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Tough on Tolerance: The Vice of Virtue

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ABSTRACT:

It is commonly accepted that tolerance is a virtue, a desirable character trait that should be fostered and cultivated, especially in liberal societies. In this chapter, we consider the plausibility of an alternative view, namely that tolerance is not necessarily a virtue. This view adopts a broad and normatively neutral definition of tolerance as simply meaning: deliberately refraining from intervening with conduct one finds objectionable. Moreover, if tolerance is to play an important role in the kind of liberal and pluralist democracies we are currently living in, then such a broad and neutral conception is much more suitable than a more narrow and normatively laden one. Tolerance can and should be something enforceable through law, which becomes difficult, if not impossible, when one understands it as a virtue.

When you were young and your heart was an open book
You used to say live and let live
(you know you did, you know you did, you know you did)
But if this ever changing world in which we're living
Makes you give in and cry
Say live and let die.

— Paul and Linda McCartney, Live And Let Die (1973)

Is tolerance a virtue? Is it a morally desirable character trait that is univocally good and that we should therefore foster and cultivate systematically, particularly in liberal societies (e.g. Byrne, 2011: 287)?

One way of being tough on the concept of tolerance is by claiming that it is not a virtue (Engelen and Nys, 2008), thereby withholding it the precious label of something that is always good. But the reason for doing so could be emblematic for a different sense of toughness: the idea that we should be tough

on tolerance because it should be something we can demand from others on grounds of *justice*. In this chapter, we will analyze why and how tolerance can indeed be considered a virtue, an approach that is quite lenient at the *conceptual* level. However, we will also stress the need for toughness in the second, *practical* sense. In a Kantian spirit, we show why tolerance can and should be enforced through law, which is arguably crucial if tolerance is to play a meaningful role in contemporary societies.

This chapter starts out by reconstructing a broad and normatively neutral conception of toleration that allows us to appropriately distinguish between cases of tolerance, non-tolerance and intolerance (Section 1). Next, we show that such an understanding escapes the famous paradox of tolerance that the ‘virtue approach’ (which understands tolerance as a virtue) seems particularly vulnerable to. Analyzing how the virtue approach can deal with this paradox will help us to understand the nature of virtue (Section 2). Next, we provide two additional arguments in favor of a broad and neutral understanding of tolerance (Section 3). First, it avoids the epistemological worries raised by the virtue approach: how exactly can we know who is and who is not virtuously tolerant? Second, a broad and neutral understanding of tolerance allows for its enforcement when urgently needed, enabling tolerance to play an important role in liberal democracies like ours. We further unpack this line of thought by investigating Immanuel Kant’s thoughts on the relationship between tolerance, morality, virtue and justice (Section 4). In the end, we formulate our conclusions (Section 5).

1. Our Original Analysis: Why Tolerance Is Not a Virtue

Our original analysis (Engelen and Nys, 2008) started from what we considered to be the best available definition of tolerance, namely that by John Horton: “the deliberate decision to refrain from

prohibiting, hindering or otherwise coercively interfering with the conduct of which one disapproves, although one has the power to do so.” (Horton, 1998, 429-30) For someone to be tolerant, she needs to satisfy three conditions: 1) disapprove of something, 2) be able to interfere, yet 3) deliberately refrain from interfering. This also implies that there are three paradigm categories of non-tolerance, each one failing to meet one of these three conditions.

The first category concerns people who violate the “objection component” (Forst, 2017; also Carter 2013) and do not feel any disapproval towards the conduct at hand (or broader: they lack any of the possible objectionable opinions, attitudes, practices or even states of affairs). This may be due to utter indifference or because of positive attitudes such as acceptance or endorsement. Suppose one subscribes to someone’s conduct or opinions, without any reservation. Homosexuals who endorse their homosexuality cannot be said to tolerate homosexuality, on Horton’s definition, because they do not disapprove of it. Likewise, you do not tolerate people who kiss their children goodnight, because you probably believe it is a nice thing to do. This approach avoids normative background assumptions about what one *should disapprove* of or what *is objectionable* (cf. Avramenko & Promisel 2018, 849) and focuses exclusively on what people themselves *disapprove* of or *find objectionable* (cf. Scanlon 1996, 226). In order to be able to tolerate something, one needs to actually disapprove of or object to it, regardless whether it should be disapproved of or objected to. When slavery was largely accepted, slave-owners did not ‘tolerate’ the conduct of fellow slave-owners because they felt no objection or disapproval. Even some slaves themselves could fall short of tolerating slavery, namely if they saw no problem with the practices of their slave-owners (for example, because of adaptive preferences). To tolerate means to bear a burden, and if there is no burden borne, the notion of tolerance stops making sense.

