 244.

⁷⁰ See E3p29; cf. Rosenthal, "Spinoza's Republican Argument," and "Tolerance as a Virtue."

and saying something else. This would undermine the trust [*fides*] which is the first essential of a state; detestable flatter and deceit would flourish.”⁷¹ People cannot be expected to be morally upright and trustworthy if they must devote so much effort to concealing their true beliefs. Moral legislation will thus undercut honesty or uprightness rather than promote it.

Indeed, it is not just cohesion and good faith that are undermined by moral legislation, it is virtue in general: “trying to control everything by laws will encourage vices rather than correcting them.”⁷² One can attempt to make people virtuous or to prevent “extravagance . . . envy, greed, drunkenness, and so on”⁷³ by way of sumptuary laws,⁷⁴ but in fact such vices are only multiplied by legal intervention: “for all laws that can be broken without injury to another become a laughing stock, and far from restraining the desires and lusts of men, they even stimulate them, because ‘we are ever eager for what is forbidden and desire what is denied.’”⁷⁵ Rather than making men more virtuous, rational, or loyal, moral legislation actually serves to exacerbate the very ills that it aims to prevent.

We have seen, then, that Spinoza’s defense of toleration is based on two general claims: (1) the people who are most inclined to persecute the beliefs or behaviors of others are generally among the most corrupt, so we ought to be wary of acts of political intolerance, and (2) attempts at perfecting others through the enactment of laws are generally self-defeating. Many will regard Spinoza’s defense of toleration as unsatisfactory on account of its prudential basis and its restricted scope.⁷⁶ In the final section we will further flesh out Spinoza’s defense of toleration by considering how it relates to the central norms of governance, suggesting how

⁷¹ *TTP* Ch. 20; *G III* 243. ⁷² *TTP* Ch. 20; *G III* 243.

⁷³ *TTP* Ch. 20; *G III* 243. ⁷⁴ See *supra* note 67.

⁷⁵ *TP* Ch. 10; *G III* 355; cf. *TTP* Ch. 20; *G III* 243. The quote comes from Ovid, *Amores III*, iv, 17.

⁷⁶ Some commentators regard Spinoza’s rejection of rights-claims as a fundamental weakness. For instance, Feuer bemoans, “there are no reserved rights upon which the individual can insist . . . this is the final weakness in Spinoza’s political theory; his doctrine pleads for wisdom but merges into quiescence rather than deed” (*Spinoza and the Rise of Liberalism*, p. 114). Curley shares Feuer’s frustration, though he appears less sanguine about the ultimate ground of rights than Feuer: “If we cannot make sense of the idea that people have a natural right to such things, then we seem to be handicapped in the criticism we want to make of the Roman conduct (or of a tyrant’s treatment of his own people). That the notion of natural right (not coextensive with power) disappears in Spinoza seems to me still to be a defect in his political philosophy, sympathetic though I may be to the arguments which lead to that result” (“Kissinger, Spinoza, and Genghis Khan,” p. 335). Feuer and Curley seem to be particularly distressed by the lack of a right of resistance, but Feuer explicitly points also to the lack of a principled foundation in Spinoza’s defense of freedom of speech (*Spinoza and the Rise of Liberalism*, p. 114).

Spinoza's pragmatism might actually be seen as a strength rather than a weakness.

3 TOLERATION AND THE ENDS OF GOVERNANCE

At this point one might wonder about the precise limits and grounds of Spinoza's tolerationism. On the one hand, he argues that most acts of intolerance or interference – even for the sake of some noble end – are to be avoided because they are self-defeating. However, as we have seen, Spinoza does allow for the regulation of outward religious activities to protect the state from seditious and superstitious religious bigots. This leads one to wonder what norm or principle is guiding the pragmatic calculation that allows for toleration in some contexts but not others. To answer this question we must address more squarely what the guiding norm of governance is, according to Spinoza.

Near the beginning of *TTP*, Chapter 20, Spinoza claims that the purpose of the state is to “enjoy the free use of reason, and not to participate in conflicts based on hatred, anger or deceit or in malicious disputes with each other. Therefore, the true purpose of the state is in fact freedom.”⁷⁷ I have argued elsewhere that this notion of freedom is consistent with the notion of freedom as one's power of acting (*potentia agendi*) that one finds in the *Ethics*. The state's aim is to liberate or empower people as far as it can.⁷⁸ At other points in the political writings, Spinoza identifies the primary aim of the state as welfare (*salus*),⁷⁹ security (*securitas*),⁸⁰ peace (*pax*).⁸¹ Ultimately, I think that, contrary to appearances, these are in fact different ways of describing the aim.⁸² The aim of the state is to bring about, as far as possible, concord between citizens and mutual devotion to the laws; this would be a condition of social flourishing that would in turn redound to the power and liberty of individuals. Spinoza must ultimately be claiming then that toleration, in many circumstances, contributes to this aim.

