

JUSTIFYING STATE TOLERATION OF
DIVERSITY AND DISSENT

by

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Attempts to justify toleration usually utilize moral arguments based on respecting the agency of, or preventing harm to, an individual. These arguments provide a sufficient but not a necessary reason for powerful states to tolerate a diverse and dissenting populous. Provided a state is interested in promoting non-violence, I claim that, because political controversy increases tolerance and decreases violence, toleration of all non-violent diversity and dissent is incumbent upon a state. This argument also justifies state intolerance of violent dissent, where violence is either threatened or manifest.

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For my daughter,
CASEA PAULA MALEA IM

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CHAPTER I

INTRODUCTION

Political Controversy and Toleration

The transformation of violent conflicts into controversy results in a tolerant society. Controversy increases as violent conflicts are brought to the table for discussion. The increase in controversy and decrease in violent conflict is the achievement which would distinguish a tolerant society from an intolerant one.

State toleration of diversity and dissent requires special attention because of the potential danger from dissenting factions to the integrity of the state and the larger society. Diversity and dissent are, however, essential for the flourishing of a non-violent, tolerant society. Autonomy, as the development of an individual to full moral and political capacity, requires a strong critical tradition which respects dissent and encourages diversity. Dissent must not degenerate into disorder and violence which subvert the tolerant state or the tolerant society. The importance of dissent and the equal importance of avoiding violence necessitates active intervention. For

example, programs to facilitate skill in (1) the giving and taking of criticism, (2) the art of holding opinions, (3) the art of changing one's opinion, (4) the art of listening to another person's opinion, (5) the art of responding to another person's opinion, might be made part of secondary and elementary education. The main difficulty in establishing a political arena where the free exchange of opinions and arguments flourish are (1) the lack of appropriate skills and (2) lack of appropriate attitude conducive to productive controversy (a) inappropriate sensitivity (b) intolerance to criticism and (c) the tendency to attribute base motives to critics. The cultivation of an appropriate attitude also means the importance of particular traditional solutions (truths) to public problems must be (1) subordinated to the maintenance of a tolerant society (defined as non-violent), and (2) be expected to change as situations change.

Societies and states face momentous difficulties which seem to be compounded by the enormous diversity of customs and practices. Dissenting opinions and ideologies seem to threaten the possibility of ever establishing a non-violent and non-controversial administration of common problems. The fact of diversity and dissent often seem to be the problem. If all people were united, if controversies were overcome, then our common problems would be solved.

However, diversity and dissent far from constituting the problem, contains in part, the solution. Diversity and dissent properly utilized hold out hope for the resolution of many of societies most distressing political and social problems. Diversity contributes novel solutions as well as offering traditional (or time tested) ways of coping with old problems. Dissent functions to draw attention to some malfunction in society and when adequately articulated and communicated to those who are not directly affected by the malfunction (often the state) can result in the amelioration of the problem. The obvious drawback to dissent is that dissent easily degenerates into violence when careful attention to the form of the dissent is lacking. The form dissent takes, shapes the resultant outcome as either discussion and controversy or as violent and persecutory. Violent subversion achieves violent retaliations. Thus both the form of dissent and the form of the state reaction to dissent must be tolerant if a tolerant society is to emerge. The study of the form of dissent is the study of argumentation (rhetoric).

The forum for dissent and debate is the political arena. Political and rhetorical argumentation have well deserved bad reputations. The political is equated with coercion and the rhetorical with manipulation. Both coercion and manipulation are unethical uses of argumentation.

However the political and rhetorical have a very serious service to perform.

The political, as Hannah Arendt clarifies the concept, is the realm of freedom. The place where people can meet (in their diversity) and discuss (their dissenting opinions) freely with one another. The common social realm, where people are manifestly not free and where identity with one another is greatest, is also the realm which generates the most diversity. For example, every people have identical means of producing children, yet traditional social customs surrounding and sanctioning the production of children differ widely from culture to culture. The political forum, on the other hand, is where members of diverse cultures may meet to discuss common solutions to common problems. Where debating the merits of particular customs and sanctions, when the dissonance over these have become intolerable, takes place. Arendt's distinction between the political and the social, is not the liberal distinction between public and private, but the division emphasizes the political meaning of autonomy. The political and the social are both public. The concluding essay takes up this subject again in more detail after the appropriate area is cleared.

How Can a Tolerant Society Be Achieved

The following chapters present an integrated argument for the justification of state toleration of diversity and

dissent. The state, in its policy making capacity, has often been a highly effective agent of intolerance via judicial, military, and administrative methodologies. And so this thesis considers states as potentially the most effective agents in efforts to create tolerant societies. The state to which I continually refer is not necessarily an actual governing body of a country. The argument applies more generally to the administration of organizations that have the power to alter, by publicity or otherwise, what people in general consider to be worthwhile. State administrative methodologies now transformed by the computer industry and communication innovations hold hope of enforcing the constraints required to effect a more just and tolerant society. If, as I stipulate it, the achievement of a tolerant society is the goal of the state, then (for this and other reasons detailed later) a state is not obliged to tolerate those who, if they prevail, would destroy the tolerant society which the state administers.

The particular way in which toleration became a problem for pre-revolutionary France and England has become lost in the post-revolutionary emphasis on equality, liberty, and justice. Before the French Revolution (1789) toleration was the proposed alternative to persecution born of ignorance and fear. Toleration since that time has become an "aspect" of autonomy and a practice "peculiar" to liberal society. Recent philosophers either justify toleration in terms of

liberal values such as autonomy or condemn toleration as a weapon of repression (Marcuse). These apparently widely divergent reactions to toleration as a state policy are actually in more accord than discord; as the following chapters show.

The second section of the first chapter defines a number of terms crucial for the discussion which follows. An important distinction is drawn between tolerance as a moral virtue and state toleration as a political policy; and a corresponding distinction between moral justification and political justification. Chapter two examines some of the strengths and weakness of the argument for toleration based on autonomy (as free choice). Often an argument from autonomy either emphasizes the agency to exercise free choice or the right of an individual to be free from harm. Joseph Raz' argument for toleration based on autonomy claims that because autonomous persons have (1) free choice and (2) conflicting and (3) incommensurable choices result; each person should therefore, tolerate every other person's choices, even if those choices are abhorrent or violent.

Marcuse's argument against "toleration" is leveled more precisely against what he calls "pure toleration". Pure toleration is the indiscriminate tolerance of violence. Pure tolerance is often justified by agnostic or skeptical arguments and, in part, justified by the distortion of personal autonomy which occurs when autonomy is understood to mean

merely the capacity for free choice. A major problem for Raz' argument for toleration is the difficulty in discerning the extent of free choice for purposes of making policy. Autonomy as the specifically liberal justification of toleration also justifies intolerance in conjunction with Mill's harm principle.

Harm is considered by some philosophers to be unreliable as a principle by which to justify decisions about whom to tolerate. This is because an uncontroversial decision cannot be reached about what constitutes harm in specific hard cases. For example, in order to resolve the question whether or not the utilization of fetal tissue constitutes harm is complicated by further uncertainties about what constitutes the object of harm. Does the use of fetal tissue harm society, harm the fetus, violate the principles of some people? The harm principle is, in this sense, weak or incomplete as a justification for state intolerance. A state's decision to interfere, and especially to repress or officially persecute, requires that the justification for doing so be uncontroversial. The harm "principle" is controversial and so cannot serve as a justification. Chapter three questions this conclusion. I argue that the use of the harm principle is useful when confronting difficult controversies. The controversial nature of the harm principle does not detract from is

usefulness as long as people have been educated in how to conduct themselves in controversial situations.

Chapter four attempts to understand what Marcuse called the internal connection between truth (as coercion) and tolerance (tolerance as freedom from coercion). Understanding the relation between these two abstractions when making policy promises to lead to a more tolerant society. Proposals for ideal societies, in the interests of peace, often propose unanimity and uniformity in opinion and practice as a desirable goal. Chapter five claims the hope of achieving unanimity and uniformity is misguided. Neither the available methods for achieving unanimity nor the resultant uniformity once established are compatible with autonomy in either its weak (as the capacity for free choice) or strong form (as self-realization). The details of how controversy reduces violence and how diversity and dissent lead to a tolerant society are presented in chapter six. A tolerant society requires more diversity and more well argued and researched controversy, not less.

The following definitions stipulate the narrower, and peculiar, sense in which I use such terms as "political" and "moral". These distinctions are necessary in order to clarify my argument that state toleration requires political justification in addition to moral justification. Both moral and political justification, concerning what should and should not be tolerated or condemned, are made with

reference to John Stuart Mill's harm principle. Violence is the intolerable alternative to both tolerance (as a virtue) and toleration (as a political policy).

Politically Establishing the Facts

Definitions

Political Controversy

Political controversy is the practice of discussing and presenting arguments for and arguments against an issue. In the course of political controversy the facts of a situation are established.

Political controversy is itself controversial. Political discussion is very difficult for these reasons: Disputants sometimes cannot agree either (1) on the way in which the facts have been established, or (2) agree that facts, politically established as facts, are facts. Because of its nature as establishing fact, the value of political discussion is sometimes denied. Establishing the facts politically is a corruption of the metaphysics of a positivistic strand of thought. According to this metaphysics the facts should be open for all to see and not depend upon what is said about them for their establishment. A stronger version of this metaphysical claim occurs when it is combined with a set of claims (truths), usually declared self-evident, that are stipulated to be not open to

political controversy. In addition, political discussions presume that any description of the facts incorporates value judgments; and that value judgments are an integral part of the facts of the case. Thus, because political discussion by its very nature seeks to establish the facts, and some deny this as a possibility, the value of political discussion as a worthwhile practice is denied.

Hence in corporations, government agencies, judicial and administrative arms of every description, including academic departments, where people gather and work together, there spring up multiple specifically political problems. Resolving political problems involve not only analyzing the facts, but establishing them as well. Where people are organized around the pursuit of abstractions, such as for example, money and profit, or freedom and justice, or truth and knowledge, clarification of what situations corresponds to these terms is often in flux. Political problems call for political resolution. As long as political methods of discussion and debate are not widely taught, and the skills necessary to handle both written and oral argumentation lie fallow, the political milieu will tend toward greater and greater intolerance. When political discussion cease, the gaps (both real and imagined) between the description and the described grow. Ignorance infests everyone's opinions, of everyone else's opinions, and subsequent actions based on

these ignorances have high probability of aggravating any problematic political situation at hand.

Engaging in political argument does not, of course, mean that controversies will cease. On the contrary, controversy may be expected to increase. The numbers and kinds of issues that underlie and provoke any violent conflict will multiply as they are brought to the thoughtful and prolonged attention of disputants. As controversy increases so may violence decrease. It is where political discussion fails that violence takes hold. This much is platitude. Offered as insight is that the reason for failure is for the most part preventable. Political discussion requires autonomous (in the sense of fully self-realized) individuals to participate.

Value of Politically Controversy

Political controversy, where it exists, raises the level of tolerance.

Political discussion is particularly well suited to uncovering hidden assumptions; that is, if the discussion (as Socrates advised) is engaged in by two of a friendly disposition who also agree to continue even after finding themselves holding untenable positions. Under these circumstances political discussion is well suited to ferreting out hidden sources of controversy. Political discussion does not hold out hope for resolution of every

controversy, however, and this must be understood and taken for granted at the beginning. The reason for political discussion is to achieve tolerance toward another's opinion and perhaps a finer appreciation of another's point of view and perhaps and understanding of how they achieved their view, but one cannot expect to come to agree even on very fundamental issues.

To review the proposal, children (and adults) should be taught how to make choices. Autonomy does not come ready made. Some people will be better at arguing and holding opinions than others, but everyone especially where autonomy is valued need to be facile with the skills of oral and written argumentation. Skills which include attention to developing: imagination, invention, memory, order, logic of argument, and a concern for the audience.

What Happens Without Political Controversy

Participation in political discussion is necessary in order to reduce the violent conflicts that occur by increasing respect, if not understanding, of the other's point of view. There are no neat formulas or solutions to human political issues. Each require the detailed attention of concerned participants who are open to and facile in argumentation. Where these skills are lacking, and where people are confined, so that they may not easily leave when the issues become "unreconcilable", there will be violent

conflict. The cultivation of skills with which to cope with controversy are needed where ever people come together. This is so, I suspect, the more acutely one is aware of ones values.

Political Facts

Political facts are often (1) of limited applicability as to (a) time and (b) place. They are (2) interdependent, and (3) controversial. A political (4) description is constitutive of a political fact (or situation) in the practical sense that, the description contributes to the alternatives people consider and thus partially decides what happens next. A person's values also contribute to the decision. Consider the following example:

Professors of philosophy are sometimes struck by the observation that freshmen do not hold opinions, rather they make strings of assertions which they suppose are obviously so. The suppressed premises which constrain or force the opinion to seem obvious, once revealed, sometimes alter the opinion. This "observation" is an example of politically establishing a fact. This example of politically established fact illustrates the nature of political facts and introduces additional problems with political discussion. The ephemeral nature of political facts is compounded by their tendency to disappear or multiply without warning. This contributes to the distaste some have for the political

on principle. The fact "freshmen do not hold opinions" will at any one time have limited application. There are a number of facts which are being established at the same time and are interdependent or interrelated. "some professors are struck" and some are not; some "opinions" are uncontroversial facts at one time and place and are not, in different company. Examples of politically established facts are found in all disciplines and enterprises. The fact of "continental drift" in geology, the fact of "black holes" in astronomy, the fact of a piece of music "played sublimely", the fact of "the decline and fall of the Roman Empire" are all examples of politically established facts.

Appearance and Reality

Appearance, because of its relation to action, is far more important than reality, in establishing the facts. In the establishment of political facts what appear to be the facts are, for practical purposes, the facts. Decisions on courses of action must be based on how the facts appear to be, appearance takes on far more importance than what may "really" be the case. Appearance decides cases.

Diversity and Dissent

Diversity and dissent in some cases are easy to distinguish. Where dissent is political, ideological, and metaphysical argument and diversity is skin color, customs,

and beliefs which are indifferent to argument. With these examples diversity should be tolerated unless they are violent. But diversity and dissent overlap in practical examples. Diversity as in ethnic or religious difference is not usually a matter of choice. Dissent is more a matter of choice but questioning specific practices or policies rest on values which are not open to choice. Generally, then, questioning the location of the line between legitimate and illegitimate dissent makes sense; questioning the line between legitimate and illegitimate diversity does not.

Definition of Morality

Morality, in common usage, can be a description of conduct, an evaluation of conduct, a capacity for conduct, or considered as constitutive of conduct. A persons conduct can be described as moral or immoral; a description which contains the evaluation of good or bad, right or wrong, acceptable or not.

I stipulate morality to be the capacity to judge the appearance and conduct of others as well as oneself; and to act with reference to this judgment. Morality, as I speak of it, is not a body of moral judgments. The moral capacity is analogous to the capacity for appreciating a sunset or appreciating music. Morality consists in the capacity to declare what "ought" and "should" be the case with one important prerequisite. Individuals do not have this moral

capacity alone. The social realm dictates what is and is not acceptable. Peer-pressure is the means by which proprieties come to be accepted and rejected. So, for the moral capacity to function properly it requires continual interaction with a society. Having good taste in art, like having good moral taste, are skills of judgment honed in the company of other people. The capacity for moral judgment is a universal human capacity, the content of particular moral judgments (because of the social way in which the moral appreciation skill is honed) are peculiar to particular social realms.

Individuals, of course, have the capacity to abide or not abide by the particular "morality" or moral judgments dictated by the social realm.

Dignity is a felt sense of belonging, of having a place of respect amongst one's peers; morality as the capacity to judge makes of dignity a list of violent emotions: guilt, self-esteem, jealousy, hate, rage, etc. Dignity, as one of the principle means of motivating people, has a special relation to the moral capacity. Dignity seems to be partly constitutive of desire in general. The objects of desire are partly wanted for how they contribute to one's place among others. This seems important for any definition of morality to note. Especially if morality is the capacity to judge of conduct, the judgments themselves would be influenced by the centrality of dignity to human conduct. So central is dignity, to morality that, as Orlando Patterson has argued

even the institution of slavery stems more from the need for human dignity than from economic need. Dignity is most intensely felt and understood when it is denied.

This definition permits of further contrasts which will be drawn out in subsequent chapters. For example, morality contrasts with propriety; yet is often indistinguishable from proprieties which are discussed in more detail in chapter three. Proprieties are based on pre-judgments passed on from custom and habit. Morality as the capacity to critically judge (as opposed to pre-judge) comes into play in the controversy made possible by the political realm (as distinct from the social realm as Arendt distinguishes them).

Moral discussion by philosophers are examples of discussions of proprieties, community norms that are primarily built on habit, custom and prejudice. Morality, as critical judgment, is primarily a capacity to judge, propriety is the capacity to pre-judge.