This ‘no burden’ disqualifier also applies to people who are entirely indifferent toward the conduct at hand. Suppose, for instance, that you like peanut butter and jelly sandwiches. Of course,

you do not ‘tolerate’ fellow PB&J lovers, because you endorse their preference and think they make the right choice in opting for such a delicious kind of food. But you probably also do not ‘tolerate’ people choosing another type of topping. After all, you typically do not care about what others eat. Again, there is no burden to bear here and hence no decision to refrain from interfering, as there is no reason to interfere from the start. To shift the example from the silly to the significant: Could we be said to ‘tolerate’ smoking if we simply don’t care how it affects the lives of those who smoke? Could we be said to ‘tolerate’ the religious food prescriptions of Jews and Muslims (kosjer and halal) if we, quite frankly, couldn't be bothered? It seems not and Horton’s definition captures that intuition.

Secondly, we get to the most obvious category of non-tolerant people: those who are plainly intolerant. Here is an example.

“Consider a person who objects to homosexuality and who tries his very best to purify the world of such ‘repulsive’ or ‘unnatural’ behavior. He believes that homosexuals should be punished or that they should receive treatment for their ‘illness’. When he sees homosexuals holding hands he will insult them or even use violence to put an end to such ‘obscenities’.” (Engelen and Nys, 2008, 46)

Such a person is not tolerant because he makes a decision to interfere with the conduct he finds objectionable. Such a person violates not the “objection component” but the “acceptance component”. Rather than say ‘live and let live’, an intolerant person is fed up with this particular conduct and actively intervenes in the hope of ending all this wickedness and debauchery. Note that the plainly intolerant are remarkably consistent. Like those who agree and endorse the conduct and those who are utterly indifferent, there is no discrepancy between the thoughts and actions of intolerant people. They are not bearing a burden either, since they are simply translating their feelings of disapproval into actions and thus do not deliberately decide to refrain from interfering. There is no ‘split’ between having objections and ultimately deciding not to act upon them. Again, putting normative issues

aside, and focusing only on a person's attitudes and thoughts, one should say that people are also intolerant when they object to and actively prevent or protest practices of murder, rape and theft.

And then there is a third category that falls short of tolerance: those who object and would like to be intolerant but somehow lack the power to act on their own objections. As Horton's definition points out, tolerance requires the deliberate decision not to use one's power to intervene. Suppose a group of Hell's Angels decides to give a party at my apartment (avoiding the clean-up in their own clubhouse). They kick in the door, lock me up in the closet and start drinking my precious Belgian beer collection. I strongly object to this and would interfere if I could, but I simply can't do anything about it. My inaction – me angrily sulking in the closet – does not amount to tolerance because it arises not out of a deliberate decision to refrain from intervening but out of the impossibility to intervene. Intervening is simply not one of my options. If I could, I would be intolerant, but I simply can't. My intolerant mindset does not translate into actual intolerant behavior because of my lack of power.

2. Refining the Analysis

Horton's definition of tolerance plausibly differentiates between cases of tolerance, intolerance and non-tolerance. But note that it is normatively neutral: it says nothing about whether or when these attitudes of tolerance, intolerance or non-tolerance are appropriate. More importantly, it doesn't say anything about the reasons for tolerance. Many authors believe this is why we should move beyond it and adopt a more refined conception that captures what is distinctly desirable about tolerance. This is exactly what the *virtue approach* offers.¹ It typically focuses on the specific moral reasons for

¹ Tolerance has been called an "elusive virtue" (Heyd, 1996), an "impossible virtue" (Williams, 1996) and a "paradoxical value" (Scheffler, 2010, 312).

deciding not to intervene with whatever one finds objectionable. On this account, a virtuous person doesn't just act in some desirable way but acts out of a virtuous attitude or on the basis of a virtuous character, having "come to recognize the value of virtue and why it is the appropriate response. Virtue is chosen knowingly for its own sake" (Athanasoulis, 2019).

One prominent idea here is that tolerance is necessarily based on respect for (or recognition of) other people's autonomy. When tolerant, we acknowledge that everyone has the right to act upon their own conceptions of the good, even though we find some of their behavior objectionable. Tolerance is a virtue, this approach argues, especially in our pluralist societies, because the alternative is that we either stop caring altogether (and become indifferent) or give up on liberal principles like liberty, autonomy, equality and respect (and become intolerant).

It is, however, possible to resist this general move in the literature and stick to the broader and neutral conception of toleration. The main reason for this recalcitrance is that fear of (legal) punishment (or anticipation of some reward) should be able to count as a plausible motive for tolerance. On such an understanding, for example, a person who does nothing to hinder gay marriage because she fears the scorn of her liberal-minded neighbors, can rightly be said to tolerate gay marriage. She definitely bears a burden and willfully decides not to do anything about conduct she finds objectionable. Even if it is not respect that is motivating her, she can still be called tolerant.

Or think of an alternative, perhaps more plausible version of the Hell's Angels story. In this version, they do not lock me up but simply threaten me to the extent that I do not dare to intervene. Here, I *do* make a deliberate decision not to intervene, which suffices to call me tolerant, whereas, in the previous version, I wanted to be intolerant with every fiber of my body and soul but simply *could not* act it out. Now, however, I could intervene and put my foot down, but I *do not want* to because I am too scared and do not want to risk whatever negative consequences might ensue.

