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| **The Morality of Toleration** |
| **Towards a Realist Account of Political Toleration** |
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# ABSTRACT

Western societies today are marked by a broad liberal consensus in favour of toleration. Yet, some philosophers have charged that toleration as a liberal ideal is incoherent. Some have argued that toleration is incompatible with liberal political orders. Others have suggested that in a truly liberal society it is practically redundant. These charges are based on two interrelated claims:

1) Toleration involves, semantically and historically, power asymmetries and hierarchical positioning; hence toleration is an inegalitarian practice in nature, and therefore unjust (inegalitarian charge).

2) In a constitutional liberal order, the state’s justice-based duty of non-interference is a morally more appropriate response to diversity than is toleration; hence toleration is a redundant practice (redundancy charge)

In order to reconcile toleration with liberal political practice, in this thesis, I investigate the validity of these claims. My contention is that toleration can resist the inegalitarian charge. This is the aim that I pursue in the first two chapters. I argue firstly that the supposition of a *right to interference* as a necessary component of the concept of toleration address the inegalitarian charge. I then articulate a two-level model of tolerant deliberation that does a better job than existing theories explaining the relation between reasons in favour and against interference with the disapproved-of.

I will finally argue that political toleration completes, rather than replicates, justice-based non-interferences. A defence of this “complementarity thesis,” requires two moves. First, I construct a formal theory of political toleration that goes beyond the state’s justice-based duty of non-interference. Second, I demonstrate how and under what conditions political toleration, as a distinct form of the state’s non-interference, can be enacted. Inspired by the revival of interest in political realism in recent years, I argue that the emergence of the “extraordinary politics” permits the state to exclude/suspend its justice-based interference. The latter is tantamount to what I refer to as acts of political toleration.

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# Introduction

Diversity is arguably the most salient feature of our socio-political life. It has been praised and endeared by almost all liberals. In fact, the fundamental principles of liberalism, such as freedom of conscience, freedom of movement, free market, and above all personal autonomy, have been the predominant moving force behind the growth of diversity to an unprecedented level in liberal constitutional orders. Notwithstanding its salutary status in the liberal tradition, diversity has come at a price: the increasing intensification of social disagreement and conflict. Global migration, the expansion of the international market and the global flux of goods and labour, the rapid advancement of the tele-communication technologies and the demise of unifying identity-narratives are perhaps the most influential socio-economic trends that have undermined social homogeneity. The demise of social homogeneity and the lack of a unifying social narrative, let’s say a religious one, have threatened communal integrity and political stability. Diversity certainly brings about complications in regards to convincing people to cooperate in dealing with various social issues. People have come to hold divergent views, tend to disagree and often struggle over the basic questions as to how the society should be run, which social and collective goals should be prioritized, who should govern and how we should govern.

Of course, this is something that, from the very first days of modern life, captured the mind of the forerunners of liberalism and the very founding fathers of liberal constitutional orders in the West. They witnessed the catastrophic repercussions of religious conflict and foresaw further social and political rifts that would cut across liberal societies. To prevent the wounds that may incur as a result of the ever increasing diversity, toleration was prescribed and promoted. Toleration since then has been understood to be the “substantive heart of liberalism”.[[1]](#footnote-1) Toleration, generally defined, takes place when one refrains from interfering with a practice deemed objectionable. It is thus a form of non-interference towards something that we find wrong, abhorrent, disgusting or distasteful. It is not very difficult to recognize why liberals have thought of toleration as a solution to the problems that may accompany diversity. In a setting where people’s outlook clash, there may be a tendency to suppress the disapproved-of. This would in turn give rise to violence and various forms of intolerance. The realization of the ideal of a liberal political order, where a fair system of cooperation between citizens with diverse views is in place, entails the elimination, or at least alleviation, of intolerance. History appears to be on the side of such a call. Toleration proved to be an effective way to deal with a political plague that once brought stability and order in Europe to the brink of extinction. In the wake of religious wars in Europe in 16th and 17th century, caused by the rise of reformation movements and the birth of new interpretations of Christianity that opposed the dominant Catholic establishments, religious toleration emerged in the language of modern political philosophers, and remained ever after as a venerable concept at the heart of political liberalism.