Definition of Autonomy

Autonomous means an individual has skills which include the habit of critically evaluating one's own arguments and practices as well as those of others. Autonomous also means an individual will attempt to learn about issues before making decisions. These skills must be developed for free choice to be meaningful. A more robust definition of

autonomy has to do with integrity but it will not play a part here.

Kinds of Judgments

The political, moral, proper, prudent, and functional judgments are on a continuum, and in some ways have a hierarchical arrangement. They often overlap. Wearing shoes is both functional and prudent. Wearing the appropriate shoes for a specific occasion may be proper as well as functional and prudent. Wearing shoes may be moral as well. The intentional deprivation of shoes may torture or ensure someone's death. Wearing shoes might even become political. People might protest the manufacture and sale of certain kinds of shoes if some aspect of their manufacture were discovered to oppress people or harm the environment.

Kinds of Justifications: Political and Moral

Political justification require political discussion in order to establish the facts of the case. Political discussion establishes the facts of a case, sets the distributive or retributive norms, but moral justification itself does not require political discussion. Once it has been established that: Eve's death was murder. The moral judgment has been made: Eve's death was unjust. If political discussion determines that: Eve died of heart failure, then asking for the moral justification is inappropriate. One may

be morally culpable if one knowingly fails to aid Eve and she died as a result. Political discussion may split hairs endlessly to determine the fine nuances of any eventuality but the moral conclusion will always be foregone once the discussion has resolved the facts. A political discussion may determine that no effort could have saved Eve or it could decide that standing by when help could have been rendered contributed to her death. Apparent "moral" differences are not moral differences at all but different political decisions (which may be traditional with long a history (capital punishment) or new problems such as test-tube babies; surrogate mother-hood, etc.) which may change over time, but the capacity for moral judgment (which is morality) does not change.

These stipulations follow from my assumption that moral justification and political justification are both established with reference to the "harm principle". Judgments stating what should and should not be tolerated or condemned are made meaningful with respect to harm.

Tolerance Versus Toleration

Tolerance, as a virtue, does not require political justification. Virtues involve social proprieties and pre-judgments; so, tolerance is justified morally, not politically. Morality is the capacity to judge action; judge the way people treat one another. Virtues are valued

(appreciated) ways of being treated. Values are reasons for action. The limits of tolerance are set by moral judgment.

Toleration, as a state policy, requires political justification. The limits of state toleration are set by political controversy.

State intolerance also requires political justification. The discussion of state intolerance is in chapter three and again in chapter six.

Toleration

Two forms of toleration discussed by Locke are (1) comprehension, where in order to enlarge the bounds of the church, the assimilation of diversity and dissent in the interest of uniformity was recommended. The second form of toleration is (2) indulgence, where those unwilling or unable to unite are tolerated.¹ It is the second form of toleration as "indulgence" which I emphasize even though in practice is sometimes difficult to distinguish the two as the following example shows:

The various modes of worship, which prevailed in the Roman world, were all considered by the people as equally true; by the philosopher as equally false; and by the magistrate as equally useful. And thus toleration produced not only mutual indulgence, but even religious concord.²

¹. J. Locke. The Works of John Locke, Esq, (London, 1727) p. 314.

². Quoted in L. Fitt, 1984. "Toleration in Northern Ireland" in S. Mendus and D. Edwards (eds.) On Toleration (Clarendon Press, Oxford, 1987) p. 63, from E. Gibbon. Decline and Fall of the Roman Empire.

In chapter four "comprehension" without "indulgence" is shown to be coercive at worst and the hope of achieving "comprehension" is shown remote at best in chapter five.

Toleration is both a virtue and a political practice. According to Joseph Raz, a contemporary philosopher, "a person is tolerant if and only if he suppresses a desire to cause to another a harm or hurt which he thinks the other deserves."³ Hence for Raz toleration is the act of "restraining an inclination (to harm or hurt another) which (inclination to hurt) is in itself desirable."⁴ The desire or inclination to harm another arises as a response to an infringement of common expectations. Here spanking children for their own good, comes to mind; but this misses Raz' point. Raz specifies why toleration requires a suppression of the inevitable urge to harm, "one cannot tolerate other people because of their virtues. But one can tolerate their limitations."⁵ This is a morality based definition of toleration. As such it either stipulates or must assume a shared body of moral norms.

The claim that deficiencies, limitations, and infringements of common expectations, deserve harm and should not be tolerated, assumes a shared standard by which

³. J. Raz 1987. "Autonomy, toleration, and the harm principle" in S. Mendus (ed.) Justifying Toleration, (Oxford University Press, 1988) pp. 155-175, p. 162.

⁴. Ibid. p. 162.

⁵. Ibid. p. 162.

to judge of desert. Those not tolerated must be judged adversely according to some standard; a standard by which their deficiency, limitation, and infringement can be judged. Subsequent intolerance is then justified with reference to this standard. Toleration for Raz is identified by its motive not its means; and the motive is always just. The toleree deserves harm. How to determine the harm and the desert are controversial. Toleration, as Raz defines it, is refraining from harming those we disapprove of. Raz adds the alarming claim that the tolerator is not a tolerant person unless she or he feels virtuous about the desire to persecute and feels that the other deserves harm. Tolerance, on Raz' view, is thus a lenient alternative to an otherwise unobjectionable aggressive and intolerant response. The only requirement for either response is that a negative moral judgment is formed concerning the candidate for toleration.

This dependence upon moral judgments for both tolerance and intolerance make the subject of state toleration appear culturally specific and very controversial. The favored solutions have frequently been (1) to try to tolerate everything, because there is no agreed basis upon which to make a moral judgment, which can lead to the destruction of the state; or (2) to stipulate what will not be tolerated, as judicial and legislative bodies do.

My definition of toleration, on the other hand, considers toleration as a political concept. The wise or adverse character of toleration as a practice therefore will be assumed to be wholly determined by the circumstances as clarified by political controversy. Toleration as a political concept is an alternative to persecution, ranging from indifference to genocide. Indifference is a weak form of persecution and also a weak form of toleration. The interest in this thesis is state toleration and so toleration as a defining character trait or as a disposition are not considered. Toleration is a political solution to political problem of persecution, where forbearance is not due to a lack of effective strength to inflict harm.

Toleration is not indifference, although indifference may be used as a political strategy for an otherwise intractable situation. Toleration is always adversely partial coupled with a potent forbearance. A decision to tolerate does not endorse the toleree, but rather rests on political considerations discussed in chapter six. Toleration of pornography, for example, does not involve the approval or the valuing of pornography, one may be ardently disapproving and yet tolerate the legality of pornography, by voting for its legalization, because one is committed to the free uncensored choice of adults in matters of reading (or looking). The toleration of activities other than speaking, writing or reading are considerably more complex.

Marcuse and Pure Tolerance

Pure tolerance is a distinction Marcuse⁶ coined for speaking about a liberal state's practice of refraining indiscriminately from interference in specific matters on the basis of "freedom". The state employs pure tolerance when it tolerates groups and persons which threaten the lives and well-being of people, property and the environment.⁷ Indiscriminate tolerance of practices or teachings which advise their adherents both stupidly or intelligently, give license to preach hate and violence as well as peace, in the interests of freedom and benevolent tolerance. State judicial and legal apparati are in place in order to police and punish individual and corporate fraud, theft, murder, and violent crimes. However, rapacious and murderous projects, if on a large enough scale, are allowed to conspire to practice and carry out plans which harm the interests of a tolerant society.

Pure tolerance gains plausibility by way of the agnostic argument that no one knows the truth nor can definitively distinguish right from wrong or good from bad. Rash conclusions from these contextless and therefore, vague

⁶. H. Marcuse, 1965. 'Repressive Tolerance' in R. P. Wolff, B. Moore, Jr., H. Marcuse, A Critique of Pure Tolerance, (Beacon Press, 1969), p. 85.

⁷. H. Marcuse, 1965. 'Repressive Tolerance' in R. P. Wolff, B. Moore, Jr., H. Marcuse, A Critique of Pure Tolerance, (Beacon Press, 1969), p. 85.

terms, suggest all opinions, and maybe all (legal and selected illegal) practices, are equally deserving of toleration. In my terminology this confuses state toleration with benevolent tolerance. To keep the distinction clearer, Marcuse's pure tolerance will be referred to as pure toleration throughout. Concern for autonomy and equality and the bad reputation of intolerant practices, liberal states tend to recommend that all opinions and practices, no matter how lethal or violent, be tolerated.

What is Wrong with Pure Toleration

In addition to extending toleration to violent and intolerant practices Marcuse lists a number of the more subtle effects of pure toleration. History lessons and media reports tend to educate people, irrespective of other beliefs held, to tolerate violence and terror as (1) a fact of life, (2) a deterrent to more violence, and (3) necessary to maintain a peaceful society. Pure toleration in matters of information allow lies, omissions, and distortions to occur and proliferate where the facts could be established more accurately and truthfully. A political controversy is most fruitful when the information upon which its conclusion rest are fed back into the situation which generated the issue. However, if the original "facts" were substantially false, the resultant political policy may be at best

irrelevant and at worst disastrous. Pure toleration in matters of education tends to routinize, condense, and "dispense" ideas of "great" men and women emphasizing memorization and "training" rather than encouraging students to critically think about the issues themselves. Texts are almost exclusively written from an authoritarian point of view, rather than, at least, hinting at the difficulties and the controversies which led to a the current view.

Routinization, condensation, and training both (1) distort the past and the present upon which informed decisions and choices will rest, and (2) do not prepare students, by engaging their critical and speculative skills, to make those decisions and choices. Speculative skills are needed to envision the possibilities and critical skills are needed to fit these with the practical situation.

Toleration Must Be Partisan

Toleration is not an unqualified good. Toleration has multiple faces, and the act of tolerating may deserve alternate descriptions such as mercy, snobbery, impotent rage or disgust, or even as a subtle coercion; where toleration is a more or less impatient forbearance until the tolerated change, that is, until the tolerated comply, see reason, become civilized, or no longer exist. Insisting that toleration must be partisan implies that intolerance can be justified. Just as the virtue of tolerance may in

practice manifest as evidence of mediocrity or a weakness of character, toleration is not always appropriate. Toleration is not only for the sake of heretics but also for the sake of the achievement of a peaceful, non-violent, tolerant society.

Hope for a Tolerant Society

Toleration, like pluralism, is most often supported by liberal arguments which presuppose the existence of autonomous agents with conflicting value commitments, both in degree and kind, and within certain limits, conflicting ideals of the good life. Chapter two examines the pros and cons of autonomy as a justification of state toleration. The argument that free autonomous individuals require toleration, does not give a state any reason to tolerate. In addition, autonomy as free choice, where choice is correlated with education and tradition, is only freely autonomous within limited domains. Options have to be seen to be taken; have to exist to be seen. Autonomy, as free choice, serves as a limited justification for tolerance, but not for state toleration. Most socialist and Marxist ideology reject the existence of the autonomous individual but do not necessarily reject the toleration such an agent would require. Recent authors have argued convincingly that toleration finds more support from the socialist view of

community than liberal argument from autonomy.^{8 9} The desire for uniformity of interests and values is a potent source of oppression and persecution.

The weaknesses of the liberal "harm principle" as a justification for state intolerance are reexamined in chapter three and I argue that while harm is defective as a principle, harm is in fact used to justify both tolerance and intolerance. Harm is still controversial, but not on that account weak.

Chapter four responds to the question, "Does agreement lead to peace?" in order to show that arrogant claims to possess the truth lead to oppression not peace. Truths must be held humbly and circumspectly and subjected to assault at every opportunity. This attitude of caution toward the truth leads to tolerance.

Chapter five asks whether unanimity should be the goal, if peace is in the interest of a tolerant society. The communist rendering of society cite sociological and anthropological evidence that individuals gain their values and commitments from the community to which they belong. Marx concludes therefore, that once the community possesses the correct ideology, the individuals will have identical

⁸. S. Mendus. Toleration and the Limits of Liberalism (Macmillan Education Ltd., London, 1989).

⁹. D. Miller. "Socialism and toleration" in S. Mendus (ed.) Justifying Toleration: Conceptual and Historical Perspectives (Cambridge University Press, Cambridge, 1988) p. 237-254.

and united interests. The liberal capitalistic model of society, while, acknowledging competing interests, still suspect self-interested individuals of harboring potentially identical value commitments, evidenced by the success of commercial advertising. Eventually separate factions, it is hoped, will unite as one as soon as the truth in each area is known; or as soon as we all have the proper rearing and education. The liberal and the Marxist are united on the desirability of unanimity of interests and values. I find this desire counter-productive for political hopes for peace.

The political discussion of the dynamics of toleration can never be more than a contribution to a discussion. A contribution to a controversy is not less desirable than a solution, but more. A contribution provides useful ways of thinking about a problem and importantly lacks the finality of a solution. Final solutions are unwelcome in politics.

Marcuse over states the case that no authority or government exists which could translate liberating tolerance into practice. Arendt would counter that we should never expect, nor hope that any authority would or could do our political work for us. Chapter six discusses the obligations of a more robust autonomy in the creation of a tolerant society. Arendt would insist that not just the "intellectual" but every citizen has an obligation to participate and open up (not the mental space as Marcuse

advocates) but the political space between individuals and individual groups. This political public space does however share with Marcuse's mental space the metaphoric advantage of manifesting only in our conversations and interactions with one another. As Arendt describes the political realm, it is the place where persons reveal themselves as who they uniquely and inexchangeably are; a place where not our identity with one another matters most (autonomy as a right), but our differences from one another matter most (autonomy as constituted in the political realm).

CHAPTER II

JUSTIFYING TOLERATION AND AUTONOMY

Limits of Autonomy-Based Justification of Toleration

The Argument

Autonomy

In order to show the strengths and weaknesses of personal autonomy as a justification for state toleration, I rehearse Joseph Raz' interesting argument for justifying toleration with the principle of autonomy. Many aspects of the principle of autonomy are controversial. Autonomy provides a moral justification for tolerance of one another, but does not offer a powerful state sufficient reason to tolerate diversity and dissent. In this respect autonomy is weaker than justifications for state toleration based on principles of prudence and indifference. These are cynical, but sufficient, reasons for occasionally instituting state policies of toleration toward diversity and dissent. The main interest in this chapter is in supporting my central thesis that any decision to tolerate cannot rely exclusively

on justifying principles but must always resort to active political controversy.

Autonomy justifies interpersonal tolerance, but, toleration, as state grace, does not require justification from autonomy based arguments for three main reasons. First, the argument from autonomy does not give a powerful state any self-interested reason to tolerate an element of diversity which it does not want to tolerate. Secondly, the argument from autonomy, by itself, does not provide a way to justify state intolerance of elements which are a threat to the existence or principles of the state. Thirdly, each step of the argument for autonomy makes stipulations, as I will show, with regard to important and controversial issues that could have been stipulated otherwise.

Limits of Autonomy

Joseph Raz provides an unsurprising but interesting argument for the justification of toleration based on autonomy. If the value of personal autonomy is admitted without argument, then Raz claims, toleration of a diversity follows as a duty because every autonomous agent must have adequate options available in order to have a meaningful choice. This argument provides some, but not much, reason for individuals to practice tolerance of one another's choices, if they already value autonomy.

Raz' autonomy-based argument is of special interest because the details of his argument provide access to the limitations of the argument for toleration from autonomy. Raz' main interest is to show what the argument does not establish with regard to the justification of toleration, more than in showing what it does establish. He clearly states what the argument does and does not justify. My interest is to itemize the controversial questions that require a satisfactory resolution if autonomy is to have any application to actual policy decisions. Raz acknowledges the urgency these questions have for policy makers but he leaves them unattended. Instead he makes a number of stipulations for the sake of advancing the structure of his argument.

Two of the limits of the autonomy based argument for toleration are approached directly by considering two conclusions usually drawn. First, toleration based on autonomy is often thought to entail that a state remain neutral or agnostic with regard to the "good life". Raz calls this view "anti-perfectionism". Anti-perfectionism is an attempt to exclude ideals from politics. The Marxist ideal worker state as well as Dewey's ideal democracy are state ideals that tend to perfection. Raz stipulates that valuing autonomy does suggest toleration, but valuing autonomy does not entail neutrality based on his arguments

published elsewhere.¹ Being convinced of this first point is not important here, but will be taken up later in chapter six. Raz' discussion of Mill's harm principle, however, is central and will be considered near the end of chapter three. First, a number of questions need to be resolved.

The harm principle roughly states that the only justification for coercion of, or interference with, an individual by a state is to prevent harm to others. This principle finds an important element of its justification in the valuing of personal autonomy. The argument from personal autonomy provides a foundation for the harm principle in two ways: First it helps assess the relative seriousness of different harms with respect to autonomous individuals. And secondly, the principle explains why coercion is assumed, by liberals, to be justified in some cases and not in others.