The value-laden virtue approach argues that being scared is not the same as being tolerant. Tolerance is a virtue, based not on prudential but on moral reasons (Carter, 2013: 203). Take someone who objects to gay marriage (for example, because the thought of gay sex makes her feel ‘uneasy’) but chooses not to intervene because she thinks that the sexual preferences and acts of consenting adults are a private matter that should be respected. Her reason not to intervene is a moral one and this is what makes her genuinely tolerant.

But let us return to our two Hell’s Angels scenarios. In the first, one is not tolerant because one lacks the power to intervene. In the second, one could intervene but fear motivates one to forego any opportunity for intervention. One can rightly point out that this distinction is not as clear-cut as it may seem. In the second scenario, the costs involved can be so high that they basically amount to coercion or force. If the Hell’s Angels manage to make me fear for my life (without locking me up in a closet), can one still plausibly claim that I could intervene if I wanted to and that it is thus my deliberate decision not to? When exactly does external influence become so powerful that the decision to intervene is no longer really an option?

Nevertheless, we believe that the difference between duress (and fear) and coercion is real, while at the same time admitting that it is matter of degree. The difference is the extent to which one’s non-intervention is based on a ‘deliberate decision’, as Horton puts it. When I am locked up in a closet (a clear-cut case of coercion), my circumstances do not allow me to act on my (intolerant) decision. Intervening is simply not an option available to me. If it were, I would definitely choose to do so. In contrast, if the Hell’s Angels do not lock me up but I am simply afraid of them, I can still weigh my options (and intervening is one of those) and *decide* to refrain from interfering in what I disapprove of. The cost that is being imposed on me enters my decision-making process instead of thwarting it altogether.

So whenever not intervening is due to something else than a deliberate decision – being locked up, or in some other sense being incapacitated (cf. Laegaard, 2013, 524) – there is no real toleration. Imagine that I object to homosexuality and that a gay couple has sex right next to me, while I am asleep. It seems clear that I am not tolerating this at all (while also not being intolerant; as I am not intervening). If I were awake and in the position to do something about it, I definitely would.

This issue is relevant because of its implications for the question whether tolerance can be enforced. On a non-virtue view, if racists refrain from discriminating against people of color purely because it is illegal and because they want to avoid possible (legal) punishment, this counts as tolerance. In fact, the cost involved can be legal or financial but also, in case of more informal sanctions of intolerant behavior, social and emotional or even physical (as in the second Hell’s Angels scenario). Instead of splitting hairs on what ‘coercion’ or ‘compulsion’ means exactly, the main point here is whether toleration can be enforced. Laws and fines can definitely enforce tolerance, even if they do not amount to outright coercion (putting people behind bars is a notable exception, of course). After all, citizens can genuinely *decide* to obey or violate the law.

Let us focus now on the other side of the spectrum: the difference between tolerance and indifference. As mentioned, the indifferent are *not* tolerant as they do not object and thus have no burden to bear. Imagine you care less and less about some conduct you previously found ‘intolerable’, such as people being rude or making spelling mistakes. While you used to intervene on each occasion, you might start to wonder whether getting upset is worth the fuss. The previous point about the costs involved is also relevant here. After all, one could say that it is not that you don’t want to intervene; it is just that, because of even a small cost (the little effort or hassle involved in intervening), you decide to let it go.

As with the ‘duress versus coercion’ distinction, we can allow that there is a grey area due to the gradual difference between indifference (you do not intervene because you do not care) and

tolerance (you do care but have weightier reasons not to intervene). Perhaps you do object to someone making a pastrami sandwich instead of using PB&J. But it is not worth fighting for, so you tolerate the silly and weird pastrami people.

Still, there are clear-cut cases. In an extreme case of indifference, you watch people making other than PB&J sandwiches and feel nothing. It just does not register; you don't think about it and you simply have no reason to intervene. Sure, if some cost were involved, that would be an additional reason for keeping schtum and letting things pass; but no such reason is needed. At the other extreme, you could fiercely object and thus score high on the 'objection component' but also be extremely lazy and thus perceive the costs of interfering as very high. Imagine you are a vegan and object to pastrami sandwiches on principled grounds (after all, as Mitch Hedberg put it, "it's like a cow with a cracker on either side"). However, you simply cannot bring yourself to say something when you see a friend ordering one of those horrible things. In our view, this means that you are tolerating your friend's conduct, since you (1) object, (2) have the power to intervene but (3) deliberately decide not to. Whether it is laziness motivating your inaction or something else (besides being incapacitated, which does not motivate but merely causes your inaction) does not matter. What matters is that there is a balance, with reasons to intervene (objection component) against reasons not to intervene (acceptance component), which in the case of tolerance tips over to non-intervention (Forst 2017). Reasons to intervene can be very small (close to indifference) or quite big but they exist and are outweighed by reasons not to intervene. You decide to let it go, because the costs involved are too big, relatively speaking. True indifference means that *regardless* of whether there is a cost, you let things pass. Even if there were no cost at all, an indifferent person would never intervene, as she lacks any reason to do so.