In so far as the agent of toleration, that is, who tolerates, is concerned, a distinction is worth mentioning: that between individual and political toleration. Individual toleration concerns the individuals’ non-interference with the disapproved-of. One tolerates the other when one refrains from interfering with another’s morally wrong or repugnant practices. Political toleration, however, concerns the state’s non-interference with citizens’ preferred ways of life. The state tolerates citizens when the state restrains its power to oppress a practice which is deemed immoral or deviant from the dominant norms and expectations of society. Political toleration arises when the object of judgement is a public claim that, whilst representing the interests and wants of an individual or collective agent, conflicts with the majority’s claims in a political community.

Despite repeated emphasis on the importance of toleration and its actual status as the pillar of the liberal edifice, it has remained a highly ambiguous or, to use David Heyd’s term, “elusive” concept.[[2]](#footnote-2) For one thing, there is a suspicion that the concept of toleration carries within itself a few paradoxes, contradictory components, or other kinds of puzzles.[[3]](#footnote-3) Since nothing can be tolerated if the very concept of toleration is incoherent, unless the confusion is settled, toleration appears to be an impossible virtue.[[4]](#footnote-4) Moreover, and more importantly for the liberal project, various scholars have argued that toleration is not consistent with one of the most fundamental principles of liberalism, namely, equality.[[5]](#footnote-5) The critics argue that toleration involves, semantically and historically, power asymmetries and hierarchical positioning; hence it is an inegalitarian practice in nature, and therefore unjust. I will call this the “inegalitarian charge” against toleration.

Conceptual incoherence and power relations, however, are not the only obstacles that an account of toleration needs to overcome. There is a concern that specifically problematizes *political* toleration. In recent years, there has been increasing attention to the question whether or not political toleration is possible at all.[[6]](#footnote-6) Some scholars have argued that the ideal of toleration, which was once applied in the early modern period to eliminate the religious rifts in Europe, cannot be carried over to our contemporary socio-political sphere. In the contemporary liberal orders, the critics argue, citizens’ entrenched constitutional rights and the general principle of neutrality restrain the limits of the state’s exercise of repressive power. Given the nature of toleration, the state’s justice-based non-interference appears to be a more appropriate response to diversity than is toleration in a constitutional liberal order. In other words, they claim, where the state’s interferences are regulated and limited according to the requirement of justice, reflected in citizens’ rights and the state’s neutrality, there is no place for toleration. Hence, toleration is a redundant practice. I will refer to this as the “redundancy charge” against political toleration. The redundancy charge will give rise to the following questions: is it possible to justify political toleration independent of the requirements of justice? Is state neutrality compatible with toleration as a political ideal? What is political toleration’s place in a liberal theory of justice?

Needless to say that liberalism comes in different shapes and sizes, and it is rather hard to bring all branches of liberalism under one general category. In fact, one should speak of *liberalisms* rather than liberalism. The criticism discussed here and throughout this thesis does not undermine all interpretations of liberalism, but one alone. That is, the most prevalent interpretation of liberalism in the last few decades, namely, the rights-based constitutional liberalism. As it will become clear in the final chapter, not only is toleration still relevant to some interpretations of liberalism, but it is essential to contemporary liberal political orders.

This thesis intends to defend political toleration against the aforementioned allegations. This requires providing an answer to the above questions as well as the general concern regarding the concept of toleration being incoherent. Since the latter aim is the principal motivational force behind this research project, a brief unpacking will be helpful to illuminate the importance of defending political toleration. What reasons, if any, one needs to embark on a theoretical endeavour to prove the critics wrong?

First of all, there is a good reason to indulge in a theoretical curiosity to assess the allegation brought against toleration. After all, toleration as a highly revered practice sits right at the core of liberalism and is believed to have played a major role in the unfolding of modern political history. Surely, the findings of a research into the nature of toleration would be of benefit to those who are interested in the history of liberalism in general, and the development of the liberal state in particular.

The mere theoretical curiosity may suffice to justify an attempt to assess the allegations, and possibly vindicate toleration. There is nonetheless a further reason to motivate the project. As is indicated by the redundancy charge, some believe that toleration is an obsolete practice which has no function in contemporary liberal orders. Yet, political toleration seems to have a life of its own in a liberal order; a life whose nature and significance have often been neglected by the critics. An attempt to defend toleration can be sufficiently motivated by an interest in highlighting the specific role played by toleration in our society. The aim is to show that the uncritical dismissal of toleration would deprive a liberal order of the benefits that it could otherwise enjoy from political toleration. For example, Joseph Raz has argued that toleration is a necessary condition for the realization of the most fundamental principle of liberalism, namely, autonomy (see Chapter 4).[[7]](#footnote-7) Others have emphasised the specific role toleration is yet to play, given the rise of the new forms of social antagonism in contemporary society. Anna Elisabetta Galeotti, for instance, believes that a revised account of toleration is the best fit for dealing with the identity-based forms of conflict (see Chapter 5).[[8]](#footnote-8)

