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Toleration and the fair terms of engagement with diversity.

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Abstract

The aim of this paper is to examine the various controversies over the genuine problems of toleration in a plurally diverse polity as both historically and conceptually, toleration is one of the foundational characteristics that defines the very essence of a plurally diverse polity and the basic virtue associated with a liberal conception of citizenship. In section 1, I present the main philosophical and conceptual issues related to the toleration-based approach to diversity in liberal political theory. In section 2 I identify the conditions and the circumstances of toleration. I articulate in Section 3 the most pressing objections against toleration. I present in section 4 two competing approaches to the toleration-based approach to diversity is faced with. In the concluding section, I outline a modified conception of toleration that mediates between different requirements associated with the two principled commitments of the liberal version of the rights-based conception of citizenship.

***Keywords**:* toleration, diversity, mutual respect, recognition.

Author's biographical note

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0. Introduction

The understanding of the basis of a liberal conception of toleration, writes Samuel Scheffler, "has taken on a renewed urgency at this historical moment" (SCHEFFLER, 1994: 5) since liberalism's commitment to tolerating diverse schemes of value and conceptions of the good is also responsible for much of what is puzzling and burdensome about classical as well as contemporary liberalism. The complexity of the foundations, nature and value of toleration and the controversiality of the status, the justification and the limits of what is to be tolerated, raise a number of questions over the basis of toleration in a plurally diverse polity. As the existing literature on this topic exemplifies clearly (e.g. MCKINNON and CASTIGLIONE, 2003; DEES, 2004; DEVEAUX, 2000; GALEOTTI, 2002; HEYD, 1996; KUKATHAS, 2003; MCKINNON, 2006; MENDUS, 1989; NEWEY, 1999; PAREKH, 2000; RAWLS, 1993; SARDOČ, 2010; SCANLON, 2003; TAYLOR, 1997; TORBISCO CASALS, 2006; WALZER, 1997; WILLIAMS and WALDRON, 2008), the persistence of various objections against toleration confirm that a number of issues associated with the toleration-based approach to diversity and the possibility conditions of toleration remain contested.

While both classical and contemporary proponents of toleration argued succinctly for its necessity for the maintenance of a stable and peaceful political community, its *status*, its *justification* and the *limits* of what is to be tolerated have met with a number of objections and criticisms throughout its historical development. These three foundational questions associated with a toleration-based approach to diversity, i.e. [i] *why* toleration; [ii] toleration of *what* [what is a legitimate object of toleration]; and [iii] *how* to tolerate; contributed in large part to the ambiguity surrounding the theory and the practice of toleration. At the heart of these controversies over the foundations, nature and value of toleration in a plurally diverse polity, lie a number of conceptual, normative and educational problems stemming from the requirements of equal civic respect for diversity in a polity that is plural in its cultures and traditions. A number of questions arise out of these manifold and complex demands for toleration, respect and recognition of diversity in the public institutional framework of a plurally diverse polity: What are the conditions of a toleration-based approach to diversity? Does a toleration-based approach to diversity present a sufficiently elaborated model of accommodation of diversity to cope with cultural and value pluralism?

This paper consists of six sections. In section 1, I present the main philosophical and conceptual issues related to the toleration-based approach to diversity in liberal political theory since our intuitive notion of toleration consists of a variety of distinct and conflicting meanings and interpretations of the conception of toleration. I first elaborate the different questions associated with a liberal conception of toleration and then outline the foundations of a toleration-based approach to diversity. I then identify in section 2 the conditions and the circumstances of the toleration-based approach to diversity as well as critically evaluate the principal arguments associated with the justification of toleration in a plurally diverse polity. It is in this section that the complexity of the toleration-based approach to diversity comes to the forefront. In particular, I aim to clarify the principal background conditions a particular act must be consistent with in order to qualify as an act of toleration. In section 3 of this paper, I articulate the most pressing objections against the toleration-based approach to diversity advanced by its many critics. Each of these objections criticises a particular element of the background conditions of toleration identified in section 2 of this paper. I then present in section 4 two of the most competing approaches the toleration-based approach to diversity is faced with, i.e. that of mutual respect and that of recognition. I then proceed with a critical examination of the tensions between toleration, mutual respect and recognition and the limits each of the three models of engagement with diversity is faced with. In the concluding section of this paper, I outline a modified conception of toleration [*the integrity-respecting conception of toleration*] that mediates between the different requirements associated with the two principled commitments of the liberal version of the rights-based conception of citizenship.

1. The puzzle of toleration

The history and the development of the notion of toleration within the liberal tradition revolves around three basic questions identified by Susan Mendus in her *Toleration and the Limits of Liberalism*: [i] What is toleration? [ii] What is its justification? and [iii] What are the limits of toleration? (MENDUS, 1989). Throughout the history of liberal political theory, a number of different and sometimes divergent arguments have been developed to support toleration as a mechanism to grapple with the various forms of diversity. Liberalism, as Susan Mendus persuasively argues, "begins from a premise of individual diversity" (ibid.: 56). Ever since the aftermath of the medieval wars of religion where liberalism was born, modern societies have grappled with religious,

social and ethnocultural diversity as potential sources of possible division and conflict. However, toleration was not originally a mechanism for the accommodation of diversity. As Michael Walzer emphasises, the form of toleration that emerged out of the wars of religion of the sixteenth and seventeenth centuries "is simply a resigned acceptance of difference for the sake of peace" (WALZER, 1997: 10). Historically, toleration arose out of doctrinal strife within the Catholic church during the 16th and the 17th Century in Europe that challenged and ultimately radically transformed the prevailing forms of doctrinal orthodoxy (e.g. DEES, 2004; KAPLAN, 2010; MENDUS, 1989; WILLIAMS and WALDRON, 2008). The transformation of toleration from a pragmatic and prudential mechanism necessary for the security of peace and stability of an absolutist monarchy (e.g. in medieval Europe) or empire (the Ottoman Empire)[1] into to a 'universally' acceptable principle to accommodate diversity needs further clarification. As William Galston emphasises:

