

Toleration

1. Introduction

Contemporary philosophical debates surrounding toleration have revolved around three issues: What is toleration? Should we tolerate and, if so, why? What should be tolerated? These questions are of central importance to social and political thought. While I cannot also do justice here to the history of toleration, its pedigree should be noted.

The most important historical thinkers to discuss toleration are Saint Augustine, Baruch Spinoza, Pierre Bayle, John Locke, and John Stuart Mill (*see* AUGUSTINE, SAINT; SPINOZA, BARUCH; LOCKE, JOHN; MILL, JOHN STUART). Augustine provides the first significant defense of religious toleration—on the grounds that one cannot force genuine religious belief since individuals do not choose at will what they believe. Later thinkers—Bayle and Locke, in particular—sought to improve upon and supplement Augustine’s argument for toleration.

It is through Locke’s work that toleration becomes central to liberal theory (*see* LIBERALISM). It is Mill, though, who gives the most powerful explication and defense of the extent of toleration. His famous *harm principle* (*see* HARM PRINCIPLE), which echoes Locke’s view, is the most famous normative principle of toleration.

2. What Toleration Is

Toleration clearly involves noninterference. We do not tolerate P if we stop P from acting or if we make P’s action more difficult. (Some early modern thinkers deny

the latter, allowing that religious toleration is consistent with taxing groups differentially, for example. They thus ask a fourth distinct question—“what does toleration require?”) Noninterference is *the point* of toleration; that is, an act is only an act of toleration if noninterference is its *intent*. About this, most readily agree. However, with further thought, people generally realize that “intentional noninterference” is not a satisfactory definition.

We would not say lovers of Brahms tolerate his music. Enjoying something makes it conceptually impossible to tolerate it. One can tolerate X only if one has some objection to X. Some insist that moral disapproval and not mere dislike must be present; others insist the latter is sufficient. Philosophers agree, though, that some element of opposition must be present.

Some argue that in at least one sense, one can “tolerate” what one approves of. For these thinkers, a society that truly tolerates differences cherishes those differences and (raising that fourth question) may seek to sustain them. While a philosopher might approve of the substantive political commitment that view entails, she would call it “multiculturalism” rather than “toleration” (*see* MULTICULTURALISM). I assume the philosophical view here.

The philosophical view faces a quandary: if we dislike or morally disapprove of X, why tolerate it? This indicates another necessary element: a principled reason for the noninterference. If one refrains from interfering without some principled reason—perhaps out of laziness or fear—one is not tolerating. If one refrains from interfering for an unprincipled reason—perhaps with the hope that something worse will befall the other—one is not tolerating. There is, though, debate about what reasons count as

principled. Some insist toleration is grounded in individual autonomy, rights, or respect (*see* AUTONOMY; RIGHTS; RESPECT). Others take a broader view, allowing that other values may undergird the principled noninterference.

Thus, there are three primary elements of toleration: for P to tolerate X, P must intentionally refrain from interfering with X, P must dislike or disapprove of X, and P's noninterference must be for a principled reason. These are widely agreed to be necessary for toleration. Others suggest additional elements (*see* Cohen 2004).

Importantly, the reason one refrains from interfering when one genuinely tolerates can differ from the reason toleration is morally valuable (the topic of section 4). In the first case, the reason (along with opposition) makes the intentional noninterference toleration; in the second case, it may make the toleration morally valuable. That these can differ makes possible genuine but morally mistaken toleration. For example, autonomy is often the reason noninterference is toleration. (Some claim only autonomy plays this role.) If one mistakenly believes noninterference in a particular case is required in order to respect another's autonomy, one has a principled, though mistaken, reason for noninterference; such noninterference would therefore be toleration. However, given the factual mistake, the toleration may not be morally valuable. If the two reasons were necessarily the same, every instance of genuine toleration would be morally valuable, but surely we can tolerate wrongly. Hence, while there is an essentially normative element of toleration, recognition of that element does not settle the normative question "Should we tolerate?"