Of course, on a broad understanding, moral reasons can motivate tolerance as well. When you refrain from intervening, because you think it is important not to impose your view of the good life

on others and want to respect other people's rights, liberties and autonomy, acknowledging that they have different values that inform their choices, you are also obviously being tolerant.

Note that both the neutral and the virtue approach to tolerance have demarcation issues. Whereas the first needs to distinguish 'tolerance' from 'impotence' and 'indifference' (as we tried to do above), the virtue approach needs to ensure that tolerance does not collapse into full acceptance or endorsement. At first, this seems obvious enough. While there is a kind of 'acceptance' at play in tolerance, this does not amount to wholehearted agreement. A tolerant person does not endorse the other's (reasons for her) conduct (first level) but only her right to make those decisions on the basis of her own reasons (second level). Disagreement persists at the level of underlying values (reasons, motives, beliefs, et cetera), but one decides not to act on it. After all, so the value-laden virtue approach goes, one values people acting on their own values.

So which demarcation problem haunts the virtue approach? Well, if you refrain from interfering based on your moral conviction that others are allowed to 'live their own life', the normative force of your objection seems to be overwritten. Your opposition becomes a crude psychological force that you consider morally illegitimate, something that *ought* not to motivate your actions. The difficulty then is to understand how a single person can both object while also, all-things-morally-considered, accept. Our moral reasons for acceptance threaten to evaporate the (necessary) 'objection component'. This is one of the paradoxical results that the virtue approach to toleration gives rise to (cf. Sheffler, 2010, 312; also Carter, 2013, 197).

In light of this paradox, it is extremely interesting that there is a strand in the literature that claims that tolerance as a virtue *should* involve such an evaporation. True tolerance, it is argued, means that one no longer objects and even that any trace of opposition is morally suspect (cf. Horton, 2011).

“Instead toleration now demands more than resisting interference or condemnation; the tolerant citizen, it is argued, should avoid causing the pain associated with uncomfortable conversations, personal criticisms, or even difference of opinion (...). Toleration has become positive demand for recognition and respect. To deny such demands is construed as cruelty.” (Avramenko and Promisel, 2018, 850-851)

We agree with Promisel and Avramenko that this tolerance-as-sheer-respect approach is fundamentally flawed as it basically collapses into full acceptance. Tolerance as a meaningful notion necessarily requires a component of rejection and opposition. Our contemporary, super-diverse societies – in which values inevitably tend to conflict – requires proper tolerance, with people bearing the burden of value pluralism. Insisting that people should eliminate their differences of opinion is unrealistic, overly demanding and basically prescriptively useless. And, more importantly, it would belie the meta-ethical fact that our moral universe is characterized by genuine value pluralism.

3. Two Ways Out of Another Paradox

Before we go into the advantages of the broad understanding of tolerance, we want to recall how easily it can avoid another famous ‘paradox of tolerance’. Here is how Karl Popper (1945 [2013], 581) described this “paradox of tolerance”:

“Unlimited tolerance must lead to the disappearance of tolerance. If we extend unlimited tolerance even to those who are intolerant, if we are not prepared to defend a tolerant society against the onslaught of the intolerant, then the tolerant will be destroyed, and tolerance with them. [...] We should therefore claim, in the name of tolerance, the right not to tolerate the intolerant.”

It is important to see how the virtue approach typically gives rise to this paradox. If tolerance is a virtue, then it is always desirable to be tolerant (P1). But this implies that it is good to tolerate the intolerable and the intolerant (P2). This then would undercut tolerance itself, since tolerating the intolerant will lead the intolerant to prevail. Hence, tolerance will be practically self-defeating (C).

One way to avoid this paradox is to drop the normative language altogether: tolerance is not a *virtue* and hence not necessarily *good* (against P1). Whether, what and whom we *should* tolerate (for example, the intolerant) is an issue completely separate from the conceptual issue whether we *actually* tolerate someone or something. The paradox does not arise in the neutral approach, which is perfectly compatible with the idea that we *should* only tolerate specific people (for example, whoever tolerates us or subscribes to liberal principles of respect for each other's rights and liberties). As such, it enables us to claim that we should not tolerate the intolerant at all (against P2).

This way out of the paradox focuses on the psychology of a person (her feelings/reasons/motives for objection and whatever feelings/reasons/motives that lead her to put up with something) while sidestepping the issue whether these feelings and reasons are justified, desirable or not. It allows for the straightforward claim that it is not always good to tolerate something. Some forms of intolerance, like bigotry or slavery, should simply *not* be tolerated.