> Religious toleration may well have begun as a modus vivendi directed toward the abatement of pious cruelty, but it developed into a doctrine of principled limits to state power. (GALSTON, 2002b: 116)

In other words, liberalism as a political theory about the rightful limits of state power has universalized the toleration-based approach to diversity as a major mechanism of stability and peaceful coexistence between competitive, conflicting and irreconcilable conceptions of the good within a plurally diverse polity by placing restrictions on the rationale that can be employed to justify public policy and on the means available to the state in pursuit of its aims. The liberal foreground, writes Stephen Macedo, "is composed of what might be thought of as *negative constitutionalism*: a sphere of individual inviolability […] and the familiar constitutional mechanisms designed to ward off incursions on that sphere" (MACEDO, 2000: 9). Liberalism, as Stephen Macedo argues,

> is grounded in a shared commitment to a range of political values and practices: to tolerance and mutual respect for fellow citizens, […], but also to a range of distinctively liberal virtues that include respect for the rule of law and the democratic process, a willingness to think critically about public affairs, and a willingness to affirm the supreme political authority of principles that we can justify in public from a point of view that we can share with reasonable fellow citizens of other religious faiths. (MACEDO, 1995a: 225)

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[1] A comparative perspective on different 'regimes of toleration' is presented by Michael Walzer in his book *On Toleration*. For a historical insight into the transformation of toleration from a prudential mechanism into a mechanism that establishes religious pluralism, see Kymlicka (1996) and Dees (2004).

The liberal formula that was developed out of the liberal model of toleration was based on two interrelated strategies that are closely associated with the toleration-based approach to diversity. The first of these was the 'strategy of privatisation' and the second the strategy of non-interference based on freedom from interference. Both strategies associated with the toleration-based approach to diversity have had a crucial impact on the success of accommodating diversity in a plurally diverse polity as well as on the criticism against the liberal formula of resolving doctrinal conflicts that can be labelled as *the puzzle of toleration*. Two distinct problems related to the liberal doctrine of toleration can be identified. The first concerns the strategy of privatisation associated with toleration. The other – and perhaps more problematic – is the generalisation of toleration to the realm of ethical choice. On this interpretation, the liberal formula is based on the assumption of 'liberal expectancy' (ROSENBLUM, 1998: 53–57), which is the expectation that the two strategies associated with the toleration-based approach to diversity will gradually exert a kind of gravitational pull on the associations of civil society. As Sanford Levinson empasized, toleration of diversity includes the expectancy that "exposure to diverse beliefs and ways of life over time will shift the tolerated's view towards those of the tolerator" (S. LEVINSON, 2003: 91–92). Liberals hope and expect, writes Will Kymlicka, "that ethnic, religious, and cultural associations will, over time, voluntarily adjust their practices and beliefs to bring them more in line with the public principles of liberalism, which will reduce the 'incongruence' between associational norms and liberal principles" (KYMLICKA, 2002: 103). Similarly, as Jurgen Habermas emphasises eloquently,

> [t]he liberal state expects that the religious consciousness of the faithful will become modernized by way of a cognitive adaptation to the individualistic and egalitarian nature of the laws of the secular community. (HABERMAS, 2003: 6)

However, the two strategies identified above have contributed to a number of challenges that are associated with the failure of the toleration-based approach to diversity to pay equal civic respect to all reasonable members of a plurally diverse polity. Three potential perverse side effects associated with the puzzle of toleration can be identified here, i.e. [i] the overall reduction of diversity; [ii] the transformative effect on citizens' character; and [iii] the creation of conflicting diversity. The first challenge consists in the reduction of social, cultural and religious diversity due to the spillover of a liberal political culture into other areas of social and private life, e.g. the associative network of

civil society.[2] As John Gray points out, "liberal societies tend to drive out non-liberal forms of life, to ghettoize or marginalize them, or to trivialize them" (GRAY, 1996: 154).

Secondly, the transformative effect of the toleration-based approach to diversity does have a spillover effect on citizens' overall behaviour. As Jeff Spinner-Halev rightly emphasises, "toleration is not only about establishing a private sphere; it also makes demands on how citizens act in public" (SPINNER-HALEV, 1994: 38). On this interpretation, the toleration-based approach is inconsistent with the "liberal promise", for example with the prudential commitment "not to impose on some the values of others" (SANDEL, 2005: 109). Thirdly, the toleration of reasonable forms of diversity – to use Rawls's terminology – creates the risk of marginalising those forms of diversity that are inconsistent with the toleration-based approach to diversity or, in principle do not conform with the fair terms of cooperation in a plurally diverse polity. On this interpretation, we end up with a less heterogeneous society but – at the same time – there is greater risk of both alienation of these groups from the basic institutional framework of a plurally diverse polity and the creation of conflicting diversity that creates greater distance.

In order to examine in detail the various objections to toleration that are to be addressed in Section 3 of this paper, I examine below the conditions and the circumstances of toleration, i.e. the general structure of the act of toleration that define the internal dynamics of any act that claims to be an act of toleration and the background conditions with which a particular act needs to be consistent in order to qualify as an act of toleration.

2. Conditions and circumstances of toleration

There is a twofold task to be undertaken at this stage. We have first to identifiy the basic elements of a liberal conception of toleration and then to specify the principal background conditions associated with toleration. This must include the circumstances a particular act needs to be consistent with in order to qualify as an act of toleration.[3] The general structure of toleration can be formulated by the following formula:

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[2] As Jon Elster observes of Tocqueville's *Democracy in America* 'the spillover effect was a major conceptual tool, perhaps the most important single tool, in Tocqueville's analysis of democracy' (ELSTER, 1993: 186).

A tolerates B despite/because of the fact that B believing or doing p A finds false and/or morally objectionable.[4]

There are four basic elements in the formulation of the structure of toleration explicated above, i.e. [*i*] the *tolerating agent* [agent A], that exercises the capacity for toleration; [*ii*] the *tolerated agent* [agent B], that is being tolerated by the tolerating agent [agent A]; [*iii*] the *object of toleration*[5] [action or belief p] – the source of disagreement between the two agents [A and B]; and [*iv*] the *justifying ground for toleration*, i.e. the rationale, why the action or belief p is being tolerated. The basic elements that constitute the general structure of toleration define the internal dynamics of any act that claims to be an act of toleration. We can identify three principal controversies associated with the foundations, nature and the value of toleration that need further clarification.