3. Toleration and Tolerance

Although we often use the terms “toleration” and “tolerance” synonymously, we also use the latter in a very different way: to refer to an attitude or virtue rather than a type of behavior. It is helpful to reserve “tolerance” for the former and “toleration” for the latter.

People can exhibit tolerance, be *tolerant*, and act *tolerantly*. Being tolerant is a matter of having a particular sort of attitude. It may also be a virtue (see Newey, 85-120). As a virtue, it would involve a disposition to refrain from interfering. Importantly, that disposition need not be directed only toward things opposed. A person is tolerant of things she approves of or is indifferent to. Lovers of Brahms, to use that example again, likely have a high tolerance for his music. Clearly, tolerance may be present without toleration. So too, acts of toleration are not necessarily tolerant. One might continue to seethe at the thought of R doing X—exhibiting intolerance—while tolerating it.

A tolerant person or act may not be a *tolerating* person or act. Since one must oppose what one tolerates, someone who is so tolerant that they oppose nothing, cannot tolerate. Tolerance and toleration—while related—are not co-extensive.

4. Defending toleration

There are many arguments for toleration, including arguments that attempt to show that it is conceptually connected to other goods such as autonomy, rationality, self-respect, equal respect, rights, increased societal knowledge, peace, good living, societal advancement, and religious salvation (*see* RATIONALITY; SELF-RESPECT AND SELF-ESTEEM).

Perhaps most famous is Augustine's argument from the nature of genuine religious belief: since faith cannot be forced, individuals must be tolerated so they might attain salvation. *Credere non potest nisi volens*—belief has no power (to help us attain salvation) if it is not free. Augustine assumes we cannot just will to believe something (doxastic voluntarism is false). Empirical evidence about belief acquisition, though, may render that assumption irrelevant. Indeed, Augustine came to reject his own argument when he saw persecuted Donatist heretics accept orthodoxy. He did not think this required doxastic voluntarism; he simply realized that people can be forced into situations in which they gradually come freely to believe. Over time, force—lack of toleration—can indirectly change beliefs even if individuals cannot just will to believe. Forcing someone to listen to an argument might make her more likely to accept its conclusion, if only because having heard the argument, she becomes accustomed to her once-rejected view. (Of course, without toleration, some 'heretics' are likely killed or isolated so that others never get to hear their view, directly contributing to its disappearance.) The argument's success is thus limited. Later thinkers improve on it by arguing that genuine belief requires an individual's reasoned assent. Bayle's argument for toleration (arguably the best of these) is based on respect for that use of reason, which is on firmer epistemological ground than faith (see Spinoza, Chapter 15; Bayle, 74; Locke, 68 and esp. 299; and Forst 2008, 96-106).

Mill offers a related argument that Joel Feinberg calls the "moral muscles" argument: since the faculty of reason is of paramount value—without it, one is not a *moral* being, not a *person*—we must allow and even encourage its development, and the best way to do this is to tolerate differences so people must sort through them (Feinberg

1986, 384 note 5; *see* FEINBERG, JOEL). Individuals develop and/or maintain (depending on how the argument is fleshed out) their rational capacities—their moral muscles—as they consider views in contrast with (often opposing) their own.

Other related arguments from Mill concern truth acquisition and justification of belief. Mill claims that if we do not allow dissent, we will prohibit the hearing of possibly true propositions. If they are true and successfully prohibited, Mill believes that truth is essentially stolen from those who would otherwise hear it. If they are false, he believes, there would be theft—not of the truth, but of opportunities to clarify the truth (of allowed beliefs) and to develop sincere commitment rather than mere acquiescence (to those beliefs). Since acquiescence leaves one without justification, this entails a loss of knowledge—true *justified* belief. On Mill's view, justification requires scrutinizing beliefs before accepting them and toleration promotes this since it requires allowing dissent, and that encourages listeners to consider alternatives (*see* SPEECH, FREEDOM OF).