Autonomy and Diversity

Raz makes a distinction between autonomy as self-determination and autonomy as self-realization in order to side-step Marcuse's strong definition of autonomy as self-realization to full potential. Autonomy is not, Raz claims, a pre-condition for self-realization. Self-realization is the development of an individual to full potential. Autonomy

¹. J. Raz, 1982. "Liberalism, Autonomy, and the Politics of Neutral Concern" in Mid-West Studies in Philosophy, 7, pp. 89-120.

is merely the capacity to make such a choice among others. Personal autonomy is primarily the capacity for autonomous choice, the ability to make successive decisions and work toward goals.

The definition of autonomy as free choice immediately introduces the first major difficulty for any justification of toleration resting on personal autonomy. If free choice is considered the defining feature of an individual, the feature of foremost importance, the feature that will justify toleration, then it is important to know how free or how constrained human choice is. How autonomous can a person be? Choice can be (a) absolute, (b) constrained, or (c) choice could be an illusion. If control and choice are constrained, then choice can never be more than partial. The task then becomes one of determining how choice is constrained. If the constraints are adjustable, then more and more meaningful freedom may be attainable. Choices are limited or augmented by social and cultural contingencies, by economic circumstances, by level of self-esteem, by misinformation, ignorance, health, self-deception and by luck.

Yet, how much free choice any individual has or is believed to have at any one time contribute greatly to (1) how other people, how the law, and how state policy treat the individual. The accurate estimation of the extent of free choice becomes (2) crucial for the formulation of policies in proportion to the importance given to personal

autonomy. Obviously, no one chooses their skin color, nationality, sexual orientation, social status, reputation, or tastes, or do they? To what extent do women freely choose to become pregnant or freely choose to have abortions each year? The answer to this question still does not decide how the state should respond. Should the state tolerate their "choice" by funding abortions or by funding the education of their children or by ignoring the issue? Does congress freely choose to spend more money than exists? How many freely choose to bankrupt, be diagnosed with cancer, get divorced, harm their children? The extent of choice assumes great importance with regard to the level of tolerance one can expect or demand. During policy making sessions, as in court cases, the perception of the level of freedom versus the constraints on the agents involved, in many ways, decide the level of tolerance. Whether one is an agent or a victim is in part determined by the policy makers and judges who may also believe that tolerance is mainly justified by autonomy. The solution to the level of freedom and level of constraint are open to endless debate. Raz observes, that fortunately, the solution to these questions is not required in order to reveal the structure of the argument. All the argument requires are a few stipulations with regard to choice. Raz discusses the choice requirements of an autonomous agent. There must be an adequate range of choices and choice must be uncoerced; uncoerced not only

from tyrants but from either physical or economic need. Incompatible choices should be allowed and the choice should be between goods and not between good and bad choices. Raz curiously wonders whether bad choices should be allowed at all (one wonders allowed by whom). Raz' way of phrasing the problem of free choice seems to assume the conditions of choice within an ideal society. Other stipulations of choice he discusses are that no particular choice should be required²; and that choices should not be eliminated by some after commitment to it by others.

Raz defines morality as the complete art of the good life, the attainment or cultivation of the values of such a life, where values mean "reasons for action".³ Without going into detail Raz concludes that a commitment to personal autonomy requires a commitment to moral pluralism. Where moral pluralism means agents have access to incompatible choices regarding kind of life one leads. How is autonomy related to moral pluralism? In the realization of any choice many other choices are necessarily excluded. The same person cannot both train and not train to be a pilot, cannot both marry and remain single. A nun, in years past, could not be both virtuous and a good mother. The

². J. Raz. "Autonomy, toleration, and the harm principle" in S. Mendus (ed.) Justifying Toleration (Cambridge University Press, 1988), p. 167.

³. Ibid. p. 160.

attainment of some virtues, say being a buddhist monk, are excluded by being a catholic priest. The attainment of different virtue by different people imply for Raz that where there are different and incommensurable choices, there must be different and incommensurable moralities. Thus, he concludes that a commitment to autonomy entails commitment to moral pluralism.

The support for this hasty conclusion comes from, I claim, a prior and insupportable judgment. The judgment that moralities are "incommensurable" stems from supposing that particular incommensurable moral judgments, which are incommensurable, constitute morality. Morality is a capacity to judge of conduct, with respect to harm, that humans share. Morality is not any particular practice. For example, drinking wine, counts as a sin for some religious doctrines, while the practice is integral to the religious observance of others. Drinking wine cannot both be a virtue and a vice, logic dictates, so, there must be incommensurable moralities. I challenge this conclusion with a more careful definition of morality which I began in chapter one and continue in chapter three.

The second hard question that Raz confronts is whether and to what extent forms of life may differ (from the choices we would make?) and still remain morally acceptable? Who will judge the quality (propriety) of the morality of other people? Raz side steps this issue, too, by saying all

we need to agree on for the structure of argument is the stipulation that to hold the position of Weak Moral Pluralism we must agree that forms of life differ in their moral features. Any stronger claim is unnecessary for the argument. However Raz (perhaps for the sake of offering his readers adequate choice) provides three additional claims, each tending to a stronger form of relativism. First, that while society may dictate a hierarchy of moral values, an individual may choose to disregard it. Moral pluralism here means that an individual may choose not to subscribe to any particular hierarchy of moral worth; or the individual may choose a "private" way to choose between better and worse options. The second strengthener of moral pluralism claims that no valid hierarchy of moral worth, of any kind either from society or from some private principle, is available to guide life's choices. The strongest claim of course is that moral worth is completely arbitrary, has no common source, no relevance to anything, no basis whatever. A view better known as absolute moral relativism; a belief in which, much like the persistent belief in cannibalism, concern a life style much discussed but never lived.⁴

⁴. W. Arens, 1979. The Man-Eating Myth: Anthropology and Anthropophagy (Oxford University Press, New York).

Diversity and Toleration

Raz has a peculiar definition of toleration that was briefly discussed in chapter one. My definition of toleration differs in several important respects, so a reminder is in order. Toleration for Raz is identified by its motive not its means. The disapproval or dislike of the candidates for toleration must be present. Further, the desire or intention must exist to harm the potential toleree and importantly, this harm must be deserved. If all of these conditions are satisfied and then the offender is tolerated, i.e., not harmed, then toleration has occurred. Intolerant behavior is asymmetrical in that the toleree may not deserve intolerance, (the unwelcome behavior). Raz reminds us that intolerance comes in many varieties that may not necessarily include coercion.

Raz sensibly observes that people should not be allowed to carry on when they are in the wrong. But the philosopher judge is faced immediately with the third and perhaps most difficult task of determining how and when other people are in the wrong. Once again the problem is solved with a stipulation. The respect for personal autonomy requires tolerating wrong or evil actions; within certain limits, of course. Of course, these limits were the quarry all along. If drinking wine is evil based on the authority of my church and a pious ritual based on the authority to which you subscribe; then, I should allow you to carry on, even though

I think you are wrong. But what are the limits to state toleration of our difference? Should you be allowed to make wine, distribute or sell it, broadcast its virtues in secondary education to my children, advertise on television, or put it in the public water supply? Should I be allowed to sabotage your factory, make your children feel guilty, or lobby to illegalize the wine industry? Questions like these require study, debate, and informed decisions in the form of policy.

At the beginning of Raz' article he warns that the value of personal autonomy will not receive any argument. Not for lack of arguments for autonomy but for, with most audiences, lack of need. No one contests the value of personal autonomy where its value is understood. But in readily agreeing that we value our own personal autonomy, we agree to much more. For personal autonomy, here, is not just a capacity to make choices but a principle; something that can be used to silence challenging opposition and can be used legally to enforce or justify practices. Ordinarily personal autonomy legitimatize rights and privileges, but sometimes, as Raz stipulated above, the principle of personal autonomy demands that we tolerate the wrong and the evil, provided we can identify them as such. Society does not, of course, ordinarily tolerate the wrong or the evil, where laws and penalties exist and are enforced. The example of wine drinking is less volatile than some issues, but it

too is the subject of state restrictions. So what sort of wrong or evil does Raz suggest we should tolerate by this cavalier stipulation? Much of the heat generated in debate over conflicting practices are generated from a perceived threat to a way of life, to one's cherished values. The threat may be based on ignorance and fear, or the threat may be genuine. Questions that need to be answered, in order to tell the difference in any particular case, then are: What constitutes a threat? And importantly, what is "it" a threat to? How much of a threat should be tolerated? Are, for example, racial, cultural, sexual, economic and political differences necessarily threats? These are questions for informed discussion and political controversy.

Interestingly, Raz remarks that competitive moral pluralism contributes to the realization of autonomy. The existent competitive pluralism, therefore, argues for the principle of toleration. This is the clue I follow in chapter six to see how a state justification of toleration of diversity could lead to more fully autonomous citizens. Raz is led by this insight to a further stipulation.

Scope of Autonomy-Based Toleration

Raz asserts that we should respect autonomy; it is our duty. Furthermore, it's our duty to respect toleration because it is an aspect of autonomy. These stipulations give rise to the fourth question Raz poses. What is the extent of

an individual's or the state's autonomy based duties? Assuming autonomy is morally valuable, do we or the state have a duty to enable everyone to be autonomous? Not only should we or the state refrain from coercing, but autonomy demands we enable the inner capacities of others to flourish. We must facilitate that flourishing by preparing the environment for enabling and non-coercing to happen. Thus, Raz assumes a paternalistic requirement for the well-being of others to ensure the well-being of self. Paternalistic solutions to political problems are always alarming. Who is this pater and what are his values?

These rather dogmatic prescriptions are backed by considering the duties to autonomy based on answers to these questions: What is the value of moral autonomy? ...to society? ...to the state? ...to the self?

The fifth difficult question Raz asks of the autonomy-based justification demands whether moral duties to autonomy should be legally enforceable? The sixth of Raz' questions is discussed below. He asks, why stop with the harm principle? Why not enforce the rest of morality? Raz does not respond to these questions, not because they cannot be answered but because he recognizes their resolution involve controversial and volatile issues.

My Conclusions Regarding Autonomy

At first glance, the argument for state toleration based on personal autonomy seems rather good. No one could object to the existence and value of personal autonomy and remain coherent. Objections to established procedures or values presuppose autonomy. On an interpersonal level the duty to respect the autonomy of other people seems uncontroversial and because its a platitude that everyone differs from everyone else, toleration follows as good manners.

Raz' arguments for toleration based on the principle of autonomy introduced six difficult questions faced by would be theorists of toleration. These particular questions arise, in part, because of the special regard given to personal autonomy. The first demands an accurate assessment of the level of choice an autonomous agent can be expected to have while engaging in a given practice. The assessment is needed to formulate just policies. The second entails commitment to moral pluralism, and asks the difficult question concerning to what extent moralities may differ and still remain morally acceptable? The question assumes this form because Raz stipulated the existence of moral pluralism based on his understanding of the nature of morality and its relation to his conception of autonomy. The third asks how and who determines when some segment of the population engaged in some practice are unacceptable? The fourth,

assuming personal autonomy is uncontroversially valuable, do we have a duty to enable everyone to be autonomous? What is the scope of autonomy based duties? Fifth, should moral duties to autonomy be legally enforceable by state? Sixth, Raz asks, "Why stop with the prevention of harm? Why not enforce the rest of morality?"⁵ No short summary of responses to these questions is possible because each response would depend upon which stipulations were favored.

A further implication of my definition of morality, as a capacity to judge conduct, should become apparent when joined to my claim that moral judgments are made with respect to "harm". A moral judgment asks: What harm, how severe, was harm avoidable, and so on. For example, Raz assumes a kind of moral relativism that stems from not distinguishing morality (as a capacity to judge conduct and act poorly or well with reference to that judgment) from moral norms (particular stipulations such as "drinking wine is a sin"). A capacity to act on the basis of judgments entails the capacity to treat others properly; little more than saying that wolves have capacity to treat other wolves as wolves. Specific habits and customs, licenses and taboos, enormously complicate the human "moral" scene. However, the common element in all the variety of moral norms is the capacity, the moral capacity, to judge and act in accord with or at least with reference to these judgments. Morality

⁵. Raz. Ibid. p. 171.

consists in the capacity for moral judgment, not in particular moral judgments. If this argument against the possibility of any meaningful moral relativism were successful; Raz' argument for the connection between weak moral pluralism and the value of personal autonomy would remain intact. Intact as long as different "moralities" were understood as particular moral judgments and not different moralities.

A conclusion regarding toleration might be drawn from Raz' discussion of the relation between harm and autonomy which is examined in chapter three. The harm principle provides a good reason (sufficient) for state toleration of diversity in the interests of the value of personal autonomy; and possibly provides an excellent (necessary) reason if violent threats to (the autonomy of) the state count. If terror, fear and hate are allowed as paradigms of violent harms, and harm is a reason not to tolerate, then harm could serve as a justification of intolerance. Freedom shrinks in an atmosphere of fear and hate. The fostering of autonomy demands effective constraints on those social conditions which foster and result in the active propagation of hate and terror. Hate born of fear or ignorance, in the eyes of both the oppressor and oppressed, legitimize violence. As long as a state strives for a pacific (tolerant) society, this state goal, together with the harm principle as a justification for intolerance, would

legitimize a program of active education in order to reduce ignorance and the fear and hate it fosters. It turns out, however, that the harm principle is controversial and may or may not serve as a justification for state intolerance. On the other hand, should a principle of toleration be extended to everyone, no matter what they do or say, (as long as it is secret or legal; right up until the day they overthrow the state and destroy the tolerant society) on the basis of personal autonomy? What a state must know, in order to decide when to tolerate, are the limits to toleration; that is, when is a tolerant state justified in its own intolerance?

Marcuse: Pure Tolerance and Autonomy

In theory, at least, personal autonomy provides the justification for the toleration an individual requires (from other individuals if not from the state) in order to choose to remain as diverse as they are and not be coerced into conforming to one static standard. A state, however, may find the concept of freedom useful as such a standard. The attraction of freedom, as a state justification for a uniform policy, is that freedom is not very controversial as an ideal. Freedom as a political policy works as a unifying factor; there is little resistance forthcoming. Who would disapprove of freedom as an ideal. Freedom seems an unimpeachable value, which everyone, from any culture or

political design would approve. Even a totalitarian governor would approve of freedom even if limited to only him or her-self.

In practice, Marcuse claims, freedom as autonomy falls short of the goal of providing freedom and actually oppresses and would respond to Raz something like this. Joseph Raz's arguments appeal to the rightness of the feeling of personal autonomy. Raz cuts through the thorny issues which surround making autonomy function as a principle. Step by step, he stipulates responses to difficult political questions that may or may not work out in particular cases. The stipulations push the conclusions which Raz finds at the end regarding "duty" to autonomy and toleration. In doing so, Raz avoids the controversy each question demands and makes the issues surrounding autonomy and toleration simpler than they are. The disagreement and debate, were they allowed to surface, would highlight some of the limitations of autonomy as a principle with which to justify toleration.

Marcuse's interest in autonomy focuses not on our duties to autonomy and toleration but on the use to which the principles of autonomy and toleration have been turned by actual state institutions; the media, the education system, the economic, judicial and military in particular. He concludes that autonomy based toleration, where the unbridled valuing of free choice is primary, leads to the

disastrous policy of tolerating everybody indiscriminately. Indiscriminate toleration -- can oppress.

What evidence is there for the accusation that the actual state policy of using autonomy as a principle to justify toleration is oppressive? There are at least two reasons, one theoretical and the other practical. Theoretically autonomy conceived only as free choice does not provide any justification for intolerance. The repercussions of this will be pursued in chapter six.

The practical reason for caution is that "autonomy", as absolutely uncoerced free choice for an individual, has never existed, nor could it ever exist without additional constraints implicitly constraining choice. The advocacy of "autonomy" as free choice gives license to coercion by the state of individuals (according to rhetoric in the interests of individual freedom) but translates in practice to severe limits on the freedom of the individual. The ideal of freedom in official rhetoric translates, in practice, to the sacrifice of actual freedoms. A pacifist response to how freedom oppresses: Freedom becomes a one word reason to forfeit one's life and subvert one's other values (such as regard for human life) to a legal fiction when one is asked to "defend" one's free country. Freedom is a natural right of an individual to be free to choose and act as one wishes, provided one is also willing to kill and be killed for this right. This exemplifies Marcuse's more modest point: Naked

freedom does not exist and its advocacy can be shaped to any purpose or underlying set of values or prior proprieties.

Autonomy has served to justify instituting a uniform policy of tolerating an actual diversity. The United States, has in fact justified instituting a uniform policy with regard to a de facto diversity. The value of freedom serves to promote adherence to a uniform policy of tolerating diversity and dissent, at least until uniformity and agreement are achieved. Autonomy has the virtue of providing an intrinsic point of agreement which at the same time justifies the maintenance of diversity and dissent, when the postulate of equality is added. Each dissenting member of the diversity, if agreement on nothing else could be reached, must agree that they, at least, should be allowed (be free) to make their own uncoerced choices.