First, *who* can qualify as an agent of toleration, e.g. is this an individual, a group, the state? Next, what is the nature of the object of toleration? *What* do we actually tolerate? A doctrinal belief [religious belief], a value or a particular practice? Finally, *how* do we actually tolerate? Do we merely allow the object of toleration to exist, we do not persecute the tolerated agent or does the tolerating agent need to extend some positive protection to the tolerated agent, e.g. the facilitation or active support in the maintenance of its ethical environment?

The background conditions of toleration set the terms which a given act has to meet if it is to qualify as an act of toleration. The circumstances of a liberal conception of toleration refer to those facts of social and political life which give rise to the conditions of toleration. A number of background conditions must first be fulfilled in order for a particular practice to qualify as an act of toleration. The conditions of a liberal conception of toleration can be formulated by the following characteristics:

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[3] For a somewhat different set of background conditions of toleration, see Deveaux, 2000: 43; McKinnon, 2006: ch.1; Newey, 1999: chs.1-2.

[4] An argument for toleration, writes Jeremy Waldron, 'gives a reason for not interfering with a person's beliefs or practices even when we have reason to hold that those beliefs or practices are mistaken, heretical or depraved. (Questions of toleration do not arise in relation to beliefs or practices which are regarded as good or true.)' (WALDRON, 1993: 90)

[5] The dispute over the viability of the toleration-based approach to diversity has part of its origin in the nature of the object of toleration. Is what we tolerate a matter of choice or is it a matter of one's circumstance and therefore out of the volitional power of the tolerated agent? It is precisely because the object of toleration can be changed, and is a matter of choice that we tolerate it. The chance/choice distinction plays a pivotal role in discussions over the toleration-based approach to diversity in particular compared to other competing approaches to diversity, e.g. mutual respect and recognition.

(i) recognition of the disagreement over a particular belief, practice or value both the tolerating and the tolerated agent find important [*the importance condition*];

(ii) rejection of the belief of the tolerated agent and its moral disapproval, i.e. the existence of a doctrinal conflict between beliefs and attitudes among the two agents that persist for good reasons [*the disapproval condition*];

(iii) possibility of the malleability of the object of toleration, e.g. a doctrinal [religious or ethical] belief, a value or a particular practice carried out by the tolerated agent [*the malleability condition*];

(iv) conditional acceptance of the source of disagreement between the two agents as a legitimate source of conflict [*the reasonableness condition*].

Each of the background conditions identified above is a necessary element of any act that claims to be an act of toleration. In this sense, *the importance condition* basically refers to the moral cost the act of toleration has for the tolerating agent. If, suppose, the tolerated agent [agent B] holds a belief that Earth is triangular, the tolerating agent [agent A] might find this belief either irrelevant or unimportant and therefore neither necessary nor required to be tolerated. The importance condition requires that believing or doing *p* must be of crucial importance for both the tolerating agent [agemt A] as well as for the tolerated agent [agent B].

Next, *the disapproval condition* depends on the evaluative judgement of the object of toleration by the tolerating agent that results in the disapproval requiring that the tolerating agent rejects the truth or rightness of the doctrinal conflict. In other words, toleration refers to a distinctive disposition of the tolerating agent to weigh appropriately some feature of the object of toleration that the tolerated agent holds. As Graham Haydon emphasises, "[i]f we do not in some way dislike or disapprove of something, the question of tolerance towards it does not arise" (HAYDON, 2006b: 460). However, it is necessary not to confuse toleration with *civility* and *indifference* (WALZER, 1997) or *resignation* (GALEOTTI, 2002) as the circumstances of toleration, writes Glen Newey, "arise out of conflicting beliefs about value" (NEWEY, 1999: 158).

Furthermore, *the malleability condition* primarily refers to the very character of the object of toleration. Two contrasting interpretations of this background condition of toleration can be identified here, i.e. "old" and "new" toleration (Jones, 2006). On the one hand, "old" toleration is basically concerned with religious and moral disagreement.

The beneficiaries of toleration were individuals and what was tolerated – their beliefs and values – were self-chosen rather than ascriptive features of their identity. Toleration was extended to individuals by granting them rights to choose and by consigning matters such as religious belief and practice to a realm of private choice. On this interpretation, the object of toleration that is the source of conflict or disagreement between the two agents is temporary in nature. More precisely, the paradoxical nature of toleration refers to its temporary status. Because old toleration took this form, it had an essentially negative character: it required the state or other agents of toleration merely to refrain from interfering in matters that were consigned to the individual's private domain. On the other hand, "new" toleration, must be directed at identities rather than beliefs and other conscience-based commitments of individuals. These identities are necessarily group phenomena so that new toleration must be directed at groups rather than individuals. The features of these groups that require toleration are ascriptive; these identities, unlike beliefs and values, are matters over which their bearers have no choice.

Finally, *the reasonableness condition* of disapproval between the two agents of toleration is primarily concerned with the justification of toleration [why toleration?] which presents itself as the motivational foundation of an act of toleration. Both early and modern advocates of toleration have offered a number of different accounts of the justification of why and how a particular form of diversity should be tolerated, e.g. prudential, sceptical, epistemic, comprehensive, political, justice-based and pluralist. For example, the early liberal account of toleration exemplified by John Locke in his *Letter Concerning Toleration* (LOCKE, 2010) is characterized by two prevailing justifications for toleration, i.e. [ii] the prudential argument; and [ii] the sceptical argument. In the first justification for toleration, he argued that using force is not the right way of resolving a conscience-based dispute since by forcing someone to change his religious *belief*, we do not get the conversion for the right purpose and therefore this is not a sincere belief. Second, he argued that belief can be *fallible*. Since we do not know what the right way to salvation is, we have to tolerate dissenting religious paths.