Consider, finally, Mill's argument for societal progress, which begins by noting that tolerating individuals' non-standard behaviors (consider the Wright brothers' first flight, which many thought crazy) allows them to develop better ways of performing daily tasks (typically while engaging in a project they think valuable) and, thus, to develop better ways of life. Since such innovations can benefit everyone and since we cannot know who will develop them, the argument continues, we should have extensive toleration of differences so that society can improve. (Those committed to traditional ways of life may find this threatening.)

I cannot discuss other arguments for toleration here (see Forst 2003), except to note that we must not think of toleration as only about others. It is too easy, when thinking about whether someone else should be tolerated, to conclude that toleration is not warranted. Toleration is important to each of us because someone else might think *our* way of life should not be tolerated. If we want our ways of life to be tolerated, we should be prepared to defend toleration in general. Of course, there are limits.

5. The Limits of Toleration and the Paradox of Liberalism

Toleration is a good but there must be limits. We simply do not, should not, and indeed, cannot, tolerate murder or rape, for example. But what are the proper limits of toleration? What should we, as individuals and as societies tolerate? This debate is not solely academic. Politics often face this question. Should minority religious practices be tolerated? Should homosexuality? Marijuana? *Ad infinitum*. (There is debate about whether governments have intentions and whether such intentions have moral weight; this matters since toleration requires intentional non-interference. Here, I suggest only that toleration at the state level is a matter of policy—in some sense, intentional—allowing activity that might be opposed by some part of the citizenry, though not necessarily by those enforcing the policy.)

If we are to answer the normative question for states, we have to recognize that what it is conceptually possible for a particular state to tolerate will be determined by what is opposed therein. What I can tolerate depends on what I oppose; similarly, what a state can tolerate depends on what is opposed within it. When a state—or those within it—oppose an activity, it can make a law against the activity or decide that such a law is

unjustified and that toleration of the activity is required. Importantly, which of those things that *can* be tolerated in the polity *will* be tolerated will depend on the publicly recognized reasons to tolerate. Imagine, e.g., a Christian country wherein it is commonly believed that religious practices of Jews and Muslims must be tolerated, though those of Mormon Polygamists must not. Though all are opposed, the first two are thought worthy of toleration and the last is not. Of course, that a particular practice *would* not be tolerated is not to say that it *should* not be tolerated.

Historically, it was liberals that were most committed to extensive toleration. It was they that argued for toleration of competing religions and, later, competing cultures. That liberals would tolerate more than others does not, in the minds of non-liberals, tell us what ought to be tolerated. So how do we make progress on this question? Or must we admit, with critics of liberalism, that toleration is a false ideal and that different polities simply have competing visions of what must be tolerated?

This problem is sometimes called the "paradox of liberalism." (This is different from the "paradox of toleration," which is concerned with the necessity of tolerating acts of non-toleration.) The paradox might be framed as follows. Persons living in a liberal state who are militantly anti-liberal should either be tolerated or not. If tolerated, non-liberalism—which limits toleration—seems to be allowed. If not tolerated, the state is non-liberal. Liberalism thus seems defeated since it is a commitment to toleration, which is curtailed either way (this would hold even if, as I suspect, the liberal will tolerate non-harmful anti-liberal activity like speech acts but not harmful activity). Liberals are committed to the broadest range of liberty and toleration possible and so the narrowest

range of morally permissible interferences but, the paradox supposedly shows, this is not all that extensive.

Put bluntly, the question is: can a liberal state outlaw those seeking to end its rule? More generally, can a regime force compliance with its principles and remain committed to those principles? This is supposedly paradoxical for liberalism because forcing compliance means not tolerating and a liberal regime is a regime of toleration, so forcing compliance undermines the regime. (Hence, we should call this "the paradox of regimes of toleration.") It is, then, the commitment to a principle of toleration (which indicates narrow limits of permissible interference) that raises the paradox. The principle may be a Rawlsian principle of political legitimacy such that "the basic structure [of society] and its public policies are to be justifiable to all citizens" (Rawls 1993, 224) or something like Mill's harm principle (see next section), which indicates that harm to others is the only reason to end toleration. The paradox may seem especially potent against the latter: endorsement of the harm principle seems tantamount to an endorsement of a conception of the good—or at least a claim that no other conception of the good is sufficient to warrant interference.