Accordingly, my goal is twofold: first of all, to formulate a coherent conception of toleration that is fully consistent with the egalitarian spirit of our times; and then, to demonstrate that, contrary to the critics’ claim, political toleration is not an obsolete ideal that belongs to a bygone era. And all this because I believe that political toleration has a specific role to play in liberal constitutional order that is not identical with, and cannot be reduced to, the state’s justice-based non-interferences.

In Chapter 1, I will counter the argument that, as is evidenced by its application throughout history, toleration necessarily involves inequality. Contrary to its liberating promises, the critics accuse liberal toleration of being a disguise for, or at best accompanied by, power, domination, repression and exclusion. The gist of the critics’ objection is that toleration fails to live up to one of the most fundamental principles and aspirations of liberal democracy, namely, equal concern and respect for all citizens. Unless this concern is fully addressed toleration cannot be claimed to be consistent with the liberal vision of a just political order. In order to refute the claim that toleration is inconsistent with liberal equality, I will begin by laying out the conceptual components of toleration modelled at individual level, and then proceed to identify the source of the critics' concerns about inequality and power asymmetry within the conceptual scheme of this notion.

I will concede the general validity of the criticism levelled against toleration, but nonetheless argue that such criticism will not compel us to totally discard toleration. I will argue that there is a conception of toleration which can resist the criticism motivated by the value of equality. This requires a critical investigation into an agent’s objection against the disapproved-of. For the question of toleration to arise at all, the agent must hold a negative judgement against a practice. The objection against a practice is assumed to constitute a power relation that allows the agent to consider the suppression of the disapproved-of. In this very power asymmetry the tolerator nonetheless forbears from interfering, despite being in a position to exercise power. However, not all negative judgements can be qualified. I will demonstrate that the inegalitarian charge gets off the ground only when there is no appropriate criterion to filter out the kind of objections that give rise to the unjustified power asymmetry between the tolerator and the tolerated. In order to formulate an account of the objection component which is consistent with equality, I will firstly consider “the exclusivists” who are inclined to narrowly define the scope of the agent’s negative judgements so as to cover only moral disapprovals, at the expense of the exclusion of all non-moral judgements. I will then argue that such a position is unobtainable, and subsequently propose an alternative account of the objection component, appealing to the notion of a *right to interference*. Such a move will enable me to articulate a conception of toleration which is immune to the inegalitarian charge.

However, the hypothesis of a right to interference, as a necessary condition for the question of toleration to emerge, generates a serious problem. The agent’s right to interference is established after considering opposing reasons as to whether or not the agent’s interference is justified. That is to say, a right to interference can only be established when the agent has good reasons to interfere with the disapproved-of. Toleration however requires the agent not to interfere with the disapproved-of. It thus appears to demand the agents to be irrational, namely, not to do something (interference) which they have reasons to do. In Chapter 2, I will take issue with this problem that I will refer to as the “irrationality paradox.” The paradox finds a moral flavour when the agent’s reasons for interference are of a moral kind. When the agent has reasons to interfere with what is morally disapproved of, the non-interference that is motivated by toleration appears to contradict what the agent has a moral duty to do, namely, interfering with the immoral practice. How can toleration demand agents to do one thing when they have reasons to do the contrary? Finding an answer to the above questions and defending toleration against the charge of irrationality requires a critical analysis of the reasoning behind this practice. Unless there is a framework of reasoning within which non-interference can be established without the appearance of irrationality, toleration cannot be said to be a coherent concept.

Various attempts are made to explain away the irrationality paradox. All these attempts, I will argue, fall under two general strategies: the strength-based strategy and the denial strategy. From the perspective of the strength-based strategy, the paradox appears when the conflict between opposing reasons, namely, interference and non-interference, which pull the agent in opposite directions, is not properly settled. We can understand as rational what might otherwise have seemed an irrational act by assigning the reasons their due strengths. Once a hierarchy of reasons is established, and each reason finds its appropriate place in the vertical order of reasons, it will not be difficult to fix the conflict of reasons by considering the place of the higher-order reasons in favour of non-interference. We will thus no longer face a situation in which the agent is required to do something that she is also required not to do; since the reasons for non-interference outweigh the reason for interference. In tolerating, the agent is undertaking what she is required to do on the balance of reasons presented to her, namely, not interfering.