In order to outline and articulate the integrity-respecting conception of toleration as an alternative to both the traditional conception of toleration and the competing approaches of mutual respect and recognition, there is a twofold task to be completed. I will first identify in Section III of this paper the most important objections to toleration and then examine the various challenges these objections are faced with. Next, I will

examine in Section IV the differences between toleration, respect and recognition and identify the limits each of the three models of engagement with diversity is faced with.

3. Objections to toleration

The inadequacy of the toleration-based approach to diversity has been advanced on a number of grounds (WILLIAMS and WALDRON, 2008). While some of these objections primarily criticise the morally troubling character of the toleration-based approach to diversity, others question the consistency of the toleration-based approach to diversity with the egalitarian and inclusive nature of the rights-based conception of citizenship. Two distinct features that characterise these objections can be identified here. On the one hand, some of the objections refer primarily to the morally troubling *value* of toleration. For example, the notion that toleration is insufficiently inclusive in confronting claims for the public acceptance, recognition and accommodation of diversity, i.e. that it does not give equal weight to the different conceptions of the good present in a pluralist democratic society. Furthermore, two distinct puzzles associated with the morally troubling character of toleration need to be emphasised here, i.e. [*a*] the process-based puzzle; and [*b*] the goal-based puzzle. The process-based puzzle refers to the morally troubling nature toleration, e.g. that the mere act of toleration including the permission and non-interference with doctrinal difference that is the object of toleration is in itself problematic. On this interpretation, the very toleration of diversity is a source of moral disvalue as it contributes to the social fragmentation and falling off of civic unity among citizens and therefore fails to preserve the coherence, stability and the maintenance of a plurally diverse polity. In contrast, the goal-based puzzle is primarily concerned with the outcome of the toleration-based approach to diversity. On that view, toleration fails to develop in citizens the basic civic virtues including public responsibility to maintain the institutions, practices and shared public values that provide us with the 'conditions of liberty'. On the other hand, the conceptual objections against toleration refer primarily to the puzzling *nature* of the toleration-based approach to diversity. For example, the inegalitarian objection against toleration points toward an inconsistency between a liberal conception of toleration and the social, cultural and political pluralism that is the result of the toleration-based approach to diversity. For the purpose of evaluating the differences between toleration, mutual respect and recognition [in Section 4 of this paper] I examine below the most pressing objections to toleration.

3.1 The social fragmentation objection

Advocates of the social fragmentation objection argue that accommodation of diversity associated with toleration fails to take into account the degree of moral convergence it takes to sustain a plurally diverse polity. The morally troubling character of toleration associated with this objection is premised on the assumption that the presence of different and competing values, beliefs and practices challenges the civic unity and social cohesion upon which the stability and the maintenance of a plurally diverse societies depend. As Will Kymlicka emphasizes,

> if society accepts and encourages more and more diversity, in order to promote cultural inclusion, it seems that citizens will have less and less in common. If affirming difference is required to integrate marginalised groups into the common culture, there may cease to be a common culture. (KYMLICKA, cited in BEINER, 1995: 6)

Ultimately, the social, cultural and doctrinal diversity between members of a polity would undermine the equitable distribution of material resources due to the lack of a sense of unity and social cohesion among citizens.[6]

3.2 The virtue-based objection

The virtue based objection to toleration consists of the claims that toleration of diversity fails to develop in students the basic civic virtues and public responsibility to maintain the institutions, practices and shared public values that provide us with the 'conditions of liberty'. The social consequences of toleration of deep diversity would challenge and potentially replace citizens' allegiance to the shared social and political institutions and therefore undermine the preconditions of active citizenship, i.e. the capacities and dispositions conducive to thoughtful participation in the activities of modern politics and civil society. Furthermore, social conservative and civic republican scholars advance a criticism, that the toleration-based approach to diversity is ineffective in itself, and that instead of producing citizens equipped with the virtues and capacities for active citizenship and a sense of the common good, it produces citizens with a loose sense of community and membership within a polity, citizens without any sense of solidarity and citizens who are not eager to take up a cause and participate. In this sense,

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[6] For the discussion of the tensions between the poltics of redistribution and the politcs of recognition, see Banting and Kymlicka (eds.) (2006).

the morally troubling character of toleration creates the very conditions that would undermine both civic unity and social stability.

3.3 The justice-based objection

In contrast to the previous two objections penned by social conservative and civic republican critics of the toleration-based approach to diversity, the justice-based objection to toleration is advanced by multiculturalists (e.g. PAREKH, 2000). Its main argument is that the toleration-based approach to diversity does not give enough weight to the distinctive character of those groups and individuals that are – in one way or another – not part of the mainstream. More precisely, multiculturalist scholars argue forcefully that toleration is insufficiently inclusive in confronting claims for the public acceptance and accommodation of cultural difference. Liberal democratic accommodation of diversity based on the principle of toleration offers an inadequate response to the circumstances of multicultural democratic societies as it fails to pay equal civic respect to all citizens in the design of its basic institutional framework, including public education. Contrary to the social fragmentation objection, the justice-based objection claims that the toleration-based approach to diversity has deleterious effects on the tolerated agent. In this sense, oppressed minorities' claims for recognition are justice-based claims for public recognition of their distinctive identities so that these members of a plurally diverse polity can enjoy the same basic conditions associated with cultural diversity.

The basic objection of multiculturalism is that the toleration-based approach to diversity as a liberal response to the claims for accommodation of diversity fails to address the complexities of the problems posed by cultural and value pluralism. While multiculturalists have a point that the equal treatment of individuals irrespective of their background conditions can result in an unjust outcome, their proposed model for the accommodation of diversity raises more problems than it potentially solves. In this sense, accommodation of diversity along multiculturalist lines including minority rights potentially oppresses the most disadvantaged members of these minority communities therefore creating a paradoxical situation.[7]

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[7] According to this critique, minority rights discriminate against the least well-off members of those minority groups who are the beneficiaries of a differentiated allocation of rights. Minority rights risk creating in-group discrimination while aiming to reduce between-group discrimination or inequality. On this interpretation, the feminist critique of multiculturalism advances the objection that group-

3.4 The strategy of privatisation objection

One important aspect of toleration consists in the removal of the disrupting source of potential dispute between the two agents of toleration from public and political life thus neutralizing the potential conflict. Its protection of religious freedom and freedom of thought in general, cannot be subsumed under the protection of other forms of diversity, such as ethnocultural diversity. On this interpretation, its 'strategy of privatisation' functions as a kind of limit on the accommodation of diversity. Rather than requiring that people give up their membership in religious communities, toleration requires merely that doctrinal allegiances be kept out of public and political life. Moreover, some critics even argue that what liberalism does is that it disvalues the object over which there is a dispute, for example a religious belief. The liberal strategy – so the critics argue – therefore falls short of resolving the conflict.