Imagine a religious group R, a central belief of which is that having *all* act in accord with the tenets of R is required for *anyone* to lead a good life. Adherents of R will reject the harm principle. Interfering with their (perhaps forceful) proselytizing seems to require rejecting R's claim about the good life. It also suggests a commitment to the good life defined as including freedom of choice. The Rawlsian principle, though apparently only procedural, actually fares no better. It too requires rejecting R's claim about the good life and suggests a commitment to the good life as including freedom—

freedom to live under a regime that one could reasonably endorse. There are, after all, “limits to what public reason can accomplish” (Rawls 1999b, 614).

Importantly, all regimes can be characterized as regimes of toleration. They simply specify the limits of toleration differently—according to different principles of toleration. But the response to the paradox is clear. The Christian regime discussed above, wherein Jews and Moslems were tolerated and Mormon Polygamists were not, forces compliance with its principles and remains committed to them. Polygamists lose out in such a regime because they violate the regime’s principles. This does not make the regime less Christian. In a liberal regime, there is extensive toleration, but some lose out nonetheless—because they violate the regime’s principles. For a liberal committed to the harm principle, those claiming the right to harm others will lose out. For a liberal committed to Rawls’s principle of political legitimacy, those claiming a right to impose laws on others that would reject them lose out. In neither case, does this make the regime less liberal. Liberals—those defending extensive toleration—will not tolerate those seeking to end liberalism. If this is a paradox, it is worth noting that paradoxes are not contradictions and can be lived with. Liberals can live with the paradox of liberalism because of the objective value of toleration. (They need not insist everyone recognize that objective value.)

6. What Should be Tolerated

The treatment, above, of the paradox of liberalism may not convince everyone. Some will think the discussion shows that the value of toleration cannot be defended. This is not, in itself, worrisome. Toleration, after all, is generally considered a *dependent* value. It depends on some *other* value, namely whatever value(s) provides the principled

basis for non-interference, whether it be autonomy, peace, or something else. It would thus be surprising if toleration could be defended on its own. Moreover, as we have seen, everyone agrees that toleration has limits. Indeed, in the contemporary western context, arguing that toleration in general is good seems decidedly odd since no one disputes it. Those that think interference in a particular case is permissible simply think the normative limits of toleration have been transgressed. Hence, in this context, what matters is not defending toleration per se, but defending a specific view about what should be tolerated. Once we defend such a view, we should uphold its principles—though they may require that we remain open to further debate and the possibility that a strong countervailing argument will emerge.

The question "what should be tolerated?" is a central question of social and political philosophy. Importantly, we can tolerate good behavior (perhaps we dislike when family members give charity, for example) as well as bad (though telling lies may be bad, some must be tolerated). It may be that we must, if we oppose them, tolerate prostitution, pornography, homosexuality, and same-sex marriage (*see* PROSTITUTION; PORNOGRAPHY; HOMOSEXUALITY; SAME-SEX MARRIAGE). Regarding some of these, indifference may be better than toleration, but unattainable. We need principles that indicate when toleration is required, should there be opposition.

Normative jurisprudence is largely a search for principles indicating what the state should tolerate. Feinberg enumerates nine such principles (see Feinberg 1990, xix-xx). The first is Mill's famous harm principle: "The sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number is self-protection ... the only purpose for which power can be rightfully

exercised over any member of a civilized community, against his will, is to prevent harm to others” (Mill, 9). The idea is that harm (*see* HARM)—understood as wrongful setbacks to interests (see Feinberg 1984, 36)—is always a good reason to permit interference, whether to prevent its otherwise imminent occurrence, to penalize those who cause it, or to rectify its damage. (Some deny, but most think, prohibiting activity statistically likely to cause harm is permitted on a Millian scheme.)