However freedom is freedom only with respect to something, freedom can only occur in contrast with constraints of some kind. An important characteristic of freedom, for the purpose of achieving freedom, is to recognize that freedom is always subject to constraints. A recognition of the ways in which we are not free gives a measure of control over the freedoms we do and do not have. Thus, in order to fashion the kind of freedom valued most, examine carefully the constraints which produce the kind of freedom desired. One such kind of freedom would be freedom from persecution, hate and brutality. A conception of

autonomy which strengthens harm as a principle for toleration is pursued in the next chapter.

Freedom coerces decisions when "purely" pursued as an ideal that is irrelevant to the practical situations which give rise to those "pure" concepts. The principle of autonomy is strengthened by emphasizing the harm principle as the limit of freedom, which is also the limit of toleration. Persecution, hate, and brutality constitute the threat against which the valuing of freedom has gained a strong foothold. Most importantly, however, when a theory of free choice dictates toleration of every option chosen -- then freedom and its toleration may become oppressive.

Before turning to the weakness and strengths of the harm principle as a justification for state intolerance, a brief look at two principles which a powerful state would find useful. Prudence and indifference are useful in at least recommending a sufficient reason for, if not necessarily mandating, a policy of toleration.

Prudence and Indifference Justify State Toleration

State tolerance of diversity and dissent based on freedom or the autonomy of individuals to choose is inadequate alone as a justification for state toleration. Raz' argument from autonomy does not offer a reason why a powerful state should want to tolerate a mass of diverse, truly autonomous individuals. The lack of a compelling

reason which would appeal to the self-interest of those making the decisions and policies of a powerful state, I submit as the reason for the perpetration of misconceptions regarding autonomy. It is not that the state is malicious or calculating in its oversights, but rather negligence due to ignorance which itself is born of a lack of the critical numbers of autonomous individuals (in the strong sense) required to effect a change. A powerful state may see no value in respecting or fostering the autonomy of its citizens. Why should a state create or allow the proliferation of options for autonomous citizens?

Arguments for toleration of diversity and dissent based on freedom and autonomy do not present a powerful state any persuasive reason to tolerate diversity much less dissent. The advocacy of freedom and autonomy are good "public relations" tactics, but do not provide a motivation for a powerful state to attempt to ensure that the conditions for maximally attaining a genuinely autonomous and diverse population in fact prevails.

Hobbes' argument for state toleration of diversity is simple and direct. Prudence alone justifies state tolerance of all of the non-threatening diversity within and without its borders. Hobbes cited the imprudence of provoking those loyal citizens and allies of the state by instituting a policy of intolerance toward those different from oneself. The loyalty of allies is too valuable to let differences

stand in the way of cooperative efforts. Here the Hobbesian argument from prudence together with the advice to the state to remain indifferent (that is tolerate) those opinions and activities which do not or cannot threaten. For the state to oppose non-threatening dissent would be to take the dissenters too seriously, and to risk conflicts where indifference would suffice.

Thus freedom and autonomy as justifications of state toleration of diversity and dissent are strengthened by the arguments from prudence and indifference. Autonomy provides a moral justification for tolerance, which a state might choose to adopt. Prudence is a cynical justification of both intolerance and tolerance; so, if both were adopted as policy by a state, they would balance each other. Considerations regarding autonomy sometimes would rescue a potential candidate for prudent intolerance; and, on the other hand, an over zealous policy of indiscriminate tolerance based on autonomy, would be avoided based on prudent considerations. Indifference, however, as I stipulate it in chapter three, is a form of violence and violence is always a threat to a tolerant society and state.

Summary

The first chapter defined toleration neutrally with respect to being either a virtue or a vice. Tolerance, as a moral virtue, was distinguished from toleration, as a state

practice. Marcuse claimed that (1) pure toleration, not toleration in general, is violent, and (2) repression itself is necessary at times in the interest of civil peace.

This second chapter clarified in more detail how a state policy of pure toleration, justified by autonomy as free choice, is not automatically liberating. The state policy of toleration justified by prudence and indifference supplement the arguments from autonomy. However, neither autonomy, nor prudence, nor indifference singly nor jointly provide an adequate limit for toleration.

Autonomy in conjunction with the harm principle, however, does provide a limit; as maintained in the chapter three. A limit which unfortunately still does not induce a powerful state, not already predisposed, to adopt it. If civil peace is one of the most compelling justifications for state power, as I stipulated in chapter one, then the maintenance of civil peace, itself, may become a justification for toleration and intolerance. A number of arguments for the value of diversity as a good in itself are presented in chapter six. A toleration which permits the proliferation of diversity becomes its own justification once the value of diversity is appreciated. Chapter five questions the value of uniformity as a state goal and chapter six concludes that diversity is not an unfortunate fact of life, but is literally as well as metaphorically constitutive of life -- including the political.

CHAPTER III

JUSTIFYING STATE INTOLERANCE

Introduction

In chapter two I examined an argument based on the value of personal free choice in order to assess its significance as a justification for tolerating the diversity of choices people actually make. Most free choice is not sheer "choice" or for that matter wholly "free," either. Diverse opinions and practices arise spontaneously. Autonomy, as free choice, by itself, is not even a sufficient reason for a state policy of toleration. Free choice alone does not give a reason to limit toleration and so, in order to make intolerant policies, it was suggested, a state might utilize a principle of prudence and perhaps even indifference in severe circumstances. The principle of autonomy in conjunction with the harm principle, does support intolerant policies, where harm can be established as a fact or as threat.

Autonomy, as free choice, is too narrow a conception of autonomy, if it is used to support the harm principle. Free choice is only one aspect of autonomy. Autonomy also

incorporates assumptions about integrity, which include the need for respecting the dignity of a person and the need to be tolerated (meaning not becoming the object of unwelcome behavior). These "needs" are social needs which are not optional if the goals of a state are civil peace and a society of autonomous individuals capable of making rational choices (rational here means achieved in controversy with other autonomous persons). Acknowledging the integrity of persons does not necessarily carry with it an injunction to nourish. Respecting autonomy, in this robust sense, includes both not interfering in a person's choices, and according a person the dignity each person should have as a moral,¹ if not social, equal.

In chapter three I look at the prevention of harm as a reason which would justify state intolerance toward those who threaten or practice violence. When an individual person harms someone else that harm can become a reason for legal intervention. States have laws and juridical system for dealing with injury and harm. Harm is used as an integral principle in deliberations concerning when and when not to intervene in the affairs of citizens. The practical value of the harm principle cannot be overlooked or abandon as a

¹. To maintain consistency I should say "political" equal instead of "moral" equal. The political arena, by definition employs critical-judgments (the moral capacity) rather than pre-judgments based on traditional moral judgments.

chief justification for intolerance, where harm can be established.

There are many valid objections to the use of the harm principle for devising a general theoretical principles, however. Ronald Dworkin,² for example, points out that in conjunction to the usual difficulties in establishing (1) whether or not a practice constitutes harm, (2) whether or not something is an object of harm, or if these are established, (3) whether or not the state should become involved; legislators are in effect asked to decide what is considered worthwhile and right, for everyone. In order to decide "harm" legislators end by making controversial decisions or, more usually end by stalling between competing (5) values and (6) competing sets of moral judgments. In chapter four competing values will be briefly discussed. The merits of the attack on the utility of the harm principle will be attended to in this chapter. My concern in chapter three is primarily to explore several arguments for justifying a state decision not to tolerate an element of diversity or dissent. I show harm and threat of harm as the primary justification for interpersonal intolerance generally, but harm does not by itself justify state intolerance. Arguments which a state might find more useful in defending a policy of intolerance are mentioned.

². R. Dworkin. "Liberty and Moralism" in Taking Rights Seriously, (Harvard University Press, 1977) pp. 240-258.

Prevention of Harm and Morality

Horton argues that the harm principle is too weak and the questions it leaves unanswered too controversial to serve as a reliable guide to when and when not to intervene. First, the principle of harm does not clarify what is to count as harm. For example, does teaching the theory of evolution or the theory of creation "harm" students? Both sides of this issue are certain that teaching the opposing view is harmful. Or does the production of toxic waste weigh less than its benefits? Are there acceptable levels of harm in this case, or in the case of cut-backs in elementary education? Acceptable level of harm are built-in features of war strategies and automobile manufacturing. Secondly, the principle of harm does not clarify what is to count as an object of harm. Must one be a person to be harmed? Do bunny rabbits, cows, fetui, and environments (such as spawning grounds) count as objects of harm? Thirdly, even if agreement can be reach on the status of an act as harm and agree on harm's object, there may still be controversy over whether or not its the state's business to legislate on a particular issue. Because of these inabilities to clarify and come to a resolution that is uncontroversial, Horton concludes that harm cannot serve as a guide for deciding when state intolerance is appropriate.

Yet, a state, in the interest of its own preservation should remain steadfastly intolerant to, at least, certain

kinds of threatening harm. Bombing abortion clinics and the sites of laboratory animal experiments are not condoned by states. The harm principle as the prevention of harm, seems to, in fact, justify actually state intolerance. But is it strong enough to justify intolerance of those which appear to threaten the integrity of a state, and the integrity of a tolerant society?

Mill's influential essay, On Liberty, presents clearly and forcefully the complex harm principle.

The only reason for which power can be rightfully exercised over any member of a civilized community against his will is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or to forbear because it will be better for him to do so, because it will make him happier, because, in the opinion of others, to do so would be wise or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise.³

Two main ideas are set forth here: (1) the principle of harm stating that harm is the only justification for state intolerance. (2) the injunction against paternalistic state interference.

Harm is the only justification for state intolerance. Paternalistic concern for the physical or moral welfare of citizens are not to be used as justifications for state interference and especially does not constitute a

³. J. S. Mill, 'On Liberty', in M. Warnock (ed. and intro.) John Stuart Mill: Utilitarianism, On Liberty, Essay On Bentham, (New American Library, 1962), 126-250, 135.

justification for state intolerance. Of course, not everyone agrees with Mill's anti-paternalistic stance, then or now. Thomas Carlyle, provoked by Mill's essay, wrote, "As if it were a sin to control or coerce into better methods human swine in any way...."⁴ The question of paternalism is taken up later, here only the harm principle is considered.

More difficulties with the harm principle beyond determining what counts as harm, concern economic, social, psychological, and physical harms. How do they rank and how is their rank determined. One answer is that morality should dictate what counts as harm. Initially, morality seems the obvious place to turn for guidance as to what should and should not be tolerated. The injunctions against murdering and stealing, against lying and adultery, and so on, begin to falter as universals in cross cultural comparisons. Some cultures do not have the concept of either property (for theft to make sense) nor adultery (for the sexual infidelity of a spouse to make sense). Even within a single cultural setting, lying for example would be expected as the "moral" thing to do if someone's life depended upon your telling the lie. Killing is a wrong except when killing is okay; as long as the killed are enemies or food. Adultery is wrong except when adultery is okay; as long as it does not hurt anyone. Stealing is wrong except when for example white collar theft

⁴. Quoted in I. Berlin, Four Essays On Liberty (Oxford University Press, New York, 1969) p. 191 from A. Carlyle (ed.) New Letters of Thomas Carlyle, vol. ii, p. 196.

is okay; because it is not easily found out and does not threaten or hurt anyone, except perhaps the stock holders. Do apparent inconsistencies of this sort suggest moral pluralism?

Moral Pluralism

If the inconsistencies just recited constitute moral "pluralism" then the case for tolerating moral pluralism would be quite weak. Moral pluralism implies there are moralities that are not merely variations on a theme but incommensurable, there is no common theme. If moralities are plural, as both Raz and Horton claim, then how does one determine which morality counts when making policies and laws? And supposing a universal theme, a core morality, were discovered, how would such a morality and the political policy of toleration connect?

The harm principle provides a good place to begin to justify intolerance. Each of the injunctions cited above is an injunction made to prevent harm and each exception referred back to harm as not being accomplished. The cross cultural examples also rely on harm in order to make sense. The "moral" injunction makes sense or not depending upon whether the practice is considered to be harmful. What is considered harmful varies from culture to culture and from context to context, but the judgment of harm does not change.

Harm may not provide a simple principle that neatly solves every case, but harm nevertheless may guide decision making sessions. Harm prescribes the limit of state tolerance in the abstract. Even if we are left to work out the details of just what intolerance means in each case in political discussions. Harm, where it can be established, draws the line beyond which the imposition of state intolerance becomes justified. Thus the toleration of any particular element of a diversity should depend upon whether its toleration will cause harm.

Violence, as a paradigm harm, is a moral social universal. Violence to persons comes in two kinds: One attacks the social well-being and the other attacks the physical well-being. Social violence to the dignity and physical violence to a person's well-being both count in the calculus of harm. Judgments of conduct, defined as morality, always concern judgments of harm.

Morality, as defined in chapter one, is always a capacity to judge conduct as distinct from any particular judgment. Thus, morality consists in the capacity to declare what "ought" and "should" be the case. Individuals do not have this moral capacity alone. The social realm dictates what is and is not acceptable by the route of either traditional prejudice or by way of political controversy. Individuals do have the capacity to abide or not abide by the particular "morality" dictated by the social realm and

to "privately" dissent or to publicly argue for that view within the political arena.

Limits of Harm in Justifying State Intolerance

Horton rejects dependence on harm as a principle and outlines reasons for doubting harms usefulness. Harm is not a true principle for state action. Harm is silent upon the important questions such as, in this case, upon what basis a state can repress a dissenting element? If violence is threatened that should serve as adequate basis for intolerance. The harm principle re-enters in a somewhat less impeachable form. There is always the danger, though, that a powerful and insensitive state can mis-judge threats either innocently or maliciously. A state can often bypass the need to establish harm. If a state labels some practice or group as dangerous, a threat to national security, or a threat to the principles of a discipline, or the property of an organization, or as criminal or insane; then, the dissent can be effectively abolished.

Still, in many cases, at the extremes of harm the limits of toleration should become more clear. Refusing to hire someone because of prejudice, where it can be established, is harm. But it is less obviously harm than throwing the object of prejudice in jail and torturing them. Horton attempts to show that even at the extremes harm does not provide an uncontroversial guide. Harm cannot even be

established at the extreme edge, for harm is as controversial there as at the murky middle.

Horton and Harm's Defects

Horton's claim is straight forward, "if Mill's principle is to be of much practical use in identifying a range of conduct which should be tolerated, then, there needs to be some uncontroversial way of distinguishing those actions and practices which are harmful from those which are not." ⁵ Horton proceeds to show that there are no uncontroversial ways in which harm can be characterized. Horton concludes that any attempt to justify toleration which relies on such a fuzzy distinction "is likely to be seriously defective."⁶

Horton is right, there are few, and in some cases no, uncontroversial ways to draw a distinction between those actions and practices which are harmful from those which are not. Horton is wrong, however, to suggest that the controversial nature of any decision alone disqualifies the harm principle, for two reasons. First, the harm principle cannot be disqualified as a bona fide justification for state intolerance, because the prevention of harm, where harm can be established, is almost always a reason to

⁵. J. Horton. "Toleration, morality and harm" in Aspects of Toleration: Philosophical Studies (Methuen & Co., London and New York, 1985) pp. 113-135, p. 114.

⁶. J. Horton. Ibid. p. 114.

interfere. Whether or not an accord can be reached as to what constitutes harm as a general rule does not argue against the indispensable role of harm plays in the decision in particular cases. Secondly, controversy is a way to arrive at decisions. Controversial decisions draw attention to important issues and often result in more controversy. Which in turn draws new distinctions and invents new ways of looking at a problem. The nature of controversy itself point out the limits of state intolerance. The details of this last claim are worked out in chapter six.

Moral Pluralism Again

Horton believes that moral differences between peoples are such that what is considered harmful will also be very different between peoples. This view, I think, reflects the confusion between morality as a capacity to judge conduct and "morality" as a particular moral judgments which are usually traditional moral norms and as such vary between cultures. Morality is the capacity for a system of expectations not any particular system. When looking for a moral core consisting of particular judgments we look for morality in the wrong place. We already have a universal capacity for moral judgments, that judges of conduct with reference to harm, which constitutes a moral core. The universality cross culturally is difficult to recognize, because the capacity to judge is modified by so many other

factors. The constraints, of judgment and harm, permit endless permutations in practice and discussion. The capacity to appreciate music is comparable to the capacity for morality. Unanimity cannot be expected on what constitutes the universal "core" of music any more than unanimity can be expected on what constitutes the universal "core" of morality.

Even if morality is accepted as I stipulate it, there would not be much unanimity about what the concern for harm would rest on, candidates might be: Gods, Love, Reason (Kant), Self-Interest, a hormone. Nor would there be unanimity about in what the resultant core of moral judgments should now consist. For purposes of state toleration, however, the core may hypothetically be taken to be the avoidance of violence and prevention of harm.