3.5 The redundancy objection

Another important objection to the toleration-based approach to diversity is that toleration as a political principle is redundant as with the introduction of equal basic rights, the issue of opposition towards a particular practice would not arise (GALEOTTI, 2002). Toleration written about by Montesquieu, Locke and Voltaire[8] was toleration situated in an absolutist monarchy and not a plurally diverse polity. According to this objection, toleration is basically irrelevant to the functioning and justice of a plurally diverse polity and therefore redundant. A related objection has been

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rights will create the 'paradox of multicultural vulnerability' (SHACHAR, 2001), i.e. the creation of within-group inequalities as an effect of group-differentiated rights. It points to the unequal distribution of the benefits of minority rights within a particular community as well as the discrimination against members of a particular disadvantaged or marginalized community who are most at risk (usually women and children). This assertion implies that multicultural policies have a twofold effect, i.e. the *direct effect* and the *indirect effect*. The direct effect of a group-differentiated policy or remedy is to reduce the inequality between groups and contribute to a more egalitarian and stable society. On the other hand, the indirect effect of a group-differentiated policy consists in the assertion that this policy would contribute to more inegalitarian relationships within the beneficiary community and that most at-risk members of these groups will be considerably worse-off.

[8] The theories of Locke and Madison, of Montesquieu and Tocqueville remind us that religious settlements are the primary source of conflict and the model for the relation between government and civil society generally. Another important difference between the classical liberal and modern toleration is that in the times Spinoza, Locke and Montesquieu advanced toleration this was toleration in an absolutist state and not a toleration in a liberal and democratic polity. Toleration in the Ottoman Empire was justified on legal and pragmatic grounds, whereas a Lockean justification of toleration is primarily sceptical and epistemic in nature.

that it is not appropriate for a plurally diverse polity. In this sense, toleration is basically what remained from a previous public order, e.g. absolutism where toleration was seen as king's grace to let live those who did not share the majority's religion. As Monique Deveaux emphasises, 'weak toleration', i.e. a model of toleration that relies exclusively on non-interference "is perhaps best suited to the contexts of nondemocratic states, where discrimination and persecution on religious and ethnic grounds are still much in evidence" (DEVEAUX, 2000: 46). On this interpretation, toleration is an institutional mechanism which is not appropriate for a modern liberal and democratic society as it is inconsistent with the rights-based conception of liberal citizenship founded on the principle of civic equality.

3.6 The inegalitarian objection

The objection that toleration is basically inegalitarian can be further divided into two basic views. The first view consists in the claim that toleration reflects a hierarchical position of power. On this interpretation, Samuel Scheffler emphasises, the asymmetrical character of toleration reveals that "it is the prerogative of the strong to tolerate the weak, but the weak are not in a position to tolerate the strong" (SCHEFFLER, 2010: 315). The other critical part of the inegalitarian objection is more generally critical and argues that toleration is an inadequate model for accommodating diversity since the liberal model of citizenship is based on the ideal of civic equality thus making toleration in a plurally diverse polity logically and politically contradictory. Another element characterizing the circumstances of toleration is that the tolerator has the power to refrain from interfering with the offending practice whereas the tolerated party does not. On one interpretation, toleration is a one-way relationship with an asymmetry of power between the two parties and therefore implicitly an inegalitarian principle since it does not presuppose equality between the two agents [agent A and agent B]. In this sense, the inegalitarian character of toleration would be revealed since the tolerating agent [agent A] tolerates the tolerated agent [agent B] to the extent that agent A is in a position to interfere arbitrarily in those choices or actions of agent B that are actually being tolerated.

3.7 The paradoxical objection

The paradoxical objection against toleration needs to be divided in two separate criticisms that refer to some paradoxical character of the toleration-based approach to

diversity. First, the paradoxical nature of toleration refers to the temporary nature of toleration and is connected with the malleability condition of toleration identified in Section II of this paper. Once the tolerated agent accepts the doctrinal perspective of the tolerating agent, toleration is no longer necessary. Second, one of the strongest objections to toleration has been advanced by scholars who are sympathetic to liberalism or come from within liberal circles themselves (WILLIAMS, 2007: Ch. 10; SCANLON, 2003: Ch. 10). According to this version of the paradoxical objection associated with the nature of toleration, the very status of toleration as a virtue is questioned since it is being depicted as negative in nature. Exercising toleration, i.e. refraining from interfering with a particular belief or practice we dislike or disapprove of, is in itself seen as paradoxical. We react negatively and we tolerate either choices or actions of the tolerated agent [on a very limited interpretation we do not interfere with this particular practice] for their failure to comply with a morally unobjectionable perspective we would not have any motivation to disapprove of. In this sense, tolerating the choices or actions of the tolerated agent we find wrong or false would therefore not qualify as a virtue.