The advocates of the denial strategy turn their attention exclusively to the agent’s reasons for interference. The ultimate goal is to deny the agent’s objection any normative force in favour of interference. If the agents’ objections against a practice do not generate any reasons for interference, as is claimed by denial strategists, there will no longer be a conflict between two opposing reasons.

After delineating the general outline of these strategies, I will proceed to evaluate their success, and in doing so, I will focus in particular on Rainer Forst’s[[9]](#footnote-9) and Jeremy Waldron’s[[10]](#footnote-10) suggestions, which I take to be the best representatives of the strength-based and denial strategies, respectively. In order to overcome the shortcomings of these strategies, I will ultimately propose an alternative framework of reasoning for toleration, by appealing to Joseph Raz’s account of “exclusionary reasons.”[[11]](#footnote-11)

In the first two chapters, I will develop a conceptual scheme for toleration which is modelled at individual level. This coherent scheme will keep the egalitarian charge at bay; it nevertheless would not offer a solution to the problem which is, as I mentioned earlier, specific to political toleration: the redundancy charge. The major dispute is over whether the liberal state can be said to stand in a tolerating relation to its citizens. Many scholars have expressed their critical concerns regarding carrying over a conceptual scheme of toleration modelled on the individual level to a relation in which the liberal state is the agent of toleration. In the remainder of this thesis (chapters 3, 4, 5 and 6), in order to make sense of political toleration, I will take issue with this problem. I will fulfil the task in three moves. First, in Chapter 3, I will explicate the details of the claim that political toleration is a redundant practice in liberal constitutional orders. The redundancy charge is based on a premise that in liberal political orders the requirements of justice, for instance respect for citizens’ entrenched rights and the principle of neutrality, sufficiently determine the legitimate limits of state interference. Hence, in the presence of the rules of justice, the state’s justice-based non-interferences appear to be a more morally appropriate way of dealing with diversity. It is therefore concluded that toleration is at best a morally redundant practice.

Second, I will move on to consider three responses to the redundancy charge. In the final section of Chapter 3, I will entertain the thought that political toleration should be defended because of its descriptive function. In Chapter 4, I will examine Joseph Raz’s claim that toleration is necessary for the realization of autonomy (autonomy-based account of toleration).[[12]](#footnote-12) In Chapter 5, I will turn to Galeotti’s revision of toleration by appealing to the notion of recognition (recognition-based account of toleration).[[13]](#footnote-13) My primary intention is to show that these three attempts, although justified in motivation, fail to assign political toleration an independent operating zone beyond the scope of the justice-based duty of non-interference.

I will finally, in Chapter 6, reconcile political toleration with the liberal state. I admit that the state’s justice-based non-interferences are the most common form of restraint that the state applies in its dealing with citizens. I nonetheless contend that from these assertions the redundancy of political toleration does not logically follow. My intention will be to identify a space in which political toleration can operate alongside justice-based non-interference, without being conflated with or excluding the latter. I will argue that toleration completes, rather than excludes, justice-based duties of non-interference. I will call this the “complementarity thesis.” In order to articulate a theoretical model for political toleration, I will first apply the two-level model of reasoning, developed in Chapter 2 by appealing to Joseph Raz’s account of exclusionary reasons, to the relation between the state and citizens. Once I have a model of reasoning at my disposal which can formally explain the relation between the state’s reasons for and against interference, I will proceed to demonstrate how, and under what conditions, the state is permitted to exclude/suspend the reasons generated by the requirements of justice. In doing so, I will appeal to a realist understanding of politics.[[14]](#footnote-14) Inspired by the revival of interest in realism in recent years, I will argue that there are two forms of state non-interference: the justice-based non-interference and political toleration. The latter belongs to that of “extraordinary politics,” when the dominant rules of justice are challenged and a political order undergoes a period of uncertainty regarding the morality of interference in a particular context. The realist account of political toleration will enable us to make sense of a sphere of politics where the state’s non-interference cannot be explained and justified with an appeal to the rules of justice. This is where political toleration as a complementary practice to the state’s justice-based non-interference will emerge.