There are several classes of harm that certainly do cross borders and in which all people share. The random and wanton murder of persons is rejected as immoral where ever it is found. The actual practices which appear to contradict this claim are justified in some manner by reference to this moral universal. The random and wanton murder found in war is justified by some larger principle or cause which outweighs the violation of the universal. This universal is what makes abortion such a difficult position to argue for. The pro-abortion argument must show that abortion is not the random and wanton murder of persons; is not random, is not

wanton, is not murder, and does not involve a person. Sometimes a "larger" cause concerning the life of the woman, or the integrity of her person is used to "outweigh" the wanton murder of persons. Capital punishment is both justified (and justifies) by reference to this universal.

An explanatory story always accompanies the random and wanton killing of persons, which argues for the negation of the principle in "this" case, or illustrates why the principle does not apply in "this" case. Differences in practices which exist cross culturally are justified with stories designed to show that the killing is not random or wanton.

There is a tendency in moral discussions to overlook or underestimate the power of peer-pressure. Peer-pressure is an accurate name for a universal social phenomena. The social interactions which call for the name of peer pressure also describe how the social forces of pride and shame literally create the proprieties of both taste and morals. What precisely a person is proud of and of what ashamed vary from culture to culture, from person to person. But that one experiences pride and shame is standard fare everywhere. Wounds to pride, as wounds to the body, can be lethal.

Unreal Harms

Horton's arguments and examples of paradigm harms that are "not really" harms relative to other harms, are spoken

from the point of view of a stoic martyr. He argues that death, mutilation, and imprisonment are not the worst thing that can happen to a person. He considers these harms from the harmed person's point of view. Not from the point of view of the one doing the harm! Perhaps, on occasion we may wish for death, and someone performing this service at such depressed times would be welcome. However, the point which is relevant here is not how a particular individual feels looking toward death, or even how other's feel about death, what counts in cases of killing other persons is that a society cannot "as a general rule" tolerate the random and wanton killing of innocent persons. State toleration of self-appointed, or otherwise appointed, executioners of death would increase the level of society's fear to a paralyzing degree. The thought of people lurking on the street who feel it their duty to relieve us of our lives would paralyse society. A state cannot tolerate such ideas nor the actions that follow from them.

Horton's interest is in the role of harm in delimiting an area of conduct which should be tolerated. Whether or not there is a plausible conception of harm which is neutral between (using my terminology) different moral judgments which different cultures have made. The basis of legislation generally (for liberals) the principle reason for legally prohibiting actions that cause or constitute harm are also that law should aim to be neutral between competing

conceptions of the good and differing moral perspectives.⁷

Horton's contention is that the cogency of the liberal's position will depend upon the plausibility of an uncontroversial conception of harm. Horton claims that moral neutrality is always compromised when it resorts to the conception of harm.⁸ However, the argument for neutrality in case of toleration and intolerance fails. Toleration is always partial and partisan. The decision to tolerate is a decision for non-violence and the decision not to tolerate is a decision against violence. Where violence is between a violence to truth or a violence to the welfare of a (tolerant) society the weight favors tolerance over truth every time. Attempts to uphold a "neutral" policy of toleration is a contradiction in terms.

The paradigm cases of harm, (Horton's are death, mutilation, and imprisonment; mine are persecution, hate and brutality) make harm something certain and definite. However, Horton claims, the calculation and determination of harms are in fact uncertain and indefinite. This uncertainty and indefiniteness are enough for him to speculate that the principle dictating that harms cannot be tolerated may not be effective in preventing injustice.

⁷. J. Horton. Ibid. p. 116.

⁸. Ibid. p. 117.

Intolerance of the Harmless

Horton's most pressing concern and interesting insight is that focus on the harm principle, tends to shunt aside the importance of the argument that a given activity should be tolerated because it is harmless. The argument is important both as a way to legitimate marginal practices, such as homosexuality and gambling. Of course what is considered "marginal" is as open to debate as is what is considered harmless. However, the judgment whether or not a practice or policy is harmless is almost the same process as determining whether a given activity or thing is harmful.

Horton argues that even if the most serious harms could be established as genuine paradigm harms. It should be noted: (1) How few there are. (2) How material they are. (3) How equal they are to other harms (should not receive greater weight than other (unspecified) harms). And (4) Horton has some idea of other harms which out weigh these primarily corporal and material harms. But his arguments against corporal and material harms, rather than support his contention that harm is seriously undermined as a principle, only strengthens it. His discomfort with the harm principle is primarily fueled by what harms are not routinely included as harms. I speculate he would add social harms such as snobbery and bigotry. Horton is not really concerned with

undermining the harm principle.⁹

A strong interpretation of harm holds that a person is harmed if prevented from realizing some desire. The forward looking aspect of harm where an infringement of interest or well-being is qualified by suggesting some desires are better (more rational) than others. Horton cites the drug addict's desire to have more drugs. The addict's desire should not be satisfied, for the satisfaction would harm him or her in the view of others. The meaning of "more rational" here is not the same as the current meaning of logically following, it is the ancient meaning of rationality which was achieved within political controversy. Rationality emerges from and also justifies of a particular kind of practice. The results of political discussion would decide in particular cases whether to justify state intolerance.

Are beliefs that something is harm, adequate to substantiate that the practice, or thing, harms? How are we to define another's interests? What constitutes direct and indirect harm? These are all important questions that call for discussion and debate.

Perhaps, as Horton says, the "principle" of harm is "a blunt instrument"¹⁰ for resolving "the practical question of whether some activity should be tolerated where the moral quality of that activity is a matter of dispute." But we

⁹. Ibid. p. 119.

¹⁰. Horton. p. 130.

can sharpen that instrument with informed and continuous political discussion.

Autonomy and the Harm Principle

Raz widens Mill's harm principle to include harm to self as well as to others as the only justification for intolerance. The extent of harm based "duties" turn out to be almost identical to those for our duties to autonomy. Thus, the state should (1) refrain from coercing, (2) enable inner capacities to flourish, and (3) facilitate environment for non-coercive flourishing to happen. Yielding another justification for the paternalistic interference in the interests of the well-being of citizens to ensure the well-being of the state.

The universal approval of freedom as a value is paralleled by the almost universal abhorrence of oppression and persecution and brutality. The goal of eradicating these may serve to fill in the above noted short comings left by freedom as supreme value and serve to justify state intolerance. The simple declaration that those who choose to harm others should not be tolerated is complicated however. While it is easy to (1) elicit agreement that the persecution of others should not be a matter of arbitrary free choice; and not too difficult (2) in the abstract to agree that state toleration should be withdrawn from those who practice persecution either in their rhetoric or their

practices; it is not at all clear (3) what non-parochial criteria justifies the judgment and subsequent persecution of a party as practicing harm. An on-going way for a state to decide in particular cases is to regularly meet and discuss the issues at hand in public forum, where the public is educated to the task of critical evaluation.

Proprieties

The question of what to tolerate and what not to tolerate are usually answered in personal daily life by our habitual tastes and moral values, or proprieties. Our proprieties proscribe which activities, persons, and opinions are judged either to have no integrity to respect or which integrities may be justifiably violated. The problem begins with "our" proprieties. Our proprieties are not universal and notoriously change over time. So which proprieties are to be preferred by a state. The apparent lack of consensus on universal values, leaves open the question of which values, whose proprieties, are to justify the limits of state toleration.

Proprieties are the customs, habits, laws, and rules of proper order. What is considered proper changes over time. Locke provides an illustration of opinions and actions which were not held to warrant attention by the law: "belief in divorce and polygamy, and belief in freedom to breed

children and dispose of estates." ¹¹ Locke held that the state should not bother about people who hold these kinds of beliefs. In his hierarchy of kinds of actions, these ranked second. The state should take no interest in actions such as these except, perhaps, where attempts are made to promote or publish them. Prohibition should be made in the interest of the public good. Locke's first and third class of action are also none of the state's business, except in so far as their practice infringes on the peace.¹² Locke's first class of action are opinions and beliefs that concern religious doctrines and modes of worship, and the third class concern virtues and vices, all of which are none of the state's business. According to Locke the reason for state's disinterest in these matters was that force cannot alter a person's inner belief. Locke's practical recommendations were that Protestant dissenters should be tolerated because they did not pose a threat to peace. The Papists on the other hand should not be tolerated (neither congregate nor publish) because they constituted a threat to peace, safety and security.¹³ Threats to peace or practices that threaten propriety justify intolerance on Locke's account.

¹¹. M. Cranston, 1985. John Locke, a biography (Oxford, 1985) p. 112.

¹². M. Cranston, 1986. "John Locke and the Case for Toleration" in S. Mendus and D. Edwards (eds.) On Toleration (Clarendon Press, Oxford, 1987) pp. 101-121, p. 104.

¹³. M. Cranston, 1985. *ibid.* p. 112.

Locke 20 years later wrote that matters of propriety, as long as they do not interfere with or threaten harm, are none of the state's business. He still lists four justifications for state intolerance: (1) Where "opinions contrary to human society, or to those moral rules which are necessary to the preservation of civil society,"¹⁴ (2) where those "which arrogate to themselves, or to those of their own sect, some prerogative opposite to the civil right of the community," (3) where those who are "constituted on such a bottom, that all those who enter into it, do thereby ipso facto deliver themselves up to the protection and service of another prince," (4) and, where atheists¹⁵ are discovered, all of these are reasons for state intolerance. These excerpts from Locke illustrate several points. First, the persistence of prevention of harm as a justification of intolerance. Secondly, proprieties change over time. Thirdly, the importance of carrying out political discussion on the topics. We easily recognize Locke's views as dated, as are the current ones. This may seem a trite point, but some persist in supposing the truths they hold are timelessly correct, and therefore could not benefit by political controversy. Yet, even mathematical truths are only so, within the context of its axioms, which alter too.

¹⁴. J. Locke. The Works of John Locke, Esq. 4 vol. (London, 1727) p. 250.

¹⁵. Ibid. p. 251.

Prejudicial propriety

Prejudicial proprieties are judgments of taste or moral judgments with regard to what is proper. Judgments of taste and morals are usually kept separate for many good reasons. However, I treat them together here because while sometimes they are very different; many times they are difficult to separate. The violation of a moral standard usually has more severe social consequences than the violation of a standard of taste. A child abuser is judged more severely than someone who evidences poor taste in music. The first violation is clearly moral, the second a matter of taste. However, swearing and blasphemy, not long ago were considered violation of morality and now, when condemned, are condemned as evidence of poor taste.

What is important for my argument is that matters of morality and taste are based on "prejudicial" judgments. Prejudicial means judgments which are absorbed conventionally, or are habits learned early, or are innate; the difference does not matter for my argument. What is important is that these judgments are "pre" argument, "pre" critical discussion. Discussion with others may yield, depending upon which others discuss, the same proprieties or different proprieties from the prejudicial ones.

Prejudice

The preference for one system of propriety over another is linked to an assumption of superiority. A superiority ground in some form of purity. A purity derived from assumed divine or cultural arrogance or a genetically determined purity.^{16 17} Superiority may emanate from the benevolent benefactor as well as a malevolent tyrant.¹⁸ Superiority may manifest as a protector of purity (reason, correct prescriptions, superior customs, superior beliefs, superior grammar, superior tastes, or even as efficiency or expediency).

Examples are all pervasive, for example, a current philosopher's objections to neologisms imposed in response to feminists' ire regarding the use of the genderless "he", "chairman", "mankind", etc., "where it is clear," the philosopher says, "that no insult is intended."¹⁹ The philosopher objects to altering a well entrenched habit where purity or propriety is at stake. The feminist objection, objects to the genuine exclusion of women. An exclusion reinforced by the "inoffensive and innocent" habit of speaking of "men" when "men and women" are meant.

¹⁶. A. Ayers. "Sources of Intolerance" in S. Mendus and Edwards, D. On Toleration (Clarendon Press, Oxford) p. 91.

¹⁷. Ibid. p. 93.

¹⁸. Ibid. p. 92.

¹⁹. Ibid. p. 94.

by engaging in informed political controversy are less likely to be based on unwarranted fear and blatant ignorance. Only time, more research, more informed discussion, and more participation by a larger and larger diversity of people with dissenting views, can ensure the critical judgments are any more just than the prejudicial ones.

A consensus of hostile feeling is not the same as the shared morality that binds society. As I continue to stress, morality is the capacity for judgment and not any particular judgment. One important implication of this is that what passes for "morality" is often little more than prejudice based on ignorance and fear. One test for ignorance is the inability of the "judge" to report coherent reasons for their judgment. Their reasons are either unsubstantiated or unable to be substantiated by reference to some harm or injustice. Prejudicial judgment is supported by cliches and appeals to obviousness.

Intolerance based on critical judgments, therefore, often has a legitimate status which is far superior in ensuring justice than that from intolerance based on prejudice. Another characteristic of prejudiced based intolerance is that prejudice often leaps the legitimization step and proceeds to persecute.

The first steps in persecution are social refusals to recognize the dignity of the persons pre-judged, exemplified

by snobbish and bigoted behavior. The pre-judice, unchecked by critical intervention, supports programs of ostracism, which tend to increase rather than ameliorate the ignorance and fear, intensifies in periodic or sustained corporal tortures which sometimes result in genocide.

Prejudice Again

Offenses against conventional proprieties are patrolled by and recognized most quickly by prejudice. Ayer remarks in his essay "Sources of Intolerance" that the strength of the intolerant attitude is directly proportional to the "uncritical fervor of its adherents".²⁰

Pre-judging: The prejudiced do not question themselves, nor make an effort to understand or inquire into the reasoning or concerns of the adversely judged other. The prejudice is difficult to dispel by reason or logic, lies near the surface even when officially condemned, manifests socially in multiple ways.²¹ Prejudice is linked to something conspicuous, a face, a feature, race, color, practice, dress, custom. An explanation elicited from the prejudiced for their prejudice will be laced with cliches and false beliefs and false reasoning. Indeed the distinguishing character of a judgment, as opposed to a prejudice, is the ability in the case of a judgment to give

²⁰. Ayers. Ibid. p. 85.

²¹. Ibid. p. 89.

an account which would persuade even someone unfamiliar with the particulars to reach a similar judgment.

Ayers lists sources of prejudicial intolerance as (1) mutual antipathy, (2) antipathy to the desires of living beings, which include abstinence or deprivations from food, sex, companionship²² (3) exclusiveness, snobbery, bigotry, (4) disloyalty, acts of treachery to the state, threats to authority threaten peace, (5) confidence in one's own beliefs coupled with felt duty to convert others.²³ None of these sources of intolerance are kinds of behavior to abandon, necessarily. Rather, they require cautious indulgence. Perhaps, in so far as these attitudes interfere with the creation of the political realm of controversy, they should be abandoned.

Paternalism

The mutually reinforcing justifications of intolerance and staunch enemies of toleration are (with an appendix of qualifications) prejudice, propriety, and paternalism.

With paternal decision makers both laws and moral consensus are subject to change. Paternalistic imposition functions as traditional imposition with a significant difference. Modification of tradition by vigorous discussion

²². A. J. Ayer, 1985. 'Sources of Intolerance' in S. Mendus and D. Edwards (eds.) On Toleration, (Clarendon Press, Oxford, 1987), pp. 83-100, p. 84.

²³. Ibid. p. 86.

becomes traditional. Discussion encouraged as an art form, literally creates political world. But paternalism has sinister aspects.

The main critique of state paternalism rests in the defence of individual autonomy as privacy. Locke argued in his Two Treatise of Civil Government that state power should remain distinct from paternal power, by demonstrating that state power, as Locke conceived it, was distinct from paternal power. The purpose of the state, for Locke, was to preserve the liberty and property of individuals who voluntarily contracted for this service as the lesser of evils; as the absence of a state meant anarchy, which could not promote the preservation of private liberty nor that of private property. Locke's concern was private enterprise and the freedom to own private property.

Kant regarded paternalism with horror. A "paternalistic government (imperium paternale), in which the subjects, like minors who cannot distinguish between what is good and what is bad for them, are forced to adopt a passive role, and must look to the sovereign to determine the nature of their happiness, expecting nothing except what he chooses to bestow on them: such a government is the worst possible despotism one can imagine." ²⁴ Kant's concern was with moral freedom. Adam Smith was concerned with economic

²⁴. Quoted in N. Bobbio, 1988. Liberalism and Democracy trans. M. Ryle and K. Soper, (Verso, London, 1990) p. 17.

freedom. In "the system of natural freedom" the state has three responsibilities: (1) the defence of society, (2) the protection of individuals from harm, and (3) the completion of public works which cannot be entrusted to private profit motive. Wilhelm von Humboldt 1792, in The Limits of State Action wrote, "any state interference in private affairs, where there is no immediate reference to violence done to individual rights, should be absolutely condemned."²⁵ The reason for the existence of the state for von Humboldt was security or the "assurance of legal freedom".²⁶

There are multiple modes of freedom, these, however are all private. Kant wanted private moral freedom, Adam Smith private economic freedom, Locke freedom to own private property, von Humboldt freedom from state interference in private affairs. Private liberty. But just what does "private" mean here and what counts as "private" when it is the state legal system which ultimately defines and militarily defends one's economic "privacies." The state legal system reinterprets and enforces social moral norms and punishes where violations are established. In which "private liberty" is the state not to meddle?