Broadly speaking, there are two ways to understand the objections to the toleration-based approach to diversity identified above. First, at one level, toleration is *inconclusive* because it does not generate agreement on fundamental values or beliefs which are the object of disagreement between the two agents, i.e. the tolerating agent [agent A] and the tolerated agent [agent B].[9] Despite the absence of agreement on the true or the right character of the dividing value or practice, the two agents remain divided on the foundational value of the object of toleration. In other words, there is no compromise or other balancing strategy between the two agents as liberal toleration basically refers to the principled non-interference with individuals' beliefs or set of values. Toleration rightly understood, writes William Galston, imposes "the principled refusal to use coercive state instruments to impose one's own views on others" (GALSTON, 1995: 528), a commitment "to moral competition through recruitment and persuasion alone" (GALSTON, 2009: 98). Contrary to our intuitive understanding of toleration and the common everyday usage of the term, toleration does not require us to abandon our disagreement with the value or practice we find false or wrong but merely

[9] On the notion of the inconclusiveness of disagreement over the object of toleration, see McLaughlin (1995) and Macedo (1995b).

places limits on how a conflict over a particular contested issue that presents itself as the object of toleration can be managed. As Barbara Herman rightly emphasises,

> In moral theory influenced by classical liberal values, toleration is sometimes offered as a reasonable strategy of response to a wide range of moral disagreements in circumstances of pluralism. Its value is defended as both pragmatic and instrumental: it does not require the resolution of all moral disagreements, and it enables other liberal values such as autonomy, pursuit of truth, and privacy. (HERMAN, 2007: 30)

Second, and more radically, some critics have claimed that toleration is *indeterminate* because it cannot provide the tolerating agent with sufficient reason(s) for rejecting the morally objectionable/false belief or particular practice. As William Galston emphasises, "[o]bviously, restraining ourselves from translating disagreement into coercion is good whenever we lack an adequate basis for suppressing such differences" (GALSTON, 2005: 585). On this interpretation, the principled dependence of toleration on an independent normative resource exemplify that toleration in itself cannot qualify as positive or negative.[10] We can formulate the *problem of indeterminacy* associated with the background conditions a particular act needs to be consistent with in order to qualify as an act of toleration as follows: in situations when a particular moral norm that serves as the evaluative point of view for the tolerating agent prevents the performance of X and the possibility for tolerating X, it provides the tolerating agent with a conclusive reason not to tolerate X due to its inconsistency with the particular moral norm. Such a justification defeats whatever reason the tolerated agent has to perform X. If, however, the tolerating agent lacks a conclusive reason for not tolerating a doctrinal belief or a particular practice and therefore for rejecting the legitimacy of its existence or performance, there exist a conclusive reason to tolerate it. In this case, then, the choice is between morally acceptable, albeit incompatible, options.

Against the first of these two objections, I argue that the purpose of toleration is not to end reasonable disagreement. Rather, it is to provide a suitable framework of values and principles within which citizens may resolve their moral and political differences as well as live with each other within a political community. Against the second objection, I argue, the difficulty with toleration is concerned with the costs of having certain rights generally recognised, and with the problems posed by the open-ended character of a plurally diverse polity. A particular concern therefore lies within the

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[10] For the examination of toleration as a normatively dependent concept, see Forst (2007) and Newey (1999: ch. 1).

fact that a plurally diverse polity is always open to being altered by the activities of individuals and groups whose values one does not share. What toleration expresses, Thomas Scanlon rightly emphasises, is "a recognition of common membership that is deeper than these conflicts, a recognition of others as just as entitled as we are to contribute to the definition of our society" (SCANLON, 2003: 193). Fellow citizens with diverse conceptions of the good from our own or whose comprehensive conception of the good are in conflict with the basic principles of a liberal and democratic polity or whose foundational values are in tension with the shared public values, should be recognised as equal members of a polity and therefore also be equally entitled – at least at the principled level – to play a role in determining how the basic institutional framework of a plurally diverse polity evolves.

The objections against the toleration-based approach to diversity examined above have resulted in the need to develop a distinct conception of engagement with diversity that either gets rid of toleration altogether or sidesteps those of its shortcomings that are presumably inconsistent with equal civic respect for diversity. Rejecting toleration, some critics emphasise forcefully, would be more respectful of diversity and consistent with the common principles of a plurally diverse polity. Two alternative approaches to diversity have been advanced as being more appropriate strategies for accommodating diversity in a plurally diverse polity. I examine them in the following section of this paper.

4. Toleration, mutual respect and recognition: some tensions

As has been emphasized in the previous section of this paper, the persistence of the various objections against toleration confirm that toleration remains an elusive virtue, an ambiguous principle and a contested concept. This section provides a theoretical examination of two competing approaches to the equal civic respect for diversity, those of mutual respect and recognition. Section V of this paper examines the tensions between toleration, mutual respect and recognition and their implications for the fair terms of engagement with diversity.

4.1 Mutual respect

In order to respond to the criticisms over the inadequacy of toleration and of the liberal institutional framework in general (the social fragmentation objection, the virtue-based objection, the justice-based objection) we need first to examine the notion of respect.

We need to clarify the meaning of respect and respect for persons. At the outset, it is useful to note a basic distinction between two different kinds of respect advanced by Stephen Darwall (1977): respect for another's merit or accomplishments and respect for another's status as a person. The first kind of respect, 'appraisal respect', implies a positive evaluation of the activities and characteristics of the other person. Appraisal respect is the form of respect that we might have for another person's conduct or character or because she manifests certain virtues or qualities that we regard as valuable. On the other hand, 'recognition respect' is the kind of respect owed to a person in one's deliberations about what to do in virtue of some characteristic that this person possesses. To have recognition respect for a person means giving appropriate consideration to that individual, in light of its possession of a certain characteristic or set of characteristics, in one's actions. What this form of respect entails, writes Thomas Hill Jr, is the "full recognition as a person, with the same moral worth as any other, co-membership in the community whose members share the authority to determine how things ought to be and the power to influence how they will be" (HILL, 1994: 4). Respecting the equal status of persons as citizens means justifying principles of justice in ways that are acceptable to all *reasonable* members of a polity that is to be governed by those principles. To respect another individual as a moral person, writes Rawls, "is to try to understand his aims and interests from his standpoint, and to present him with considerations that enable him to accept constraints on his conduct" (RAWLS, 1971: 338).