Michael Rosenthal points to yet another norm that is served by toleration, namely, “stability.” Rosenthal's argument is worth exploring briefly, as it will, at once, enable us to see one reason why toleration is so important for a well-functioning state, while also helping us to clarify

⁷⁷ *TTP* Ch. 20; *G III* 24I. ⁷⁸ Steinberg, “Spinoza on Civil Liberation.”

⁷⁹ *TTP* Ch. 16; *G III* 194; *TTP* Ch. 19; *G III* 232; *TP* Ch. 3, art. 14; *G III* 290; *TP* Ch. 7, art. 5; *G III* 310.

⁸⁰ *TP* Ch. 1, art. 5; *G III* 275; *TP* Ch. 5, art. 2; *G III* 295. ⁸¹ *TP* Ch. 5, art. 2; *G III* 295.

⁸² Steinberg “Spinoza on Civil Liberation.”

what a well-functioning state consists in. Rosenthal argues that toleration contributes to the goal of stability by promoting participation, which, as I understand Rosenthal's view, is a *constituent component* of stability.⁸³ The success of this argument depends on how we understand the terms "participation" and "stability." If we understand "stability" simply in terms of the ability for a state to persevere, it is not at all obvious that toleration is the best policy for producing this goal. While Spinoza repeats Seneca's dictum that "no one has maintained a violent government for long" [*violenta imperia nemo continuit diu*] twice in the *TTP*,⁸⁴ he notes in the *Tractatus Politicus* that "no state has stood so long without any notable change as that of the Turks, and, conversely, none have proved so short-lived as popular democratic states."⁸⁵ The oppressive Turks, who believe that "it is wicked even to argue about religion,"⁸⁶ were successful in using fear and awe to restrain their subjects, which suggests that if the aim of the state is stability in the sense of *mere preservation*, intolerance might well be expedient. But as Spinoza makes very clear, the true end of the state consists not in *mere* stability, but in peace, which "consists not in the absence of war but in the union or harmony of minds."⁸⁷ Rosenthal, of course, recognizes that the goal of the state is not mere self-preservation; by "stability" he means something more like "peace" as defined above.⁸⁸

The true end of the state, then, is to bring about peace, which is a condition of flourishing that requires a relatively cohesive citizenry bound by rational laws. How is this end promoted through toleration? Rosenthal's answer is that toleration encourages participation, which is internally connected to stability, or peace. In order for Rosenthal's argument to be successful "participation" must mean something more than formal involvement in the governing process, since there is no reason why toleration would lead to participation in this sense;⁸⁹ nor is participation in this sense a constituent component of peace. Rosenthal conceives of participation in

⁸³ Rosenthal, "Spinoza's Republican Argument," pp. 333–335; cf. Rosenthal, "Tolerance as a Virtue," p. 549. Rosenthal wishes to maintain that participation and stability are not merely contingently and instrumentally linked, for, if they were, the argument for toleration would be thoroughly prudential, which is an interpretation that Rosenthal expressly disavows ("Spinoza's Republican Argument," p. 320). Instead, participation must be intrinsically connected with stability, apparently as a constituent component.

⁸⁴ *TTP* Ch. 5; *G* III 74; *TTP* Ch. 16; *G* III 194. ⁸⁵ *TP* Ch. 6, art. 4; *G* III 298.

⁸⁶ *TTP* Preface; *G* III 7.

⁸⁷ *TP* Ch. 6, art. 4; *G* III 298. Cf. *TP* Ch. 5, arts. 4–5; *G* III 296; *TTP* Ch. 17; *G* III 219.

⁸⁸ He explicitly connects stability with the positive freedom of the *Ethics*, "Spinoza's Republican Argument," pp. 334–335.

⁸⁹ Autocrats, of course, can and often did adopt policies of toleration without granting participatory rights – for example, when Henry IV of France issued the Edict of Nantes in 1598, which protected the practices of the Huguenots, he did not thereby *democratize* the kingdom in any sense.

terms of one's "active and continual transfer of right to the sovereign."⁹⁰ Put simply, one could understand this notion of participation in terms of one's active commitment, or loyalty, to the state. The connection to peace should be clear: the degree of civic commitment of the subjects will be directly proportional to the degree of harmony or peace in the state. Moreover, this also allows us to see why toleration will generally be more conducive to participation than intolerance: preventing the beliefs or activities of others will often breed resentment, which "lessens the desire of citizens to participate in the government through the passive or active transfer of their right/power [and hence] lessens the power of the government."⁹¹