²⁵. W. von Humboldt 1792. The Limits of State Action (Cambridge University Press, 1969) p. 22

²⁶. W. von Humboldt, 1792. *ibid.* p. 83.

Paternalistic Decisions and Public Liberty

In attempting to use harm as a principle for determining when intervention by the state is justified there seems to be a need to define just what constitutes harm. There are at least two distinct problems. The primary one is that of finding an uncontroversial way to declare whether some harm is harm or not. Debate might continue endlessly over what constitutes harm in general. Whereas political discussion in particular cases might be resolved satisfactorily. The second question is whether the state should legislate in "this" case. In some cases the law could lead, in some the society could lead. But, should the state lead society to a consensus on any issues? For example how would, or should, the state try to determine, for everyone, the harm to moral sensibilities of some activity, or harm to economic interests; should the state concern itself with the medical needs or the psychological needs of citizens? The debate can continue endlessly without moving any closer to a resolution as long as the facts of particular cases are not used. If the facts of particular cases are admitted in abstract discussion those facts will color the result, which may adversely affect (harm) those in the future who were supposed to benefit by the resolution.

What facts are worth considering in any particular case? How ought we to regard x in this case? There is no one thing society believes or feels; or can come to believe

or feel. Attitudes toward many things have long pedigrees, some things are new and have no long history of being wrong or right (are video games harmful, violence on television, etc.) Much of moral fact are moral decisions. What is the relation between morality and the law? What gets to be calculated in the calculus of harm? Should harm be calculated?

All of these are questions for political controversy to decide and decide again, each time the question becomes important to some actual disorder in the society. Yet, even participation in political controversy is controversial.

Where everyone participates directly in collective decisions, the individual is often subordinated to the authority of the whole, and loses liberty as an autonomous private person. Benjamin Constant in his address to the Royal Academy in Paris 1818 wrote,

We today are no longer able to enjoy the liberty of the ancients, which consisted in their continual and active participation in collective power. Our freedom, by contrast, must reside in the peaceful enjoyment of private independence. The ancient aimed at a distribution of power among all the citizens of a given state, and they referred to this as freedom. For the moderns, the goal is security in their private possessions. For them, liberty refers to the guarantees of these possessions afforded by their institutions.²⁷

The freedom to participate appears to most as a fetter, not a freedom. Government service is taken to be as oppressive

²⁷. B. Constant, 1818. De la liberte des anciens comparee a celle des modernes, in Collection complete des ouvrages, (Bechet Libraire, Paris, 1820) vol. 4, part 7, p. 253.

as government is experienced to be, and such service is thought to be at best useless and ineffective. Agreements cannot be reached, or if reached they cannot be enforced, coercions appear that were not apparent before the political resolution of the problem began which neutralize any apparent gain, or actually inflict harms undreamt of before the resolution took effect.

Jean-Jacques Rousseau optimistically wrote in The Social Contract, that universal voluntary agreement, would become infallible and "need give no guarantee to its subjects, because it is impossible for the body to wish to hurt all its members" ²⁸ However, extending tolerance toward those who preach and practice brutality in the interest of autonomy does result in hurt to some of a state's members, and sometimes to the state itself.

The justification of state intolerance must include an argument for a some kind of state paternalism. A principle of justification soundly rejected by Locke, Kant, Adam Smith among others. The form of paternalism I suggest requires a flourishing political controversy which leads out by autonomous decisions. I am speaking here of the robust autonomy than mere freedom of choice or even integrity of one's person. This autonomy is the educated individual which Dewey hoped would someday be achieved in armies by

²⁸. J.-J. Rousseau, The Social Contract and Discourses, G.D.H. Cole trans. and intro. (London, 1973) vol. 1, p. 7, p. 176.

education. There have always been volunteers for the paternalistic role. People who take it upon themselves to lead and say how things should be done. Usually a keen military mind, or someone devoted to acquiring wealth or their derelict children, become the care-takers in the loosest sense of the term of the fate of society. Political controversy should result in revokable decisions made by legislators and electorate. The resulting paternalism should be a viable method of achieving a decision when there are multiple alternatives and no clear "right" or "wrong" alternative upon which every one can agree. When undecidable cases demand resolution, the autonomous state must lead by making informed decisions despite lack of a large uniformed popular support.

Advocating paternalistic decisions invites totalitarian comparisons. The threat of tyranny requires that paternal decisions remain provisional, revisable, and revokable. Subsequent events and arguments must continually assail the paternal decision. Those chosen to make paternal decisions must adhere to the demanding method of informed discussion or critical political controversy.

Summary

Does toleration have limits and if so how are they determined? The limits of tolerance by the state are partially answered by reference to Mill's harm principle.

Horton argued that the harm principle is too weak or at best not much help in defending or defining the limits of toleration. I argue that there are good reasons for accepting the harm principle, that the extremes (contra Horton) are useful and a clear guide to what should and should not be tolerated. From the universal abhorrence of brutality and a populous educated in the skills of controversy the possibility is made out for not only determining in what brutality consists but in what lesser harms consist. The specific questions of the nature of harms are left unresolved by this discussion, however the way in which to proceed to resolve such questions is outlined in chapter six.

However, before I proceed to show how diversity and dissent help lead to a non-violent tolerant society, I must show that two common assumptions about the route to peace are mistaken. Unanimous agreement and unity may lead to a manipulative, monotonous and mediocre society, but not to a non-violent tolerant one. In chapter four I look at John Stuart Mill's attempt to achieve political agreement first by logic and then by controversy. Marcuse's internal connection between tolerance and truth moves a step closer to understanding why truth requires non-violent controversy rather than coercive stipulations. In chapter five I reconstruct three hypothetical Marxian roads to a uniform society.

CHAPTER IV

TOLERANCE AND TRUTH THE INTERNAL CONNECTION

Introduction

As the previous chapters have shown, attempts to justify state toleration and its limits often introduce highly controversial issues that, prove sufficient, but perhaps unnecessary, for justifying state toleration or state intolerance. The liberal emphasis on autonomy seem to imply and require toleration. In chapter two, one way autonomy is pressed into service as a justification of toleration was examined. Socialist theorists, more cautious of autonomy, were critical of the uses to which the principle of free choice is often turned.

In chapter three, the limits of state toleration were sought in the moral criterion of harm. The problem of justifying intolerance, stalled there as its justification became a problem of defining, locating, and justifying an uncontroversial set of values and moral judgments. An uncontroversial set of values and moral judgments are often considered necessary for deciding what should, and should not, be tolerated. The prevention of harm as a principle, also, turned out to be controversial. This principle seems

to be actually used in practical reasoning about particular cases, but remains controversial as a general criterion useful for justifying state intolerance.

This chapter and the next prepare the ground for a political (as the realm of free non-violent controversy) justification of both state toleration, and state intolerance, presented in chapter six. The arguments often used to support the principles of autonomy and harm, use a moral (as opposed to political) conception of tolerance. This distinction is important, because I argue in chapter six that toleration is a political solution to a political problem. Social violence can be channeled into non-violent political controversy. Controversy makes toleration possible, and toleration makes controversy possible. I claim that diversity and dissent, as sources of controversy, are necessary for the flourishing of a political realm of non-violent controversy.

In more ordinary terms, I claim that genuine disagreement holds hope for the achievement of a non-violent civil peace or a tolerant society. I attempt to show, in chapter five, that unanimity in values and interests are not attainable or desirable. Here, in chapter four, I argue that agreement does not, necessarily, lead to peace or truth. Genuine, vigorous, and vigilant disagreement is in the best interest of achieving truth, as well as in the best interest of achieving a tolerant society. Genuine disagreement means

"rational" disagreement in the ancient sense of rational. As briefly discussed in chapter three, a rational conclusion means more than "logically follows". Rationality is achieved within argumentative conversations. Where agreement can be obtained, there is no need for toleration. But where rational disagreement replaces violent conflicts, toleration is established. A toleration which fosters more and more rational discussion, by reducing fear and ignorance and the violent conflicts these conditions often create.

Does Agreement Lead to Tolerant Societies

Some individuals and state have, in fact, energetically pursued the achievement of agreement, often conceived as truth. The value of truth and agreement seem to be self-evidently valuable and goods worth sacrificing a great deal to obtain. If everyone knows the truth of a situation, then there is no room for disagreement. It is maintained that disagreement, because it often, in fact, degenerates into violence, should be avoided.

Many peaceful methods have been proposed over the years for establishing uniformity in values and interests. Some of these include, (1) appeals to authority (the pope or the bible). (2) Indoctrination into the true ideology (most notably Marx). (3) Instituting a universal language such as Esperanto (language of hope) hope for universal human understanding. (4) The linguistic analysis of the depth

grammar, which was thought to underlie our ability to understand one another, would, once thoroughly analyzed, lead to understanding and peace (Chomsky). (5) Agreement might be reached on important social and political problems, if the structure of understanding, as given by logic, were revealed. Demonstrating the falsity and invalidity of beliefs should eliminate the false and promote the true. (Mill).

State have also used many violent means to achieve agreement. It has been thought that toleration of diversity encourages dissent and leads to anarchy, war, poverty, evil in general. Therefore, political theorist such as Hobbes and Machiavelli argued that it is the duty of a state to impose uniformity, and suppress dissent. These militant versions of coercions for the sake of peace will not be considered. Rather, I briefly survey Mill's more pacific attempt to establish agreement and, as it was hoped, peace. The survey will show that Mill moved from valuing agreement to valuing controversy as a road to truth.

Mill from Agreement to Controversy

The following sketch of Mill's views are arguably more correctly ascribed to his father James. This is not to deny John Stuart once held them, but to point out in advance that he largely discarded or greatly modified the ideas he had gained by his father's intensive early training by 1859.

John Stuart Mill's (1843) A System of Logic was an attempt to solve moral and political problems. Mill supposed that malfunction in the social or political realm might be repairable by way of an analysis of the nature of language and logic. The central controlling thesis of Mill's book was that because logic produces theory and theory produces action; any sound action depends upon sound theory. The way to ensure a sound theory is the production of a sound logic. Mill maintained that "all conflicts between fundamental beliefs have their ultimate origin in differences in logical theory."¹ This followed from the premises that (1) every philosophy must begin with a theory and (2) all theories result from the logic employed in the theory's formation.

In this text Mill understood conflicts found in the moral and social realm as exceptions to the general certainty and uniformity found in the natural realm. Mill wanted to investigate just how far the methods (Newton and others) had employed so successfully in the inanimate world might be turned on the moral and political spheres. The hope was to yield a body of moral knowledge comparable to that found in the science of physics.

If the end of conflict required that everyone had the same correct beliefs, then the primary task for Mill was to provide support for maintaining one belief over another.

¹. J. S. Mill, 1843. A System of Logic p. xxvii.

Finding a system of obtaining well secured beliefs would ensure (because nature is uniform) a way of ensuring that any person could obtain by this method of (natural logic), a theory that would (because it was in conformity with nature) match any other theory that proceeded from the logic. The result would be that conflicts (caused by conflicting beliefs) would be solved. By the clear light of the correct logic all erroneous (ungrounded by logic) theories would sink into oblivion. And humanity once in the possession of correct theories would, the theory presses credibility, act morally correct because humanity would now hold all the correct beliefs.

There are, at least, two problems with this view. The first is Mill's Lockian view that language is a source of error. Language is not so much like the optical instruments that require our adjustment in order to see better, rather language is like the object of astronomical observation which require the astronomer's subtlest, and most patient observation. For there is indeed a great danger in doing philosophy when not well versed in the meaning and right use of the various kinds of words. But we are not going to find this out in solitude but in the political realm in discussion with other people.

The second problem is that conflicting opinions are not the source of violence, a claim I defend in chapter six. Fear and ignorance are the source of violence. Controversy

reduces both ignorance and fear. The reduction of violence was Mill's goal, but he confused this, at first, with argument and controversy. Mill articulates the often suppressed or subdued or unacknowledged hope for a diligent logical investigation in the hope of attaining ultimate agreement and by implication a lasting peace. Hopes unacknowledged due to having forgotten the reason for the logical endeavor one is routinely taught in school. Hopes subdued by the pessimistic realization of the impracticality of these expectations. Hopes suppressed by claiming actual agreement and actual truth were never the goal of logic, or, if it were the goal at one time, it no longer needs such practical justification.

Mill seriously proposed and began in earnest the project. The push to more efficiently find ways of proving statements true once started has continued unabated. Even though current workers in the field may not own this justification for their work, some preface their works with hints of the general good to humanity their analysis in the service of truth promises. If the premise were true, the unsavory task of tolerating a diversity, would be solved. Everyone would be at last coerced by the truth, and the truth in a very real sense sets humanity free. Free from war and conflict, free from hunger and disease, free from ignorance and fear.

But logic alone cannot achieve peace or toleration

autonomous individuals require. Mill vehemently advocated the value of political controversy to the pursuit of truth in his polemical little essay On Liberty (written in conjunction with Ms Taylor, 1859). Conflicting belief, it seems, came to be viewed by Mill as the way to truth, as his detour through logic may have led him to realize.

Tolerance of Conflict and Truth

Peace is believed to depend upon eliciting agreement upon one "best" set of values and interests. Some of the implications of this belief are that: The goal of a state should be to discourage disagreement and dissent. Conflicting social and political opinions together with a spectrum of diverse and perverse practices should be suppressed or eliminated. States should seek a variety of means of getting rid of values and interests which conflict. States should use indoctrination, or perhaps more violent means, in attempts to coordinate the interests and values of a society, and thereby reduce violence. Unless a resolution of incommensurable practices and opinion is achieved, by the attainment of truth, peace will never obtain.

The meaning of Mill's and Ms. Taylor's discussion of the collision of opinion as the road to truth rests on the internal connection between toleration (or freedom from coercion) and truth (mentioned by Marcuse). Marcuse means by internal, here, that toleration and truth are related in a

special way. Truth must be defined by liberty, Marcuse claims, and liberty must be confined by truth. Truth is the end of liberty. Once the truth is obtained on a subject, the alternatives are closed off.

Tolerance and humility come from realizing the regularity and extent to which "truths" become curiosities. Freedom, conceived as in Arendt's political realm, is still to be created. We can comprehend what it would be like to be free but we have yet to achieve it. To achieve it requires generations of changes in educational techniques. A major shift in emphasis from the training in and absorbing of information, to critical evaluation of information. Arendt's freedom and the political realm where political controversy is carried on is not yet a reality but only a possibility. The value of toleration to non-autonomous individuals who are manipulated and indoctrinated is of questionable value.

Another aspect of the internal connection between tolerance and truth, is that the need for toleration is made necessary by the demands of truth. If truth did not demand and coerce allegiance then, tolerance of others would not be necessary. For all could live together without prejudices born of knowing the truth better than one's neighbor and the attendant arrogance, snobbery and bigotries.

A Tolerant Society As Ideal

State toleration should have as its goal the achievement of a tolerant society. A tolerant society as Marcuse defined it would be non-violent. Controversy would not diminish however. Controversy in the ideally tolerant society would flourish. The achievement of peace, the achievement of a tolerant society, would foster the social conditions which foster and encourage controversy. The value of disagreement, discussion, criticism and the stabilities which withstand and welcome constant critical assault; these values once understood and practiced would create a tolerant society.

The limits of political toleration, the implementation of state intolerance, would be justified by the tolerant society itself. The defining feature of a tolerant society is its non-violent controversy which for convenience we might call peace. Peace is usually thought to depend upon the achievement of universal agreement. That is not true.

A peaceful society orders its values differently than a society bent on the achievement of the abstractions of truth at all costs. In a peaceful society the interests of truth are subordinated to the interests of peace. Why must this be so? As Hannah Arendt simply puts it, the pursuit of truth is more valuable than the possession of truth. When the truth is possessed it serves as a weapon that coerces. When peace is possessed a tolerant society may pursue the truth.

Arendt's public realm of discussion is such a place where enlightenment and insight of the kind that would be useful for action to be taken on the specific concerns of the people could be achieved. But enlightenment would come from not less disagreement but more and more detailed and relevant kinds of disagreement. More disagreement over specific details of any particular situation, the less need for invocation of conflicting values. The task of reducing conflicts between commitments by constructing a system of moral beliefs that is logically consistent is misguided. The logical theorist attempts to reduce value conflicts to one another as if they were merely logical contradictions.

The usual focus in conflict resolution attempts to resolve disagreement and if possible dissolve the basis of the conflict. (1) Sometimes the conflict is apparent only and upon closer or more consistent inspection, one of the commitments evaporates, and conflict is resolved. (2) Sometimes the conflict is semantic only. Valuing independence does not necessarily conflict with valuing dependence. Social dependence on one another does not preclude independence from one another. The specifics of in what ways dependent and in what ways independent would need to be spelled out. (3) Sometimes conflicts can be resolved by reordering values.