It is important that Mill’s principle is about harm *to others*. It does not permit interference—including failures to tolerate—to prevent harm to self. Indeed, harm to self might seem conceptually impossible. When a boxer is punched in the ring, we do not think there is a reason for interference. This is because the boxer is presumed to have consented to the match and so to have no claim against his opponent (so long as his opponent abides by the rules). *Volenti non fit injuria*—what one welcomes (or consents to) cannot be injurious (though it can hurt, it cannot be wrongful). “Harm to self” thus seems oxymoronic: what one does, one consents to, so when one hurts oneself, one does not *wrong oneself* and so cannot *harm* oneself, no matter how much the hurt. However, ignorance, deception, and mental defect can render a person unable to consent even to his own actions. Where these are present, *Volenti* is thus irrelevant (*see* CONSENT; INFORMED CONSENT).

Mill talks about combining spheres of action. Just as one’s consent to one’s own actions means they cannot be harmful, one’s consent to another’s actions means they cannot be harmful. Hence, the boxer. When two or more people act upon one another with full consent, they are not to be interfered with if we adopt the harm principle as the sole normative principle of toleration.

The harm principle indicates that *only* harm justifies interference. While all believe that harm at least often justifies interference, many believe interference can be justified in some cases where there is no harm. Feinberg, for example, believes *offense* can also sometimes justify interference (see Feinberg 1988). Others suggest offense only justifies interference when it is so severe that it causes harm. Nazis marching in Skokie, IL, for example, seem not only offensive to the Holocaust survivors who live there, but also seem likely to wrongly setback the psychological interests of those survivors (*harming* them). While physical pains (and thus physical harms) may be easier to assess, there is no principled reason to deny there are psychological harms or that the harm principle allows for interference to prevent (or rectify) them.

Mill makes another distinction that deserves consideration. He claims "definite damage, or a definite risk of damage" places an act in the province of morality or law but "merely contingent" injuries do not (Mill, 80). The latter are injuries an individual may, but need not suffer. For example, some claim to be harmed by merely knowing there are people that engage in homosexual activity. Such activity, though, need not affect others "unless they like" (Mill, 73-74). According to Mill, such acts do not merit interference. (We might think *Volenti* renders them non-harms.)

Libertarian-minded liberals favor the harm principle as the only normative principle of toleration (*see* LIBERTARIANISM). Feinberg prefers to include the offence principle. Many liberals endorse further principles, especially a benefit-to-others principle, according to which, the provision of some significant benefit (perhaps determined by need) can justify interference. Presumably with limits, such a principle

would provide justification for redistributive interferences to help individuals, perhaps in the name of need or equality.

Less likely to be endorsed today are two principles that are important, historically and in contemporary politics. These are legal paternalism and legal moralism (*see* PATERNALISM). According to the first, interference is sometimes justified to prevent individuals from causing themselves undue harm. According to the latter, interference is sometimes justified to prevent immoralities, even where these cause no individual harm.

We’ve already seen that paternalism’s concern with an individual harming herself is conceptually problematic—but only when she is fully rational. Hence, many advocate *soft paternalism* (also called *soft anti-paternalism*). On this view, interference may be justified to ensure that when an individual acts in such a way that will cause hurt to only herself, she does so rationally and fully cognizant of the likely consequences. Few reject this; many reject *hard paternalism*—the view that interference may be permitted to prevent an individual from harming herself even when she rationally endorses her action. Perhaps she wishes to ingest cocaine, fully aware of the risks.

Various writers advocate moralism. They might argue that homosexuality, for example, should remain illegal because immoral. Some argue that such immoralities tear at the fabric of society, thus resulting in harm—to society as a whole or the individuals therein. Others seem to believe that some “free-floating evils” are sufficient to justify interference, though they involve no harm at all (*see* Feinberg 1990, 3-38 and 124-175 and Hart 1963, 48-52; *see* HART, H.L.A.).