This status-based conception of equal respect differs from the conception of mutual respect advanced by Gutmann and other advocates of transformative or autonomy-based liberalism. Gutmann defines mutual respect as "a reciprocal positive regard among citizens who pursue ways of life that are consistent with honoring the basic liberties and opportunities of others' (GUTMANN, 1995: 561) on the basis that toleration should be extended. However, the point neither Gutmann nor Meira Levinson raise is that what differentiates toleration from mutual respect is that toleration imposes itself without intending to interfere with another's practice which is not consistent with a way of life or conception of the good which does not honour the basic liberties and opportunities of others. In other words, to exercise restraint – a principled refusal to exercise the capacity to interfere. A crucial limitation of the mutual respect argument is its insistence on the moral *acceptance* of the point of view which is a clear difference with condition (iii) the acceptance of the source of our disagreement as a legitimate

source of persisting disagreement that is found in the principle of toleration. What the mutual respect argument fails to acknowledge is the persistence of disagreement despite sound reasons to overcome it.

This particular model of mutual respect is problematic in a number of other respects and potentially has some negative implications concerning the basic attitude that citizens as human beings should take toward each other. As Will Kymlicka rightly emphasises,

> […] 'understanding' is no guarantee of 'appreciation' or 'respect'. On the contrary, where people have deeply-held beliefs about true faith, discovering that other people have quite different views may simply reinforce the belief that they are misguided and/or corrupt. (KYMLICKA, 2003: 163-164)

And he continues with an exposition of toleration:

> The historic basis for toleration is not any sort of deep understanding or appreciation of the nature of other religions. Protestants do not have a deep understanding of the tenets of Catholicism, let alone Islam or Hinduism (and vice versa). If Protestants did somehow acquire a deeper understanding of the tenets of other religions, I doubt this would increase their appreciation of them. The basis of religious tolerance, I think, is quite different. Protestants recognise that Catholics and Muslims have deeply-held religious beliefs that matter as much to them as Protestant beliefs matter to Protestants. (KYMLICKA, 2003: 164)

Basic respect for persons as human beings should not be based on individual talents, social position and moral goodness. This model of mutual respect, quite differently from Kant's idea of respect for persons as *human beings* rests on the premise of respecting individuals for their *special merits*, in particular for their moral goodness. The demands of mutual respect as advanced thus far have serious implications for the regulation of citizens' private conduct since it can possibly use public schooling as a means for an authoritative statement of social disapproval and can deny to some citizens of a pluralist democratic society an 'equal entitlement' to participate in determining what a political community one is a member of will become in the future. A crucial limitation of mutual respect is its insistence on the moral *acceptance* of the point of view. What the mutual respect argument fails to acknowledge is the persistence of disagreement despite sound reasons to overcome it. It is because of reason that we continue to disagree.

4.2 Recognition

A liberal conception of public recognition of the equal status of citizens irrespective of their differentiating characteristics, for example sex, race, ability and ethnicity needs to be contrasted with the public recognition of individuals as members of a cultural group or an association as the multicultural conception of public recognition (e.g. TAYLOR, 1997) addresses a different object. More precisely, the multicultural conception of recognition as the public acknowledgement of the value of a particular culture maintains that individuals' identity-based differentiated characteristics should be counted as having a legitimate claim for public recognition. In order to clarify this assertion a distinction should be pointed out. The liberal conception of public recognition is an example of a status-based model of recognition, where individuals are seen to possess shared status as free and equal members of a polity. In contrast, the multiculturalist model of recognition is identity-based as its justification consists in the claims for the public recognition of the difference of a particular group or community. The status-based model of recognition therefore addresses the political conception of the person as a civic equal whereas the identity-based model of recognition addresses the value of a particular comprehensive conception of the good or experience and the related claims for its differentiated treatment and public recognition.

The differences between toleration and recognition have been formulated in a variety of ways. The first is conceptual. On one interpretation, toleration refers to a negative attitude of disapproval whereas recognition is a positive attitude of recognition of a distinctive element associated with a particular culture. The second refers to the sphere it addresses. More precisely, toleration addresses differences in the private sphere, e.g. a religious belief. On the other hand, recognition consists in the public acceptance of a particular element of a culture. Third, the very object of toleration and recognition differ. We tolerate what we basically can change and this is the motivational foundation to tolerate it. On the other hand, the notion of recognition has been associated with the recognition of culture or ascriptive elements of an identity.

The first interpretation above fails to see the value the tolerator gives to the object of toleration. If the tolerator would have sufficient arguments to ban, ignore or reject the object of toleration he would legitimately do it. It is because of the value of the object of toleration both for the tolerated subject, i.e. a person holding a particular belief [intrinsic value] and the value of this object of toleration for the community he/she lives in [instrumental value] that the object of toleration still counts as valuable and permissible. Toleration therefore is not primarily negative or inegalitarian in nature. It

should be pointed out that at one level toleration is an act of recognition. The tolerating agent recognises the value of the object of toleration either for its bearer [intrinsic] or for the society as a whole [instrumental].

Toleration, respect and recognition differ in the object they address. The object of toleration is or can be temporary in nature and this is one of the conditions for why we tolerate a particular belief or practice. We tolerate it as this can be changed so as to fit with the actions, beliefs or values of the tolerating agent. The object of respect is the very status of a particular individual or group. We respect their rights to associate freely or to expression of their beliefs and values. The object of recognition can be the same and in this case recognition would act as an extension of either toleration or respect. However, the object of recognition can depart significantly from the previous two cases. To illustrate this point, we may consider the example of the inclusion and recognition of diversity in a multicultural educational environment, e.g. that our plurally diverse society consists of groups who are different from us (a particular religious or ethnocultural minority). In this case we recognise their different culture, beliefs or values while they do not differ from us in the status as they are equal members of our society.