Marcuse suspected that the conflict between a state's demands for uniformity and an individual's desire for

liberty (deviance) would be minimal, in part because, political controversy is a self-correcting methodology. While a political decision is working there is no need for change, but before conflict peaks the political decision can and must change. If those in power, however, hold that political decision are somehow akin to unrevokable truths, then wars and violence ensue to protect the abstract truth. A tolerant state would value non-violent controversy over the matter, and negotiate the "truth".

Politically established values, such as freedom and toleration, exist in conversation as abstractions. Each discussion of abstract values may recommend or result in very different practices or social conditions. It is the job of political controversy to establish the relation between abstract values and concrete situations. Where values conflict there will be commitments to situation with conflicting orders. Commitments are reasons for action. So conflicts may result not only from commitments made in earlier and substantially different circumstances, but conflicts resulting from simultaneously existing incompatible commitments.

Reducing value conflict to minimum is required by an assumption about in what rational, civilized, or peaceful behavior consists. An assumption which is unreasonable because values are not primarily abstract and theoretical but are descriptive short-hand ways of talking about certain

kinds of social order. The values such as freedom from harm and tolerance also serve as guides for the achievement of such order. Tolerance and peace describe a kind of social order and like other values are sustained by the shared capacity for moral judgments. Reason itself is a longing for order of a specific kind. Asking for more justification for why random murder should not be tolerated, for example, than the claim that "random murder should not be tolerated" is itself unreasonable.

In a tolerant society, the possession of peace is more valuable than the pursuit of peace. Attempts to achieve agreement may not lead to peace, for two main reasons agreement can be achieved on political issues only (1) where coerced by intimidation, persuasion, or brutality or (2) where substantial interests coincide. Neither of these situations are conducive to peace, because the first is violent and the second is non-existent.

Arendt on Political Disagreement

A political situation is according to Arendt a demand for integrity of motive, which is governed and ensured by the method of political controversy. Discussion and critical argument, which requires the giving and defending of arguments, for or against any political action or policy.

Valuing integrity of individuals includes unavoidable fact: People are diverse and will always disagree.

Disagreement a) reduces chance of war or conflict because disagreement implies discussion. b) Cannot disagree without genuine discussion. Therefore, toleration of disagreement leads to as much peace as we will ever get or want.

Political disagreements are only indirectly about matters of fact. Political disagreements primarily concern matters of propriety. What is to be considered proper taste and proper morals are governed by collective judgments. These judgments are both established and acquiesced to by individuals as they consider themselves from the point of view of the spectator.

Political judgments are not reports on facts, political judgments by way of argument, establish the facts.

Customary social prejudicial proprieties are the glue which keeps society functioning as efficiently as it does. If decisions had to be made for each act, little would be accomplished, accidents would be all pervasive. For one dangerous characteristic of thought is that when thought guides one's acts, one makes more mistakes than when guided by habit. Social prejudices are often justified by the experiences of those who attempt to disregard them. It is not that the social prejudices could not be otherwise but that the whole fabric of social prejudices are encrusted habits which make it possible for large groups of individuals to co-exist reasonably well. Violating a social prejudice may be justified by reasoned argument but no

amount of reasoned argument will change the social prejudice. Only another social prejudice can supplant another social prejudice.

Social prejudice are characterized by not yielding to argument, nor by being established by argument that will stand up to criticism. Political judgments should be free of the body of social prejudice but it too works to create (establish) more social prejudice founded on critical judgment in political controversy. Where social proprieties harbor contradictions and are not subjected to discussion and criticism, then they have degenerated into prejudice. and should no longer serve as a guide to action.

The political area of freedom, is an area where disagreement flourishes and as long as it does, Peace will flourish as well. It is disagreement and peace which justify state toleration.

Tolerance has no more to do with liberalism, than with any other political stance. Tolerance arises from the political arena, as Arendt distinguished it.

Conclusion

I presented and criticized arguments that assert universal agreement leads to a tolerant society. I argued that a tolerant society does not consist necessarily in wholesale agreement nor is understanding required for tolerance. Tolerance is fostered by discussion and

negotiation, but is not dependent upon it. One need not understand, nor like, that which one tolerates.

In chapter five I speculate on what a peaceful society would look like that suppressed, rather than encouraged, diversity and dissent. Marx did not necessarily favor toleration, but he did favor a non-violent peace as an eventual goal for society. This chapter answers the question why a diversity and dissent should be not merely tolerated by a state, but encouraged to proliferate.

In chapter six I will argue along with Hannah Arendt that ultimately we must expect and encourage disagreement. The diversity which contributes to discussion should be valued as a good in itself. A tolerant society is built upon non-violent disagreement (controversy). The toleration of diversity and dissent both in discussion and practice fosters the achievement of a peaceful tolerant society. The tolerant society is a political justification of a political concept. A non-violent tolerant society established by political controversy would in turn establish, and justify, both state tolerance of a limited diversity and paternalistic intolerance of violent threats to a tolerant society and a tolerant state.

CHAPTER V

AT WHAT PRICE A UNIFIED PEACE?

Chapter six will present a politically based justification for state toleration of diversity and dissent that also justifies some intolerance. However, before I show why diversity and dissent serve as justifications for both state toleration and state intolerance; I need to present some reason valuing diversity and dissent. After all, there is strength unity.

Communism and capitalism are united on at least one major political point. Neither questions the value of political unity in values and interests. Universal cooperation looks very different in each political system, but universal unanimity is the goal. Under capitalism the fact of competing interests are acknowledged; interests are construed as in conflict with one another. The best one can strive for under capitalism is that your interests can martial support and be promoted and defended with greater strength. Under communism the fact of competing interests and desires resolves competition by expecting that all share equally in one common interest.

Agnes Heller describes an ideal uniform communist

society, ¹

"...every individual strives for the samething... and the manner in which decision-making is carried out is of no importance whatever. Whether the decisions are made by means of referendum or through rotating representatives, every individual expresses the needs of all other individuals and it cannot be otherwise. In "socialized" man, the human species and the individual represent a unity. Every individual represents the species and the species is represented in every individual."

A welcome idyllic scene of tranquil utopia. Or is it? Something very much approaching this ideal was achieved by the Chinese for thousands of years. The secret of the monarchy's success was its ability to persuade the people at large that not speaking, that bearing one's burden in silence, was a virtue. The above description of the ideal political situation of a Marxian kind might well be welcomed by liberal capitalists, too. Every individual striving for money and status, where politicians are interchangeable commodities, where every individual is free and equal and everyone needs a car. Individuals expressing one and all, uniform support for the value of freedom, conceived as free enterprise. The embarrassment of moral pluralism would be avoided, agreements would be reached before disagreement began. Rather than dwelling on the problem of the toleration of diversity what state's should strive for is a way to achieve unanimity.

¹. A. Heller. The Theory of Need in Marx (London, 1974) p. 124-125.

The following section considers the similarities between the communist conception of a uniform society and the liberal conception of the goal of toleration. The communist and the liberal agree, on the worth and the desire for a uniform society, however unrealistically or ideally conceived. What is wrong with Marx' communistic view is not that it rejects the liberal autonomous individual, but that the value of political argument, debate, and negotiation are rejected. Marcuse argued that liberalism in practice actually does not promote the liberal individual. Liberal rhetoric continues to praise autonomy even more to compensate for its absence.

This distaste for and rejection of political solutions to political problems constitutes a rejection of, in Marx' terms, the "human essence", which is Arendt claims political, not, as Marx thought, social. The distinction Arendt makes it possible to resolve the dilemma of how to construct a society which both permits individual diversity and social unity. Political in the sense Arendt defines is distinct from the monotonous social realm; both, however, are public modes of living. The meaning of autonomy cannot be realized in the social realm but requires the political. My concern is precisely to reject the thesis of the worth of the uniformity in either the social or the political, either as a goal to work toward or as a reality to be preserved.

Marx's implicit position on toleration in the following

section is inferred from his explicit rejection of an autonomous individual independent of society and his communistic conception of freedom, where freedom only exists to the extent of the interdependence on others. To anchor my speculation of what toleration amounts to in a hypothetical society ordered according to communist principles. I link my discussion to Marx' "On the Jewish Question" (1843), where Marx rejects the whole dimension of the political in the interests of social unity.

In the 1840s Marx was not alone in advocating the abolition of politics. He equated politics with government and government with coercion and exploitation. Governmental laws are always enforced in the interest of one class against other. For Marx the human capacity for uncoerced social cooperation is frustrated by the coercion of government. And social unity (envisioned as non-violent) is rendered impossible. The solution is to abolish politics (as government) by the establishment of voluntary cooperation and social harmony.

Marx advocated straight forward and intolerant policies about what should be done with dissenters along the way to the communist state. However, Marx never addressed the question of toleration of diversity in an established communist society once achieved; so asking what Marx thought about toleration may seem out of place. However, Marx did envision a society lacking in dissent and

diversity, the elements which give rise the problem. So how did he suppose to achieve or maintain this dissent-less or "peaceful" society? G. W. Smith (1985)² has provided a framework from which I infer three possible ways, which may be attributed to Marx, for the achievement of a unified society. Each view is necessarily a distortion, just enough is presented to anchor the points I which to make.

The first Marxian route for the achievement of peaceful society is then, the "coincidence of interest" where rights of individuals tend over time to coincide with those of society at large. Conflict as well as diversity and dissent become things of the past as the right and the true become apparent to everyone. This change is effected by re-education programs. The second route to unity and peace is the "evaporation of interests" thesis, where the rights of individuals evaporate when the individual ceases to conform to societies expectations. There are no dissenters only deviants in need of re-education. The third route to a unified society is the "distillation of interests" thesis. This thesis holds that the "universal rights of man" which belong to the collective human species have been illegitimately irrigated or channelled off to protect private interests. These rights will eventually "distill" that is, return to the collective sea of humanity.

². G. W. Smith, 1985. "Dissent, toleration, and civil rights in communism", in S. Mendus (ed.) Justifying Toleration, (Cambridge University Press), pp. 199-221.

The Marxian attitude toward toleration shifts interest away from wondering what and what not to tolerate to how to unite the society. Marx explicitly rejected the liberal conception of the autonomous individual. For Marx liberal capitalists ideologies generate the problem of individual dissent and the accompanying problem of the toleration of that dissent. The very division of society into the exploiter class and the exploitee class prevents the manifestation of the marxian ideal of a unified social solidarity. Class divisions are constructed by the individuals who consider themselves distinct from other people. The exaggerated emphasis on individual autonomy create the problem of toleration in the first place. Toleration would not be required in an homogenous society, and only arises as a problem in the liberal capitalist scheme of things. The problem is avoided altogether in the communist ideal of eventual achievement of unanimity.

Under the "Coincidence of Interests thesis," a liberal autonomous individual is assumed as a contingent reality. Individuals will develop and exercise the same capacities of autonomous choice that are valued in a liberal society. The main difference would be that once (1) the conditions dividing autonomous interests (that is economic class divisions) have been eliminated and (2) the veil of false-consciousness falls away, (3) humankind will spontaneously adhere to identical values. Any residual

differences remaining between individuals will resolve of themselves. Controversy will be in principle resolvable by non-political instrumental and technical means.

It becomes clear why under these circumstances, problems of dissent and decisions about what and what not to tolerate might be thought not to arise. Dissent much less toleration of dissent cannot even be thought unless genuine autonomous dissent or novel diversity exist. The homogeneous agreement of individuals with the state fails to sustain the contrast needed for the question of toleration to make sense.

Merging autonomous interests with a powerful authority, also nullifies other political terms such as justice, obligation, law, and enforcement. But autonomy has always been more complex and its consequences more far reaching than that of simply deciding to obey or not. Under this Marxian view its not so much that the problem of toleration is solved but rather the entire liberal (as well as the more general political) problematic is dissolved. This rendering of the communist view supports the usual contention that to raise the question of toleration in communist societies is to commit a fundamental category mistake.

The conflicting imperatives generated by individual choices that conflict with compliance to state interest, as with the liberal preoccupation with dissent and diversity, do not arise in the Marxian state. In the transition from

capitalism to communism the social cooperation between persons redefined by the creation of a novel set of social practices. The social individual finds autonomy in and through its relation with others. The problem of an individual dissent requiring toleration cannot even be conceived.

A serious objection to this thesis is, as Smith points out, its "manifest incredibility." Incredible with regard to the collective conceptual transformation which this view assumes will occur, together with its incredible insensitivity to the nature of human interactions of both political and social kinds. Of course, this incredibility is not Marx' fault, it is the fault of would be projectors of Marx' principles onto an hypothetical society. Marx saw such enterprises as futile and spend little time in attempting to speculate on an entirely novel form of political and social life. He never attempted to furnish an exhaustive picture of the society towards which the proletariat was to strive.

The second route to uniform consensus is the "Evaporation of interests thesis". The thesis contrasts an individual as an abstract legal entity and a commodity. The liberal individual is a bearer of rights, especially to own property, and to privacy.

The communist views this abstract individual as the result of set a of social stipulations embedded in practices

required for the functioning of a system of abstract market exchanges. The individual is the product, not the producer, of the way things are. It is false consciousness to think otherwise. This shift in attitude results in, for example, the difference between an individual paying for her or his crime and an individual being "repaired" and sent back to work. The liberal attitude toward punishment and judicial goals spring from the language employed to discuss economic transactions, the offender serves time as payment for the wrong done. A person pays for one's crime. In socialism, however, offenders will be dealt with as a managerial problem rather than as a legal problem. A machine is broken repair it.

In Marx's terms: (1) the case of dissent means that dissent (as a social deviancy) arises from social circumstances. Thus, (2) treatment as a specific individual entitles a specific individual to an individually tailored re-education. Its not the dissenter's fault he or she dissented. The specific individual is merely in need of individually tailored re-education. The deviant in communism is a whole person who must be treated medically with scientific concern for the relation to the totality of the specific social and psychological causes of the patient's deviancy. Entitled to be treated medically and scientifically the individual as patient recovers her or his normalcy and returns to society or she or he doesn't.

Unfortunately the patient is not an entirely novel conception of individuality.

de Tocqueville (1843) wrote,

Our contemporaries ... conceive a government which is unitary, protective, and all-powerful, but elected by the people. Centralization is combined with the sovereignty of the people. That gives them a chance to relax. They console themselves for being under school masters by thinking that they have chosen them themselves.... Under this system the citizens quit their state of dependence just long enough to choose their masters and then fall back into it.³

He was writing about democracy in the United States but his description applies just as well to the proletariat revolution, where what is elected by the people is revolt. What makes the descriptions so similar is the emphasis each place on unity. What makes them different is their conception of the source of individual autonomy. But even these are not incompatible.

In the general liberal scheme of things individuals are independent, self-directed bearers of rights. Marx saw this conception as defective in two main respects. First, only as an integral part of a society can an individual become autonomous. There are no individuals independent of society. This sense of autonomy is achieved at a high cost. Political and legal freedoms generated and secured from associations within a society are siphoned off the society at large and

³. A. de Tocqueville, Democracy in America (1833-1840), trans. G. Lawrence, (Fontana, London, 1968) vol. 2, p. 899-900.

bestowed on individuals of the privileged class and withheld from the deprived worker-slaves. The "universal rights of man" become the specific rights of the landowner. The "rights of man" no longer universal (but for the fittest as the influential corruption (cliques understanding) of Darwin has it) thus sustain and protect institutions and practices within civil society which are for Marx manifestly private or anti-social, and therefore suspect.

Marx envisioned a future society in which individuality would flourish without the need for coercion to police degenerate forms of private rights. Rights which neglect the human essence; as social creatures. He envisioned an undifferentiated unity, as a good that was thwarted by political manipulation. (1) Private meant dis-unity for Marx; and (2) disunity meant violence either as repression or revolt. Thus he worried that (3) even the common enjoyment of "universal rights of man" may not ensure social unity and that (4) false consciousness might not evaporate.

A third way to interpret Marx opinion on how to attain the peaceful state, is by the, "Distillation of interests" thesis. Wherein Marx attempts to account both for the individual and for the need for social unity. The thesis is suggest by the way in which Marx envisioned the origin and fate of rights. Marx held that political rights arise within and are constituted by the community. The participation of individuals within in the community constitute the substance

of political rights.⁴

Marx's routes to unity ensure that the orthodox react to the dissident in terms of individual irrationality rather than as a legitimate dissent which holds an ordering of basic values which may equally compete with the orthodox.

The repression found in Marx' scheme springs from the same source as that noted in the liberal ordering of values in chapter two. That source is the push to unity; the valuing of unity above all other values creates a repression of the very values purportedly legitimate and indispensable.