This could be seen as a huge advantage over the virtue approach (Engelen & Nys, 2008). Yet, an adequate understanding of virtue can help the virtue approach escape the paradox equally well. More precisely, P2 does not necessarily follow from P1. Take courage as a non-controversial example of a virtue: it is always good to be courageous. Still, as Kant noted, such virtues could easily turn into vices, when accompanied by the wrong motives. In the opening pages of the *Groundwork*, Kant famously discusses the cold-bloodedness of the scoundrel (“Das kalte Blut eines Bösewichts”), arguing that such a noble character trait (cold-bloodedness) is not always good. However, it would be a mistake to conclude that it is not always good to be courageous. After all, we only call an act

courageous when it is good. A terrorist who sacrifices his own life in committing atrocious crimes is not courageous but a coward. This shows that the judgment of goodness, its appropriateness, is *internal* to the concept of virtue. David Hume was very aware of this.

“The word virtue, with its equivalent in every tongue, implies praise, as that of vice does blame; and no one, without the most obvious and grossest impropriety, could affix reproach to a term, which in general acceptation is understood in a good sense: or bestow applause, where the idiom requires disapprobation.” (Hume, 1757 [1996], 135)

On a proper understanding of tolerance as a virtue, then, it is indeed always good to tolerate. But if ‘tolerating’ the intolerant is wrong, then allowing them to be intolerant is not a matter of tolerance. Allowing the intolerable to persist is not what a virtuous person would do and hence does not count as tolerance. This value-laden conception of tolerance can indeed claim that tolerance is always good (i.e. a virtue; confirming P1) but that one can only tolerate 1) the kinds of conduct that *should* be allowed for (the tolerable; what to tolerate) and 2) on the basis *that* they should be allowed for (why to tolerate). This then is perfectly compatible with claiming that one should not tolerate the intolerant (denying P2) and escaping the paradox.

An example of this strategy can be found in the analysis of Richard Avramenko and Michael Promisel (2018). To avoid the objection that tolerance collapses into sheer acceptance or respect, they recast tolerance as an Aristotelean virtue in order to understand how tolerance can turn into a vice, both as a deficiency and as an excess. A person who is deficient in tolerance is “surly and quarrelsome” (2018, 855). Such people, whom we have called ‘intolerant’ before, put their mouths and fists where their minds are, regardless of how this affects the wellbeing of others. Their obvious lack of concern for others’ wellbeing is what makes them fall short of being virtuous. But there is also a vice at the other side of the spectrum: someone who suffers from an excess of tolerance and

who is “obsequious” or a “flatterer” (2018, 855). Such a person is *overly* concerned with pleasing others, even when she objects to their conduct. A flatterer decides not to cause offense, even when “some speeches and deeds are so ethically objectionable that silence is not appropriate” (2018, 855).

Avramenko and Promisel’s approach provides a way out of the paradox as they deny P2 and argue that intolerance (or, the intolerant) should not be tolerated. Thereby, they also qualify P1, stressing that tolerance is always good but that it is limited to those cases where the conduct at hand should be tolerated. If you put up with something genuinely intolerable, you are no longer tolerating it but are being obsequious and sucking up to the intolerant.

According to Avramenko and Promisel, the recent shift in the literature toward respect and recognition and the corresponding tendency to move beyond objection and opposition, exposes the danger of tolerance collapsing into obsequiousness and flattering. In line with Aristotle, they stress that, sometimes, one needs to inflict pain and discomfort: “under certain circumstances, it is virtuous to disapprove and contest another’s convictions or conduct in a way that may cause pain” (Avramenko and Promisel 2018, 857). On their view then, it can be virtuous to be ‘intolerant’. Since “virtue is the appropriate response to different situations and different agents” (Athanasoulis, 2019) and requires the practical wisdom to act appropriately, understanding tolerance as a virtue does not mean that one should always tolerate. Tolerance means letting live what deserves to live and letting die what deserves to die. Given that it is okay to act on one’s objections to what is genuinely objectionable, flattering fails in this respect in that it lets live what deserves to die.

But it is possible to opt for a different strategy. Take an intolerant person A who objects to X, and does something, Y, about it. She does not let things pass. Now another person B can either tolerate this (Y, the intolerant behavior toward X) or not. She asks whether or not to let Y pass. Importantly, this story is purely descriptive and is compatible with whatever (one might think of) the moral desirability of X and Y and of A’s and B’s motives for doing X and Y. For example, X may be

(believed to be) objectionable (for example, rape), which would make Y appropriate. Or X may be unobjectionable (eating a PB&J sandwich), which would make Y inappropriate. We should applaud intolerance in the first case but not in the second. Stripping the notion ‘tolerance’ from any normative connotation prevents the paradox from getting off the ground because it no longer implies that tolerance is necessarily good or virtuous. The answer to the question when tolerance is morally appropriate should be settled on a case-by-case basis (and, of course, the virtue approach also needs to answer that question). In addition, and as stressed before, the reasons for tolerance could be much broader than what is assumed when understanding tolerance as a virtue.