To summarise: what the contemporary issues of cultural pluralism and diversity amount to is that equal status and equal liberties cannot give those who might be disadvantaged, oppressed or marginalised an equal standing as members of a polity. Part of the answer comes from the traditional divide between choice/chance. Difference stemming from individual choices can be tolerated, whereas difference stemming from 'objective' facts cannot. The latter needs to be compensated through a particular mechanism, such as redistribution. Recognition of diversity has two important implications. The first is that the recognition of particular ways of life provides individuals with the 'context of choice' within which to form and pursue their ideas of the good life. Cultural membership, writes Kymlicka,

> is not a means used in the pursuit of one's ends. It is rather the context within which we choose our ends, and come to see their value, and this is a precondition of self-respect, of the sense that one's ends are worth pursuing. (KYMLICKA, 1989: 192-193)

Second, the view advocated by some proponents of autonomy-based liberalism adds that not only does diversity matter to the individual adherents of these ways of life, but nonmembers benefit also as they have a larger/broader range of options to choose from. Diversity, on this interpretation, enriches society as a whole. The crisis over the

suitability of toleration is therefore not confined only to toleration as a political principle but extends also to other aspects of liberalism itself like basic rights and fundamental freedoms, such as freedom of association and freedom of expression. We are basically tolerant of something that pertains to individuals' choice, like religious belief and recognise what relates to one's circumstance, like cultural membership. The tension between toleration and recognition is primarily related to the status of the object of toleration and recognition.

5. The integrity-respecting conception of toleration

As has been emphasised in the previous sections of this paper, neither the traditional toleration-based approach to diversity as putting up with something one dislikes or disapproves of nor mutual respect and recognition offer a sufficiently elaborated approach that could cope with the pluralism of diversity present in our societies. In fact, each of these approaches to diversity suffers from a range of normative problems and practical difficulties that hamper the fair terms of engagement with diversity in a number of separate respects. This leads towards their inconsistency with the two principled commitments associated with the liberal version of the rights-based conception of citizenship. At the same time, they are likely to end up with outcomes that will either conflict with justice-based claims over the education of students that are the least advantaged or contribute to the maintenance of inequality in those groups and communities that are – in one way or another – not part of the mainstream.

In contrast to the traditional toleration-based approach to diversity together with the conception of mutual respect advanced by the advocates of autonomy-based liberalism and the conception of recognition defended by multiculturalist scholars, the integrity-respecting conception of toleration is characterized by two separate requirements that none of the three approaches identified earlier share in one place. It, first, recognises the reciprocal nature of toleration for the two agents of toleration. In this sense, the integrity-respecting conception of toleration recognises and respects the very exercise of the capacity for civic integrity and is binding both for the tolerating agent as well as for the tolerated agent. In fact, as Samuel Scheffler interestingly points out,

> […] if, as I have been arguing, the injuries inflicted by intolerance on its victims are closely related to the temptations of intolerance for its perpetrators, then it seems to follow that, just as intolerance threatens the integrity of its victims, so too the perpetrators of intolerance may

> perceive a willingness to tolerate others as a threat to their own integrity. In other words, the threat that intolerance poses to the integrity of its victims may be mirrored by the threat that tolerance poses to the integrity of the perpetrators. (SCHEFFLER, 2010: 327-328)

At the same time, the integrity-respecting conception of toleration shares with the toleration-based approach to diversity the normative dependency on the nature of the tolerated object. Tolerating violence or being intolerant of cultural diversity are clear examples of the dependency of a toleration-based approach to diversity on some more fundamental requirement. On this interpretation, the integrity-respecting conception of toleration is *a priori* neither positive nor negative. The exercise of an integrity-respecting conception of toleration would therefore require of students first to be sensitive to the different forms of diversity as well as their possible distance or dissimilarity from common principles and shared public values of a plurally diverse polity. The alternative conception of toleration I advance here would qualify as a virtue on its own right only by being consistent with these two separate requirements. The integrity-respecting conception of toleration therefore contributes to the recognition and respect of each and every citizen as a free and equal member of a polity. In this sense, it is egalitarian by recognising the equal civic respect of individuals' diverse commitments and allegiances providing they qualify as being consistent with the principle of non-interference. At the same time, its sensibility towards the distributive specifications of the fair terms of engagement with diversity confirm its compatibility with a pluralist understanding of citizenship as a political conception of the person.

6. Conclusion

Toleration, respect and recognition are capable of producing two kinds of benefits: [*i*] direct individual benefits and [ii] social benefits contributing to the stability and social cohesion [therefore forming an indirect individual benefit] of a polity. If we unduly promote a transformative conception of the toleration-based approach to diversity that pays little attention to the rationale that can be employed to justify the legitimate shape, scope, and limits of what is to be tolerated, we could gradually limit both the expressive and associative liberty of citizens as free and equal members of a polity.

What has not been examined or recognised is that toleration allows a particular practice to exist due to the value it has for a particular subject and the value this has for the political community. A closer inspection of the conditions of toleration reveals that toleration positively depicts the difference it then tolerates. The positive view of the

object and the tolerated agent can have a twofold importance in terms of the difference of toleration: the *intrinsic positive view* and the *instrumental positive view*. In the first view, we tolerate the difference we find wrong because the difference has positive implications for the tolerated agent, i.e. might be part of his culture and is an important element of self-respect. In the second view, we tolerate the difference we find wrong because its toleration has some positive implications for the wider society [despite its conflict with the shared public values of a society] as well as not violating the principles of nondiscrimination. A conception of toleration that claims to be consistent with the liberal version of the rights-based conception of citizenship depends primarily on its justifiability to its citizens rather than on the value of its consequences alone.

What I have argued in this paper is that the toleration-based approach to diversity has certain distinctive valuable features so that it cannot be eliminated altogether – as multiculturalists and other critics of the liberal version of the rights-based conception of citizenship would like to convince us of – in favour of other concepts and models of accommodation of diversity. On this interpretation, the toleration-based approach to diversity is far from being a source of moral disvalue. As Michael Walzer rightly emphasises,

> [t]oleration itself is often underestimated, as if it is the least we can do for our fellows, the most minimal of their entitlements. In fact, […] even the most grudging forms and precarious arrangements [of toleration] are very good things, sufficiently rare in human history that they require not only practical but also theoretical appreciation. (WALZER, 1997: xi)

In this sense, I do not view the integrity-respecting conception of toleration as the best possible solution to how to blend the egalitarian character associated with the status, the rights and the responsibility of citizenship as a political conception of the person with the pluralist nature of the public culture of a plurally diverse polity. My contention over its adequacy is modest and limited. In that respect, I maintain, this version of the toleration-based approach to diversity provides a sufficient as well as the most reasonable basis for the fair terms of engagement with diversity in a polity that is plural in its cultures and traditions.

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