# Chapter1: Toleration, Power and Equality

## Introduction

For free and equal citizens to live peacefully together under “fair terms of cooperation,” liberals argue, they must find some way to cope with the practices of others, however disagreeable these may be. Since the “fact of pluralism,” reflected in conflict and opposition between citizens is an inevitable and permanent feature of liberal democracies, any application of the use of force to alleviate or eradicate pluralism is doomed to fail. Toleration is thus believed to be the virtue of a society “marked by diversity of opposing and irreconcilable religious, philosophical and moral doctrines.”[[15]](#footnote-15) The history of modern politics, reflected in the emergence of constitutional liberal democracies, is in congruence with the above assertion. It is a testament to the significant role played by toleration in putting an end to the bloody years of religious rifts and antagonism that tormented European society in the early modern period.[[16]](#footnote-16)

The relation between democratic equality and toleration however is not as friendly as it may appear to liberals. Upon a closer examination, one realizes that there is also a “dark and pessimistic” story about toleration to be told.[[17]](#footnote-17) While for most liberals toleration appears to open up the horizon for a peaceful and cooperative ethos of social life, for others, mostly but not exclusively on the left side of the political spectrum, the story of toleration is not as optimistic and glorious as is depicted by its advocates. Contrary to its liberating promises, Herbert Marcuse contests, “what is proclaimed and practiced as tolerance today, is in many of its most effective manifestations serving the cause of oppression.”[[18]](#footnote-18) Wendy Brown similarly accuses liberal toleration of being a disguise for, or at best accompanied by, power, domination, repression and exclusion.[[19]](#footnote-19) The gist of the critics’ objection, which I refer to as the “inegalitarian charge”, is that toleration fails to live up to a fundamental principle and aspiration of liberal democracy, namely, equal concern and respect for all citizens.[[20]](#footnote-20)

In this chapter, I investigate the ambivalent relation between toleration and democratic equality so as to determine whether they are friends or foes. I concede the critical points raised by opponents of toleration, but nonetheless argue that such criticism will not compel us to totally discard toleration as valuable. A distinction between the *concept* and *conceptions* of toleration should be made. There are *conceptions* of toleration which are susceptible to the charge of incompatibility between toleration and equality. I, nonetheless, contest that the categorical condemnation of the *concept* of toleration is not justified on the grounds that there are conceptions of toleration which do not fall prey to the “inegalitarian charge.” It should be emphasised that this chapter does not intend to provide a full-fledged account of political toleration. That is, it is not my intention to show how toleration is played out in the relation between the state and citizens in a liberal constitutional order; this is the aim that I will pursue in the last three chapters, specifically in Chapter 6. My primary intention here is to show that there is a conception of toleration operating at the interpersonal level, which is not only consistent with the value of equality, but is required by it.

In Section 2, I will lay out the general features of the concept of toleration. In Section 3, I will present the criticism levelled against toleration from the egalitarian point of view. In Section 4, I will firstly argue that the “repressive” and inegalitarian conceptions of toleration only gain validity in absence of a critical assessment of the agent’s negative judgements against the disapproved-of. I will then, in Section 5, proceed to critically assess a divide in the literature as to how morally delimit the reasons for objection. In Section 6, by appealing to the notion of a *right to interference*, I will articulate a conception of toleration which is immune to the inegalitarian charge, raised by the opponents of toleration. Before concluding the chapter, I will consider a rejoinder to my position,.

## What Toleration Is

Before getting started with the evaluative concerns about toleration, I should first say what toleration is, and how it differs from other concepts and practices which bear resemblances to it. In other words, prior to launching an evaluative campaign either against or in favour of toleration we need to ensure that the kind of practices we refer to as instantiations of toleration do in fact fit into the conceptual scheme of toleration. Once we determine the necessary components of the concept of toleration we can proceed to identify what makes a conception of toleration a permissible one, as opposed to those conceptions of toleration which suffer from a moral deficit.

Toleration, generally defined, occurs when one refrains from interfering with a practice[[21]](#footnote-21) deemed objectionable. It is a form of non-interference towards something that we find wrong, abhorrent, disgusting or distasteful. Toleration is a particular species of the genus non-interference. What toleration has in common with the other species of non-interference is the agent’s act of non-interference with others’ belief and actions. One tolerates others in so far as one refrains from interfering with others’ belief or actions. The agent’s restraint from getting negatively involved with others’ doings nevertheless is not enough for the act of toleration to arise. Toleration therefore is not “a strict general principle of non-interference”, and not all acts of non-interference could be qualified as an act of toleration.[[22]](#footnote-22) Some conceptual qualifications need to be made. These qualifications are meant to distinguish toleration from other species of the genus non-interference.