While both approaches can escape the paradox, the neutral approach arguably has an edge over the virtue approach because of practical reasons. Central to this argument is the idea that, when tolerance is desirable, we should *enforce* it and *make* people tolerate. The reason for this is *value pluralism*, which not only pervades contemporary societies as a practical reality (with which any meaningful notion of tolerance should be able to deal), but also as a meta-ethical truth about the nature of values. Pluralism is the background against which an attitude of tolerance makes sense: there is plurality of valuable ways of life that deserve to be lived, even though any individual might prefer another way of life. We will all need to put up with that plurality. While we cannot enforce the virtue of tolerance, we can enforce tolerance in its neutral understanding and make people refrain from interfering for other than moral reasons. Respect or recognition for other ways of life that one objects to is not something that can be extracted from people; we can only demand outward conformity with such (inner) respect. This is the Kantian aspect of the discussion that deserves closer inspection.

4. Kant on Justice, Virtue, Respect and Tolerance

In his *Groundwork to the Metaphysics of Morals* (1785), Immanuel Kant famously argues that only actions that are motivated ‘from duty’ have moral worth. A shopkeeper can be honest out of calculated self-interest or out of a concern for reputation. Although ‘in conformity with duty’, his actions would nevertheless be performed from the wrong maxim, or so Kant argues (1998: 53; [4:397]). Although fine and recommendable, Kant stresses that such outward honesty does not exhibit a good will.

Apart from raising the bar for moral purity, this requirement also introduces an *epistemological problem*. After all, Kant (1998: 61; [4:407]) holds that it is very difficult, if not impossible, to know whether someone actually acted ‘from duty’, that is, out of genuine respect for the moral law. Even our very own dutiful behavior could be motivated by covert impulses and desires hidden to ourselves. Kant pushes the point so far as to claim that, due to this epistemological uncertainty, there might not have been a single good deed in the whole history of mankind. Interestingly, however, this epistemological problem does not occur when it comes to actions *against* duty. If someone is dishonest, for example when breaking a promise, then evidently there cannot be an underlying good will. So, while we have to ponder the depths of the human heart when it comes to identifying true goodness; evil is very much ‘in your face’ and clearly manifests itself to the naked eye.

Now, when faced with gross manifestations of immorality, we can (and should) do something about them. According to Kant, we can use the means of justice in order to get people to act not *from* but at least *in conformity with* duty.

“After all, the *Metaphysics of Morals* is divided into two parts, and the difference between the Doctrine of Virtue and the Doctrine of Right is that in the former duties cannot be coerced (I cannot force you to love your fellow man, for example), whereas in the second (the Doctrine of Right) obeying duties can be coerced (for example, promises in contracts, laws of the state, etc.).” (Schossberge, 2006: 166)

What does this mean? If one believes that the moral law or Categorical Imperative disqualifies deceit as immoral (O'Neill, 2002), then we can use the instruments of justice to coerce those who are inclined to deceive into compliance with the moral law (the Doctrine of Right). We simply enforce compliance and do so for good reasons. This does not present epistemological problems nor does it require near impossible investigations into the human heart, because no maxim could ever make deceit (or other actions that violate the moral law) moral. Sure, when we use coercion, people's reasons and motives to comply could (and, most likely, will) boil down to the fear of legal punishment. That implies that the question of moral worth (the Doctrine of Virtue) is beyond the scope of the law. What is more, duties of virtue (what is morally desirable) by definition lie beyond the law's reach. People may act out of respect for the moral law but we can only enforce outward compliance through legal means. Nevertheless, and importantly, it is the moral law (the rational insight into the wrongness of deceit) that justifies the use of these legal, coercive means. While moral goodness cannot be enforced by legal measures, it provides the underlying moral justification for the practice of these legal measures.

Let us connect this to the topic of tolerance and intolerance. If the intolerance of bigots, racists, sexists, et cetera necessarily involves the violation of some people's rights and liberties and if this is what makes their intolerance morally wrong or inappropriate, then we are justified in using coercive means to combat intolerance and enforce tolerance (at least in a neutral sense of the word). On this view, it does not really matter *why* people choose to abstain from such interference. When we legally coerce them into tolerance and make them bear what they object to, they may do so out of fear of legal punishment. If this fear – or some other kind of self-interest – motivates their compliance, they will act in conformity with but not from moral duty. So while we cannot say that their tolerance results from a good will, we can say that they do what they should be doing, that is, tolerate what should be tolerated.

Of course, this raises the underlying but fundamental question: what should people tolerate and what not; when exactly is (in)tolerance appropriate?² If we return to Kant, the answer is clear. People should tolerate whatever morally permissible ends others have, so all the acts that people are morally allowed to perform. They are allowed to make PB&J sandwiches, and kiss their children (or their gay lover) goodnight. If you object to any of these practices, you should nevertheless condone them and society can rightfully make you do exactly that. While it may be controversial to determine exactly which results the Categorical Imperative yields, the point here is that, to the extent that it does yield results, the distinction between the Doctrine of Right and that of Virtue holds and is applicable. There are permissible and impermissible actions – what Shelly Kagan (1989) calls ‘options’ and ‘constraints’ – and there is an extent to which allowing for the permissible and restraining the impermissible is both possible and required. In fact, this is what the realm of justice is all about.