Yet, toleration of political dissent does fare better in liberal capitalist societies than in communist societies perhaps because of the difference in what persons are educated to believe about their autonomy. The way in which individuals routinely construe their autonomy is in turn reinforced by the juridical and economic institutional practices of each society. The meaning of individual autonomy in Marx' hypothetical utopias is radically attenuated from the common liberal one. The liberal autonomous individual results from unwarranted assumptions about the extent of free choice and the nature of morality. Morality is neither so unconstrained nor is autonomy so much a matter of free choice as liberals are apt to assume. Yet, neither are liberals so constrained as the manifest monotony

⁴. K. Marx, 1843. "On the Jewish Question" in R. C. Tucker (ed.) The Marx-Engels Reader (W. W. Norton and Co., Inc., New York, 1972), pp. 24-51.

envisioned by the marxian communist model as portrayed by Heller.

As mentioned in chapter two, the liberal ideal of freedom, which purports to recognize certain crucial individual rights, provides less of a foundation for personal autonomy than the Marxist model. Liberal freedom does have more respect for and toleration of individual right of dissent, than Marx. Both systems are wedded to the desire for unity as the ultimate good both in slightly different ways. The three hypothetical marxian routes to unity, however, also show how important a non-violent (peaceful) or tolerant society is considered to be by widely differing ideological views.

The coincidence of interests thesis, where autonomy is accepted as a matter of contingent fact, and eventually common agreement is achieved along with the absence of individual dissent, was rejected as incredible. The evaporation of rights thesis suggests abstractions like individual autonomy and abstract capital wealth, will disappear as the truth about human (social) essence is disclosed. Citizen's right to dissent has a kind of dialectical transcendence, in that dissent is permitted from capitalism, but would no longer be allowed (tend to evaporate) once the communists were in power. The transition would be effected by the adoption of a psychiatric attitude towards dissent of the wrong kind.

The distillation of interests thesis shows where Marx and liberalism partially coincide. Moral consensus as to substantive values (i.e., right and wrong kinds of dissent) and a central theory of human nature were explicitly thought by Marx to provide the coherence any society, but especially a communist society, would need. This description fits the actual state of affairs in the United States described by Marcuse in chapter two. Any "central" theory or set of values, including such sacred values as "freedom" and "autonomy" once adopted tend to function as a restrictive guide to what counts as the "rational" ends of human beings.

The push for uniformity, and not the specific content, that weighs most heavily against the prospect for toleration of individual dissent in either system. The specific content of any pro-offered uniform program, if it is open to subsequent criticism and alteration can be dealt with as needed. The distillation of rights thesis while, a more humane position than the evaporation of rights thesis and less naive than the coincidence of interests theory, offers yet another rigid "truth" and it is difficult to avoid its more sinister implications. If the scope of legitimate dissent is determined by a conception of the autonomous individual as necessarily conforming to a predetermined consensus, then the scope of tolerance is needlessly constricted.

There seem to be two ways for social cohesion. One way

demands strong loyalty to the prevailing institutions and practices which basically ignore without recognizing, challenging or attempting to eliminate existing differences in interests or even moderate disputes. The second option is to seek consensus, not in a common commitment to procedures, but by way of allegiance to some substantive goal or value. As Marcuse claimed freedom has served as this goal in the western hemisphere since the French revolution. Instituting a single value or hierarchy of values tends to repress, even when the value seems as unimpeachable as freedom. The road seems blocked to a lasting peace, to a tolerant society. Yet there is a third option.

In a liberal society individual dissent is accepted as incidental to political life. For Marx dissent from society's constitutive values is an attack on the society itself. Dissent, however, is constitutive of political life for Arendt. The political arena presents a safety valve for the pressures generated by society. Diversity may be valuable in-itself.

CHAPTER VI

JUSTIFYING TOLERATION POLITICALLY

Why Tolerate Diversity and Dissent

In this chapter I present a politically based, as opposed to a morally based, justification for state toleration of diversity and dissent that also justifies intolerance toward violence and brutality. Violence, I define as harm made possible by the fact of language; and is distinct from brutality which presupposes no conversation. Both the political and social arenas are constituted by conversation. The political, as I define it, is conversation about public matters. Public matters include everything judged and discussed. Political judgment is critical, while social judgment is pre-judicial and moral. Both the political and the social judge with respect to harm, and so in this sense, are both concerned with moral judgments. However, the social adopts traditional, habitual, and customary moral judgments by which to judge of conduct. The political criticizes these stable pre-judices with respect to harm.

Political controversy justifies intolerance toward genuine threats to autonomous integrity. Threats to both the

autonomous integrity of individuals and threats to the political arena itself justify intolerance. The nature of intolerance, however, must not be violent.

Neither moral arguments from autonomy as free choice, alone, nor arguments from autonomy in conjunction with the principle of harm, give a powerful state more than a sufficient reason to tolerate diversity. Neither argument show why toleration of a diversity is in the state's best interest. Hobbes' prudent concern for loyalty is a more relevant justification than autonomy or the moral concern for harm in persuading a powerful state to tolerate dissent and diversity. The cynical argument for state tolerance based on indifference is even less appealing. The moral judgments based on "putting cruelty first" would class indifference as a kind of violence. Therefore, to maintain consistency, a state concerned with tolerance should not display indifference toward the society. A less cynical and more effective approach to state toleration emerges from simply considering toleration as a political concept. The concept of toleration when considered as a political solution to political problems reveals what does justify state toleration.

The political concept of toleration is a reaction to violence and as such is a political solution to political violence which range from indifference to genocide. Toleration is a political concept. As a political concept

toleration is justified by political means. Political means are political controversy and discussion which, where unhampered by pre-judicial judgments, promotes toleration and non-violence. The importance of reassessing pre-judices is effective in increasing tolerance and reducing violence of all kinds. Toleration is also a prudent response when the alternative are known to be unwise. However, replacing toleration into its political context, emphasizes the value of political controversy. In order to achieve a tolerant, non-violent, society; both state toleration and intolerance of violence require constant political controversy and selective non-violent intervention.

Political violence can be considered the result of an amplification of social hierarchical capacities. The power to organize efficiently has a dangerous draw back. The same capacity to create levels of difference which facilitate the coordination of large numbers of people efficiently, also provides conspicuous distinctions, which then become easy targets for social violence, such as snobbery, and bigotry. When these violent habits harden into prejudice, and when scarcity, or ignorance and fear prevail, then, social violence can escalate to full blown persecution (violent brutality).

Political discussion establishes facts. Thus political discussion cannot be considered frivolous or an optional activity; it in large part constitutes a society and its

individuals and their practices. Political controversy depends upon diversity and dissent for its vitality. The political realm of discussion, once opened up and given public support, could become an end in itself, as well as, a means to promote a tolerant, non-violent, society. There are overlooked intrinsic values of public controversy, useful for justifying the toleration of political differences.

Arendt defends the free space of politics from the pressure of social constraint for the following non-trivial reasons. First, it is within the freedom of political discussion that judgments are aired which ultimately promote or suppress what is tolerated, and what not tolerated, (the practices and habits) within the social arena. Secondly, political controversy provides an opportunity for achieving levels of tolerance, if not understanding, toward those of whom one disapproves. Third, politically (that is by public discussion) established judgments and the accompanying analysis are essential for the reflection on and projection toward eliminating patterns of behavior which result in violence.

The nature of politics is also the human condition. Boredom is a demand for diversity. Dissent and disagreement are not evil but good. Just as pain alerts a person's attention to a matter that needs attention, so dissent is an indispensable good, for the maintenance of a tolerant society. Dissent, of course, cannot be unbounded. The

limits of toleration too can be deduced from the nature of the political.

As in Arendt's concept of "public space" the political hold diverse individuals together while at the same time separating them. The political realm is free moving, as thought is free; moving freely from possibility to possibility. The political arena is filled with individuals each with inexchangeable value that require toleration, if not nurture. A toleration which excludes even indifference and snobbery, if possible. Because these mild violences so easily fuel greater violences under adverse conditions.

The social realm is filled with the rich diversity of tradition, bound by constant necessities which we all share and to which we are all enslaved. For Arendt politics by contrast is free action and debate within a public space formed by pushing aside the stifling traditional society. Politics unites citizens by the affairs of the public world that lies between them. Society, on the other hand, is held together by the interdependence of private desires and material needs.

The political is not coercive power, but liberating freedom. The fact that actual political states are coercive rather than liberating, does not argue against this definition. Actual "political" states are coercive and violent in proportion to how little use they make of the political. The social realm generates traditional and

collective solutions to independent bodily needs which in turn generate controversy. Social issues, if articulated and entered in a lively political arena, generate discussion which contributes to a more tolerant society. However, if the political is absent or atrophied then, violent solutions ranging from indifference to persecution occur.

The distinction between the political and social by Arendt is not identical to the liberal public-private split. Both the social and the political are public modes. The "public" mode involves seeing and judging; and being seen and being judged. Social judgment, for the most part, is expedited by prejudice and habit and is primarily conservative; while the political may establish new norms for conformity and deviance. The judgments in the social realm are primarily moral and concern matters, such as birth, hunger, illness, which are existential "there" prior to discussion, while political judgments are critically and politically established and concern, for example, legitimacy of birth, distribution of resources, etc. The distinction, carries with it the limitations of any distinction, in that it fades out of relevance or importance or existence in some instances.

There is a curious opposition between the reciprocal relations of constraint and freedom. The social is more tightly constrained (bodily restrictions) and also produces the most diverse cultural practices, while the political as

a realm of discourse, has more freedom and so has traditionally displayed less freedom. Less freedom, here means fewer topics for public discussion. Since the invention of printing press and methods of scientific investigation this has changed considerably.

The distinction between political and social not only provides ground for, but provides the space to achieve tolerance by altering prejudice. The political provides space to educate, mediate, and facilitate controversy which promotes a wide toleration of social, as well as, political diversity. In politics what holds people together is not that its members resemble one another as in a social family or culture, but that they are gathered around a common public arena for discussing common public problem. The political brings people together as inexchangeable potential friends rather than identical brothers and sisters.

The political and social distinction is compatible with a high degree of political and social diversity. The constraint within both realms involve injunctions against violence; injunctions against violence in all of its diversity. Tolerance and violence are incompatible. Thus, the only stipulation which has to be made in order to provide a justification for state toleration, is that the state must be interested in promoting non-violence. The needs of political controversy provides the additional guidelines for deciding what should and should not be

tolerated.

First, opinions and judgements about public affairs require access to the facts, and freedom of information. Blatant distortions of the facts should not be tolerated where these can be established. Secondly, where groups endeavor to destroy (which includes destruction by non-participation) the common political arena, or restrict admittance to the conversation based on uncriticized prejudice, their toleration may be forfeit. Thirdly, the other principles which limit political toleration are a matter of public judgment and controversy (discussion and dispute).

The distinction between the political and the social help explain why it is worth tolerating even unpalatable opinions and attitudes. A state does not need a homogeneity based on culture, identical ordering of values, or uniform commitments to the "good" life. The political is not threatened by social or ethnic diversity, or even by non-violent political dissent. The things which threatens the political realm are fear, ignorance, non-participation, misinformation; all of which contribute to violence. As long as various groups share commitment to a common non-violent political arena they might remain quite different to one another in social life.

The political realm, if opened up by participation need not worry whether the imposed institution of the value of

the "political" itself might result in intolerance. The political as a heterogeneous diverse body of dissenting opinions is self-critical and self-policing. The only stipulation required for the political to work is that the state must be dedicated to the value of non-violence, in all of its forms ranging from indifference to open persecution.

The conception of politics as an autonomous realm allows for mutual distancing between politics on the one hand and social matters on the other. It provides an argument for the public toleration of diverse and unpopular social practices. An implication of this is that some cases of intolerance do not count as political matters either and are none of the state's business unless they threaten the existence of the public arena or do violence in the social.

The role of the state in promoting non-violence is to educate, mediate, and facilitate discussion. These practices reduce fear and ignorance, and in the process, increase toleration. Mediate and facilitate discussion might mean providing forums and funds for research, community debate, and help insure media neutrality insofar as this is possible, and fund critical education and practical experience in speech and communication from grade school through college. Encouraging the political (as controversy) does not preach any one doctrine, but provides the means to attain skills for debate and critical thinking so that anyone may critic and hold a doctrine of their choosing and

not out of ignorance and fear.

The existence of the political, in this specific sense, provides a defense of social diversity and dissent. The political realm also provides for non-violent social discrimination of violent groups. Tolerance of social diversity, means tolerance of discrimination to some extent, and effective efforts to get rid of that would not necessarily involve wholesale intolerance in the name of social uniformity. Rather, education to "autonomy" would be a non-coercive solution to this problem. Toleration by definition, is allowing the expression of ideas or practices of which one disapproves, and so toleration as such, has this cost. When the public decides in any particular case whether the price is worth paying, there are political as well as moral considerations to be taken into account.

The interests of a tolerant society dictate that when the state considers whether to tolerate or suppress it must favor the non-violent interests of the free political realm. Violence must not be an option, as I have stipulated in the definition of the state.

The implication, for the present discussion, is that there is another context besides moral approval and disapproval within which specific issues of toleration need to be considered. The obligation as political participants to guard the vitally important realm of free debate and controversy.

Much as Raz, in chapter two, discovered autonomy to be a duty, to which people are obligated, I discover the maintenance of the political realm to be an obligation. The obligation to the political is not incompatible with Raz' duty to autonomy. On the contrary, the obligation for autonomy are facilitated by the maintenance of the political realm. For political controversy as the realm of free discussion is the place in which a person may become fully autonomous in the robust sense.

Political controversy can be a principle, like autonomy, which could guide decision making. Promoting political controversy, as a principle, is relevant not only to disputes about the toleration of extremist political movements but also to many other cases. Consider, for example, a case where a state is divided over the issue of abortion or environmental protection. A citizen convinced that an issue is wrong might nevertheless oppose legislation to ban the activity on the basis that such intolerance threatens the common commitment to the public realm which makes free politics possible. Matters for political judgment in the light of public debate can never expect or wait for agreement. But discussion leads to tolerance and some kind of compromise, which will itself become a topic of controversy.

Where political dilemmas such as the limits of toleration are concerned, we cannot expect to find an agreed

principle that will settle public problems once and for all. The problems will not be solved either, by skepticism or relativism, or deciding the prospects for agreement are futile, that may be true, but discussing the issues, increases tolerance and often achieves solutions cut off by cynical refusals to participate.

Political controversy is neither (1) futile, nor conclusive. It must be a platitude that political decisions are (2) contingent and always liable to be challenged, but the (3) process of public debate encourages toleration. The limits of toleration, must be decided again and again.

When the state intervenes in the affairs of the people beyond the political maintenance of internal and external order, the result is uniformity which stifles spontaneous variety of character, of opinion, of habits, and of customs.

It is through the maintenance of diversity that autonomy can flourish. The social solidifies without the political and tends to repress diversity and dissent. A unified opinion or practice, solidifies traditional proprieties and eliminates the possibility of achieving autonomy.

Disagreement invites endless dispute someone might charge. And no resolution can be reached. However, if one looks into actual disagreements that are carried to conclusions all participants of a genuine disagreement alter their views. Many disputes will not find resolution because

the facts of a case are in part created by the participants choice of words and way of framing the question. Without political controversy, and the process of endlessly establishing the facts, discussion ends where it begins; in the givens of the problem. Cliches and habitual patterns of thought substitute for fact. When facts are assumed to be static and independent of political discussion the more weight is attached to them than is deserved. The logic of tolerance requires renewed observation and a continuous political establishment of facts.

Resolution should most often come in the form of toleration; not necessarily in the terms of understanding. A goal might be understanding the debate as the opposition understands them even though one does not agree with, nor like, those terms. Agreement is not required for toleration. Toleration might anticipate, by experience in conversation, the way the situation is assumed to be by the "opposition". One can then respect and anticipate what the other will say and at some future time one or both parties may gain insight into the mutual recalcitrance of the problem. If no resolution is forthcoming then, both may have framed the question badly. The demonstrable difference should show up in practical situations, but if neither theory makes a practical difference then neither theory may be worth the trouble to argue over. But the argument should continue anyway, until interest turns to something else.

Conclusion

In order to begin to work toward a solution to the grave public problem of violence and in order to foster argument, we must not shy away from controversy. By encouraging controversy, and removing its stigma as improper, polemical, and unethical (manipulative) political controversy may flourish. Political controversy might change the perception of the value of writing and speaking on important issues. A change in public attitude toward political controversy would occur if a connection could be demonstrated between the discussion and the issue of contention. There are procedures for settling theoretical disputes which have practical implications and therefore the best we can do is not simply to agree to differ. The differences must be continually assaulted until the long chain of reasoning and prejudice has been entered and considered in the fray. The main thrust of this thesis has been an extended argument for a fostering of public argument about public problems in order to promote the growth of state toleration of diversity and dissent.

It turns out that the maintenance of the political arena, itself, reduces violence and promotes toleration (through intolerance of violence). Violence is not the same as disagreement and difference. Disagreement can be a challenging opportunity for growth in understanding, if not agreement, rather than an occasion for violence born of fear

and hate. The implication is that education in the techniques of argument have an important role to play in creating an environment for productive disagreement and toleration of diversity and dissent.

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