However, even with Rosenthal's helpful argument in place, the question that we set out to answer in this section remains. For even if toleration *generally* conduces to participation and peace, we have seen that there are cases when it does not. Consider the case of religious bigotry, once again. Religious bigotry ought to be curbed not just because it threatens the continued existence of the state, but also because it results in hostility, resentment, and ignorance, all of which are anathema to peace. So even if we can imagine a perseverant society run by bigots,⁹² this will not be peaceful society. We can see, now, how complicated the sovereign's task is. Its primary directive is to promote peace. But peace requires not just perseverance and the absence of war, it requires civil harmony and the cultivation of reason.⁹³ Under what conditions will toleration promote peace? Here the sovereign will have to make sophisticated, and highly circumstance-relative, pragmatic calculations.

To see just how circumstance-relative these judgments will be, consider Spinoza's insistence that good governance depends on regime form and existing customs. What is good for a people accustomed to living in a monarchy will differ from what is good for a people accustomed to living in a democracy.⁹⁴ And what is good for a people who are accustomed

⁹⁰ Rosenthal, "Spinoza's Republican Argument," p. 335. There is, however, one problem for Rosenthal, as I see it. Once we form a clearer understanding of what participation consists in, it becomes less clear what makes this argument for toleration specifically *republican*. If participation is measured in terms of the transfer of right to a sovereign or in terms of a citizenry's devotion to the state, it is no longer obvious that participation is a unique feature of republics. For a further discussion of the relationship between republican participation and social flourishing, see Steinberg, "On Being *Sui Iuris*."

⁹¹ Rosenthal, "Spinoza's Republican Argument," p. 335.

⁹² Indeed, even a society of "rugged individualists," in which there is very little commerce but also very little enmity between individuals, would hardly qualify as harmonious or peaceful for Spinoza (see, again, *TP* Ch. 5, art. 5; *G* III 296).

⁹³ See, again, *TTP* Ch. 20; *G* III 241; *TP* Ch. 5, art. 5; *G* III 296.

⁹⁴ *TTP* Ch. 18; *G* III 227–228.

to oppression is different from what is good for a free people.⁹⁵ The circumstance-relativity of governance is perhaps best illustrated by Spinoza's discussion of that shrewd statesman: Moses. Because the Hebrew people were accustomed to slavery and not yet capable of self-rule, Moses established a state religion that included a great number of laws – ceremonial, dietary, etc. – that brought about social cohesion and efficiency – that is, he introduced a great deal of moral legislation.⁹⁶ Did such legislation backfire in the way that Spinoza supposes it would if adopted in the United Provinces? On the contrary, these laws enabled a group of uneducated nomads to live in relative material prosperity and peace. For these men, accustomed as they were to obedience, such legislation “appeared to be freedom rather than slavery.”⁹⁷ And, whereas Spinoza reasons that, for many, forbidding something only increases one's desire for it,⁹⁸ among the Hebrews “no one could have desired what was forbidden, only what was prescribed.”⁹⁹ The major lesson that we can take away from the case of Moses and the Hebrews here is simply that understanding the customs and temperament of the subjects will go a long way in determining whether an act of legislation will be peace-promoting.

So, when calculating whether a particular form of action will promote or undermine peace, one must consider the receptiveness of subjects to such legislation.¹⁰⁰ This is an application of Spinoza's general principle of governance that one must conform one's policies to the actual psychological features of one's subjects, rather than base them on an abstract and idealized conception of human beings.¹⁰¹ When tailoring one's policies to the customs, temperaments, and proclivities of one's subjects, one of the most important considerations is how much freedom one's subjects are accustomed to. As Spinoza very astutely notes, “nothing is more difficult than to deprive people of liberty once it has been granted.”¹⁰² The Hebrews, accustomed as they were to obedience, were well-tempered to receive moral

⁹⁵ “It remains only for me to remind the reader that the monarchy I here have in mind is one established by a free people, for whom alone these suggestions can be helpful; for a people accustomed to a different form of government will not be able to tear up the traditional foundations of their state, changing its entire structure, without great danger of overthrowing the entire state” (*TP* Ch. 7, art. 26; *G* III 319).

⁹⁶ *TTP* Ch. 5; *G* III 74ff. ⁹⁷ *TTP* Ch. 20; *G* III 216. ⁹⁸ *TP* Ch. 10, art. 5; *G* III 355.

⁹⁹ *TTP* Ch. 20; *G* III 216.

¹⁰⁰ The source of the command may also go a long way in determining how effective it is. Specifically, moral commands are more grating and destabilizing when they come from religious figures than when they come from the civil authority: “The prophets, who, of course, were private individuals, had more success, it should be noted, in antagonizing than reforming people by means of the liberty which they usurped to admonish, scold and rebuke; on the other hand, those admonished or punished by kings, were readily corrected” (*TTP* Ch. 18; *G* III 223; cf. *TTP* Ch. 19; *G* III 236).