To locate the importance of tolerance firmly within the realm of justice in no way denies the relevance of the realm of virtue. Kant does not take the Doctrine of Virtue to be somehow less important. Like that of Right, its importance comes from the unconditional requirements of the moral law. We ought to act from duty, not merely in correspondence with it. What this entails and how it can be achieved is the subject of the Doctrine of Virtue. The perfect duty of respect, for example, is something we owe to all persons (Fahmy, 2013: 276) and we should figure out what this looks like and how to achieve it. Understandably, many authors with Kantian affinities who are concerned with toleration look for inspiration in this part of Kant’s theory (for they believe toleration is a virtue). But that approach is rather unfortunate. For given Kant’s pessimism about human nature and given the

² The virtue approach also needs to answer that important first-order question: “What ought to be the object of toleration?” Otherwise it cannot recognize instances of toleration in the real world (“Here, person X tolerates Y”; for that proposition to be true, we need to know that Y ought to be tolerated). On top of that, it also needs to specify the specific moral reason(s) for toleration, and it needs to be able to recognize these as well. We will argue below that this makes the virtue approach too restrictive to be of proper use in liberal societies.

difficulty in attaining a good will (his tenacious ‘Hang zum Böse’), there is an urgency to the demands of justice, or rather a practical feasibility to politics and law that is absent in the realm of virtue. Social and legal instruments and institutions should not overestimate people’s ability to attain virtue and should thus benefit a ‘community of Devils’ (Kant, 1996b). As such, taking the demand of tolerance as a demand of justice has pragmatic priority over taking it as a demand of virtue.

To illustrate the rather unfortunate attention that has been paid to the Doctrine of Virtue in light of the problem of toleration, let us discuss Rainer Forst’s (2007a; 2007b; 2017) Kantian model of tolerance as respect. In his view, tolerance is and should be more than mere peaceful coexistence or *modus vivendi*, captured in the adagio ‘live and let live’. According to Forst, tolerance is necessarily based on moral reasons. This understanding of tolerance captures nicely the positive connotation that the notion ‘tolerance’ has in ordinary language: not only is tolerance morally preferable over violence or coercion, its non-violence is actually more robust (than non-violence due to indifference, for example) because it is based on moral principles held by the agents. Sune Lægaard (2013, 523) summarizes Forst’s views on the advantages of his ‘respect conception’ as follows.

“Toleration out of respect promises to provide a way of handling conflicts and problems under conditions of pluralism in a way that is principled and might justify some of the accommodation and openness toward ethnic, cultural and religious minorities that proponents of multiculturalism as a normative position demand, while avoiding the problems of more demanding notions of ‘recognition’ or ‘respect for difference’. So toleration out of respect seems very inviting, both in theory and practice.”

The problem, however, is not that respect as the motivating moral reason for tolerance would not be *good* but that it would be *useless*. In Kant’s taxonomy, the duty of respect is a perfect duty of virtue (Taylor, 2005). Respect is a particular kind of attitude, something that we owe to others but that cannot be enforced. Imagine you are a racist but police presence prevents you from hitting a

person of color in the face. In this scenario, there is no respect, as that would entail that your reason for restraint is your acknowledgement of the other person's equal worth as a moral being. On Forst's approach, your lack of respect means there is no (genuine, virtuous) tolerance on your behalf. As mentioned, the problem here is epistemic: in real life, we can never *know* whether or when someone is genuinely tolerant, since that would require having access to someone's true motives (which is something even introspection cannot provide us).

If one looks at what Kant himself has to say about the virtue of respect, the ill-fit with contemporary discussions of toleration as a virtue becomes clear. To understand what kind of attitude respect entails, one can analyze which *vices* are associated with not fulfilling the duties of respect. Understanding these vices will reveal that the Kantian duty of respect does not provide the best way of approaching tolerance.

Kant gives three clear examples of such vices of disrespect, violations of this particular duty of virtue: arrogance, defamation, and ridicule (Fahmy, 2013, 733; MS 6:462-467). Now, we do not – at least not necessarily – call a person who is arrogant, spreads gossip or ridicules another, intolerant. One could be arrogant or dismissive without “prohibiting, hindering or otherwise coercively interfering with the conduct of which one disapproves” (Horton, 1998, 429-30). The disrespectfulness of arrogance, defamation and ridicule does not (necessarily) consist in the active interference that is necessary for intolerance.