Before ending, it is worth discussing the Rawlsian alternative approach mentioned in the previous section, according to which laws must be justified by reasons acceptable

to all reasonable citizens (*see* RAWLS, JOHN and PUBLIC REASON). On this view, we must tolerate anything that cannot be legislated against without violating that rule. Interference is warranted only where legislation permitting it cannot be reasonably rejected (*see* Rawls's 1999b, 573-615, esp. 578-9). This approach purports to avoid appealing to any particular conception(s) of the human good; it claims, instead, to offer a freestanding conception of liberalism that is the subject of a consensus among all reasonable doctrines within the society (*see*, e.g., Rawls 1999a, 144 and 176). It thus claims to be maximally tolerating since it does not favor any particular groups. By contrast, it is suggested, views that seek independent normative principles of toleration like those just discussed favor groups that promote autonomy or some other good.

Advocates of the Rawlsian view recognize that what the overlapping consensus includes can only be determined through argument. We cannot consider that here, but I suggest that in some form, the first principle discussed above would be part of the overlapping consensus in any just society. More importantly, though, any individual or group that fails to endorse the principles of the overlapping consensus would be deemed unreasonable and thus not respected (*see* Scalet). It would seem, then, to reject certain conceptions of the good, even if it does not endorse a specific conception of the good itself. (It seems to endorse a thin conception of the good that requires commitment to reasonableness.)

While some do insist on promoting autonomy (Mill sometimes seems to), endorsing the harm principle—and some of the other principles discussed above—does not. An advocate of that principle can admit that some groups limit their members' liberty (or autonomy) and allow that such must be tolerated—provided no one in that

group is forced into it and no one in the group harms anyone outside the group. While *that* provision may burden some groups, it can rightly be claimed that this is simply a result of fair and equal treatment of all and that the differential burden of a particular group given that treatment is not enough to show unfairness (see Barry, 24-40 and 118-131).

To be clear, the requirement that force not be used on individuals against their will is *not* a requirement to promote autonomy. A concern with harm is not essentially a concern with autonomy. Individuals *can* be harmed by having their autonomy wrongly set back, but they can also be harmed by having their interest in conforming to a group and giving up autonomy wrongly setback. Some may reasonably choose to have their autonomy curtailed; the harm principle would thus require toleration of such, even though it would require not tolerating the forced removal of autonomy. We can assume no one has the right to coerce others against their will without assuming all individuals have autonomy interests. Thus, we express our "recognition of the worth all citizens attach to their way of life" (Rawls 1993, 319).

Conclusion

Toleration requires both opposition and principled reason to refrain from interfering. Conceptually, then, there are people and things that are liked and that thus cannot be tolerated (though we can be tolerant of them) and people and things that are disliked and thus can be tolerated. While some of the latter should be tolerated, some should not. A full account of toleration would indicate clearly how to draw these lines. Such an account would include a clear conceptual analysis of toleration, a precise and

detailed indication of why it is a value, and comprehensive guidelines that explain when it is and is not required. It need not be grounded in a particular conception of the good life.

SEE ALSO: ASSOCIATION, FREEDOM OF; AUGUSTINE, SAINT; AUTONOMY;
CHILDREN'S RIGHTS; CONSENT; FEINBERG, JOEL; HARM; HARM PRINCIPLE;
HART, H.L.A.; HOMOSEXUALITY; INFORMED CONSENT; LIBERALISM;
LIBERTARIANISM; LOCKE, JOHN; MILL, JOHN STUART;
MULTICULTURALISM; PARENT'S RIGHTS AND RESPONSIBILITIES;
PATERNALISM; PORNOGRAPHY; PROSTITUTION; PUBLIC REASON;
RATIONALITY; RAWLS, JOHN; RELIGION, FREEDOM OF; RESPECT; RIGHTS;
SAME-SEX MARRIAGE; SELF-RESPECT AND SELF-ESTEEM; SPEECH,
FREEDOM OF; SPINOZA, BARUCH.

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