¹⁰¹ *TP* Ch. I, art. 1; *G* III 273. ¹⁰² *G* III 74.

laws. However, a people who are accustomed to a wide range of liberties are not likely to take well to new impositions on these liberties.

As noted above, many will regard the absence of a clear principle for delimiting the scope of toleration as a weakness of Spinoza's account. However, the pragmatic, circumstance-relativity of Spinoza's account might actually be one of its virtues. Consider Spinoza's approach in relation to one of the bigger challenges for liberals today, namely, how far we should tolerate hate speech, or speech that vilifies or degrades someone on the basis of their identity (e.g., ethnicity, race, religion, etc.). Like religious bigotry, hate speech may be seen as undermining peace by feeding the zeal of the ignorant and allowing for the stigmatization of members of groups that are often already vulnerable and marginalized. On the other hand, there is some hope that, at least in a relatively enlightened society,¹⁰³ permitting hate speech may actually strengthen the resolve of the citizenry in opposing racism and bigotry; and, moreover, restricting speech may well have the consequence of making people who are accustomed to broad liberties more resentful of government. So how far should a sovereign that wants to promote peace tolerate hate speech?

Spinoza would argue that we cannot reasonably take a principled, once-and-for-all, stance on how far such speech ought to be admitted – to do so would be not only naïve, it would be dangerous. Instead, one would have to consider the receptivity of the citizenry to the regulation of such speech, how much general discord is likely to be wrought by the admission of such speech, and how vulnerable the target group is.¹⁰⁴ In countries where there is a dominant ethos of liberty – i.e., where people are accustomed to a very tolerant state with minimal intervention – the regulation of hate speech might be more destabilizing or disharmonizing than it would be in countries where there is, say, a dominant ethos of fraternity.¹⁰⁵ While such circumstance-relativity may well lead to complicated legislative

¹⁰³ Even Mill claims that the harm principle only applies to those societies that have achieved a certain level of "maturity" and enlightenment (*On Liberty*, p. 11).

¹⁰⁴ See Waldron ("Free Speech") for a helpful discussion of the topic.

¹⁰⁵ In other words, Spinoza's approach might be able to account for some of the differences between the USA and many other Western countries on the issue of hate speech regulation. In the USA, where a certain reading of the first amendment, bolstered by some judicial interpretations, has led many to hold freedom of speech as sacrosanct, there may be reason to be more cautious about regulating hate speech than in other Western countries that do regulate hate speech – such as Canada, France, Germany, and the Scandinavian countries – where there is, arguably, a greater concern for fraternity and a less fetishized attitude towards free speech and so less resistance to such legislation. One concern, however, with seeking to accommodate the customs and psychology of one's citizens is that this would lead to an approach that is too conservative, too acquiescent to prevailing opinions.

determinations, given the complexity of the phenomena, perhaps a little messiness is to be expected.

Let me close by just calling attention to one final, important feature of Spinoza's account. There is a tendency to associate defenses of toleration and liberalism with the adoption of a certain conception of civil liberty, namely, negative liberty, or the freedom of non-interference. But, as we have seen, it is not the norm of liberty as non-interference that is driving Spinoza's defense of toleration, but rather the norms of peace and positive liberty. In his defense of toleration, Spinoza demonstrates that liberalism is not wedded to any particular conception of liberty. One can perfectly consistently endorse both the view that the ultimate goal of the state is to promote positive liberty or power *and* the view that legislation is generally ineffective in promoting this liberty.¹⁰⁶ The failure to see the consistency of these two views might well have been what led Berlin to overlook Spinoza's tolerationism. For those of us, though, who are generally sympathetic to tolerationism, but who do not regard freedom from interference on its own as a particularly robust political norm, Spinoza's ability to reconcile positive liberty with a relatively tolerant state may be seen as one of his greatest accomplishments.

¹⁰⁶ In recent years, a similar position has been advanced by Joseph Raz. After defending a positive model of freedom – freedom as autonomy – and claiming that the state has a duty both to prevent deprivations of this liberty and to promote it actively (*Morality of Freedom*, p. 424), Raz notes that the government's ability to foster such liberty may be rather limited, adopting a pragmatic line very much like Spinoza's: "The extended freedom from governmental action is based on the practical inability of governments to discharge their duty to serve the [positive] freedom of their subjects. . . . The pursuit of full-blooded perfectionist policies, even of those which are entirely sound and justified, is likely in many countries if not all, to backfire by arousing popular resistance leading to civil strife" (*Morality of Freedom*, pp. 428–429).