I walk every day to the library in the morning, and while being immersed in my thought I pass by other pedestrians and riders and cross junctions, without interfering with others’ riding or driving or walking, and of course without being interfered with by others. Does the mutual act of non-interference between me and others on my way to library, in the normal situation, count as toleration? Most of us would presumably have the intuition that it is not. I do not tolerate other pedestrians because I am plainly indifferent towards them; and so they are towards me. We are all directed at what we are doing and we have no interest in interrupting each other. In fact, since we all know we are better off not colliding with or obstructing each other we avoid any annoying or interrupting proximity. The non-interference here is the occasion of indifference or apathy which is another species of non-interference. The question of toleration therefore does not arise when the agent lacks any objection against others or her interests are not by any means threatened by others’ beliefs and actions. Toleration is not the virtue of people who do not believe in anything with respect to a particular act of non-interference. The concept of toleration, first of all, entails an objection to or a disagreement with something (I will refer to this as the objection component).[[23]](#footnote-23) The ‘objection component’ renders toleration distinct from another disposition and attitude, widely mistaken for toleration: indifference.[[24]](#footnote-24) The latter distinction is crucial as there is an increasing tendency in popular culture and everyday usage of the word to associate toleration with non-judgmentalism and the suspension of moral judgement.[[25]](#footnote-25) Nor should toleration be confused with an agent’s positive and affirmative attitudes towards other’s beliefs and practices.[[26]](#footnote-26)

My daily walks to the library however are not as pleasant as I would like them to be. I have to cross many roads and junctions, and I should be really mindful of the passing cars and other motorists. That’s really annoying and I don’t like the fact that crossing the road breaks my train of thought, and that I have to wait for the traffic lights. Despite my dislike for cars and my annoyance with junctions, I do not interfere with the traffic and let the cars flow unobstructed. I am not indifferent and apathetic towards what is happening and my non-interference with motorists nonetheless could not be qualified as toleration either. I lack the power and ability to interfere with the motorists. Non-interference which is caused by lack of power or ability to interfere with the disapproved-of is not toleration. It falls somewhere between acquiescence and “pragmatic compromise.”[[27]](#footnote-27) I am obligated by law not to interfere. Moreover, regardless of my tendency for being a law-abiding citizen, interference with traffic is beyond what I can do. Interference with the car traffic obviously entails the substantial risk of death. For the agent to tolerate something the agent needs to have the power and ability to interfere with the disapproved-of. The latter qualification is of significant importance for finding an answer to the inegalitarian charge and I will come back to it in Section 4. The portrayal of toleration as the species of non-interference now allows me to put forward a general definition of toleration. Toleration is the suspension of the exercise of power to interfere with the disapproved-of in regards to differences [in belief with respect to some particular action] between the contrasting parties, where the act does not qualify as a generic form of non-interference such as apathy. For an act, therefore, to be an instantiation of toleration someone should take offence at something, which she is in a position to suppress, but nonetheless chooses to refrain from using her power to suppress. Toleration, in other words, is putting up with deviant practices when one could otherwise supress them.