What this shows is that the virtue of respect goes *beyond* the mere ‘outwardly’ doing what the duties of justice require. Kant himself gives the example of beneficence: we should (as a duty of justice) help the poor but when we do so, we should also (as a duty of virtue) make sure that this help is not condescending or degrading (cf. Fahmy, 2013: 737). In the end, people should get what they are due, both in terms of justice and virtue. Likewise, we should tolerate the (tolerable) behavior of others (duty of justice), but that is not enough: we should also do that in a respectful way (duty of

virtue). Arrogance, ridicule or defamation can occur *in* instances of tolerance; and are not necessarily characteristic of intolerance.

Of course, it would be great if people not only tolerate others in the broad and neutral sense, but also show them the respect that they are due. But that is not something that the law can and should enforce. We cannot *demand* that people are not only tolerant but also respectful, simply because we can never know for sure when that occurs. Moreover, as a specific *ground* for toleration, Forst's respect approach might be too restrictive in that it presupposes what is actually contested (i.e. the different reasons *for* tolerance) and thereby ignores the pluralism that toleration should allow for. We therefore agree with Sune Lægaard (2013, 520) in his critical analysis of Forst's virtue approach.

“Forst's respect conception is problematic since it presupposes that answers to very substantial normative questions, which are precisely what people tend to disagree on under conditions of pluralism, are already at hand. The respect conception therefore seems to be at best a theoretical idea belonging in ideal-theory, not a useful practical solution to actual conflicts under conditions of pluralism.”

It is helpful, therefore, to return to what Bernard Williams (1996) has to say on the subject. He argues that, while the *virtue* of tolerance is based on respect for autonomy, its *practice* “has to be sustained not so much by a pure principle resting on a value of autonomy as by a wider and more mixed range of resources. Those resources include (...) power, to provide Hobbesian reminders to the more extreme groups that they will have to settle for coexistence.”

Note that Williams allows for two notions of tolerance: (1) a neutral, behavioral one where (the practice of) tolerance is about refraining from interference, even if that is motivated by fear of (Hobbesian) punishment, and (2) a value-laden, attitudinal one in which tolerance is a virtue. Though both notions are conceivable, valid, and important, there lies a danger in the preoccupation with the latter.

If tolerance is understood as a virtue, the lack of tolerance in our societies, should then primarily be understood in terms of a lack of virtue. The problem, on this approach, lies with people's flawed and deficient characters and whatever cultural, social, educational or, why not, genetic factors cause their disrespectful or 'un-virtuous' attitudes. We think this worryingly misidentifies the problem. Intolerance is a social and political issue that first and foremost needs to be addressed through political and legal means. This is not to say that people's attitudes and educational issues are not important, but simply that tolerance as a matter of *justice* has priority over such moral qualms.

If tolerance is conceived as a virtue that requires doing the right thing for the right reasons (or with the right attitudes), we risk seeing it as an aspect of character improvement; something that is morally praiseworthy and that we should all (continue to) strive for. While this is obviously important and valuable, it also diverts attention from the demands of justice, which should have priority (cf. Lovibond 2015). If tolerance is to remain pivotal in contemporary societies, the question what needs to be tolerated and what not is central. The question what the (moral or other) reasons or motives for such tolerance are, should take second stage in this respect.

5. Conclusion

In this chapter, we have discussed the advantages of a broad and neutral understanding of tolerance as non-interference, which can be motivated by moral reasons (such as principled respect for other people's liberties) but also by more prudential reasons (such as the desire to avoid legal sanctions). The alternative 'virtue approach', which provides a narrower and value-laden definition of tolerance as morally motivated, raises both epistemological problems (how can we ever come to know whether someone is really tolerant or not?) and pragmatic or policy-related problems (how can we ever enforce tolerance of what should be tolerated if we cannot coerce people to be appropriately motivated?).

The neutral approach encourages one to not see tolerance as a virtue, but simply as putting up with something one deems objectionable. Depending on what that ‘something’ is, putting up with it is morally desirable or not. The moral evaluation of one’s (in)tolerance primarily depends on the moral evaluation of what one does (not) tolerate, and less so on why one does so (one’s underlying attitudes and reasons). Tolerance is so crucial in our societies because of value pluralism, the simple fact that there often is no single best solution to moral problems. This is why we believe that people *should* tolerate the opinions and conduct that are compatible with such pluralism. People should put up with alternative lifestyles or choices; it is simply not up to them to interfere.

Such tolerance is valuable regardless of whatever reasons one might have for putting up with whatever should be put up with. Calling such plain tolerance a deficient type of tolerance, that falls short of being virtuous, painfully ignores the fact that, in a just but not ideal world, we can and should ensure that people get to live their own lives, according to their own conceptions of the good. Intolerance then is not a problem because it is vicious or disrespectful but because – or better: when – it inhibits people from living according to their own valid conceptions of the good. This then is a final advantage of the broad and neutral approach to tolerance: it puts priority on the fate of the should-be-tolerated (the appropriate objects of toleration) instead of the could-be-tolerant (the moral mindset of the subject engaged in toleration).

6. References

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