## Toleration and Equality

Despite the repeated emphasis on its significance for the liberal project, much to liberals’ surprise, toleration has come under attack as an egalitarian ideal. In the words of one critic, Herbert Marcuse, it has been described as “repressive” practice that only serves the interest of the privileged and powerful in the preservation of power asymmetries and inequalities.[[28]](#footnote-28) In words of another, Wendy Brown, it is an act of power in disguise of magnanimity which “offers a robe of modest superiority in exchange for yielding.”[[29]](#footnote-29) Similarly, Jacques Derrida writes that “tolerance is always on the side of the ‘reason of the strongest,’ where ‘might is right’; it is a supplementary mark of sovereignty, the good face of sovereignty, which says to other from its elevated position, I am letting you be, you are not insufferable, I am leaving you a place in my home, but do not forget that this is my home.” [[30]](#footnote-30) The existence of power relations between the tolerator and the tolerated has not exclusively bothered the contemporaries alone. The roots of this criticism go back to the early days of the emergence of toleration. The emergence of this practice as a solution to religious dissent did not occur without criticism and, in fact, troubled a various range of philosophers and humanists throughout modern history.[[31]](#footnote-31) Since it is the peculiar and “complex involvement of tolerance with power”[[32]](#footnote-32) that has rendered the critics rather uncomfortable with this notion, hence a further unpacking of the relation between power and toleration seems necessary. Brown identifies the different mechanisms inscribed in the notion and discourse of toleration that veil, reproduce, and stabilize inequality and domination. By appealing to the semantics of toleration, Brown argues that different definitions of toleration offered by the Oxford English Dictionary encompass three interrelated meanings of enduring, licensing and indulging.[[33]](#footnote-33) In tolerating one opts for enduring what one could otherwise suppress. By manifesting an act of indulgence, one licenses the performance of an action that one would otherwise not endure. Toleration, therefore, by definition assumes a power asymmetry; for the question of toleration to arise one should be in a position to exercise the imposition of power in the form of interference and suppression. Hierarchical power relations indeed seem inevitable when one is granting someone a permission to perform an action when one assumes a right to revoke such permission. As it is claimed by Brown “it is this positioning, power and authority that makes possible […] a posture of indulgence towards what permits or licenses.” [[34]](#footnote-34) Practices of toleration accordingly create two different positions of the tolerator and the tolerated, where the former assumes the higher rank in the hierarchy of power. To be tolerated means to accept one’s underprivileged and weak status in relation to the tolerator.

Moreover, not only does toleration conceptually and practically require power asymmetry to take place, but its execution does not change the status quo. It aims to sustain the power relations in the status quo, when the exercise of power appears to be too costly. Toleration in “managing the presence of the undesirable, the tasteless, the faulty—even the revolting, repugnant, or vile” does not “offer resolution or transcendence but only a strategy of coping.”[[35]](#footnote-35) The main rationale behind toleration appears to be the pragmatic one. It is regarded as the least costly of all possible alternatives. The justification of the pragmatic rationale is grounded in the advancement of a conflict between parties, with the prospect of the total collapse of the context in which all parties involved in the conflict maintain their existence. It comes about as a result of the incapacity of the dominating party to wholly exterminate the dominated dissents, and of the dominated party to topple the current authority.

The genealogy of the concept and practices of toleration is fully in line with what the semantics of toleration suggests. Toleration in its conception in early modern period was descended from religion and royal grace. In its original appearance, it is exclusively grounded in *caritas*. The fundamental motive that compelled the merciful rulers and the humanist Christians to tolerate the difference was charity or grace. Toleration, whether shown to Christian sects or to non-Christian religious minorities in a Christian polity, was primarily understood in terms of indulgence. This indulgence was modelled on the religious ideal of *imitatio Christi*, which was the adoption of Jesus’ charitable attitude. Toleration is in its origin is based on unilateral benevolence or *privilegium*.[[36]](#footnote-36)

The foregoing analysis demonstrates that the relation between equality and toleration is much more ambivalent than what is usually assumed by liberals. In recent decades, equality has arguably become the fundamental principle and aspiration of liberal democracies. Each and every individual, we believe, is entitled to be treated with “equal concern and respect.”[[37]](#footnote-37) Hence, we talk of the “equal worth” and “equal dignity” of all citizens. In these contexts, where equality is regarded as positive and morally dignifying attribute, toleration which is intertwined with power asymmetries does not seem to be the best response to disagreement and diversity. The ambivalent nature of toleration has increasingly become salient due to what Wellman refers to as the “proliferation of rights.”[[38]](#footnote-38) The latter term simply describes an expansion in the list of rights that individuals are entitled to. It is commonly thought that rights entail duties of non-interference with others. That is to say, non-interference with one’s liberty to implement one’s right is the least that is indicated by one’s having a right.[[39]](#footnote-39) Since more than ever individuals, regardless of their position in the hierarchy of power, are perceived as right holders, the correlative duty of non-interference is imposed on others. Once non-interference is justified and required by rights there is no need for calling on toleration. Toleration seems to be an obsolete practice, belonging to a bygone era. When the power asymmetry is no longer desired there is no reason to appeal to toleration. What is instead required is a concept and practice to govern equal relations between the parties. Rights, respect, recognition and reciprocity are the ruling ideals of equally balanced power relations. Toleration therefore seems to be a red herring that distracts attention from questions of inequality, exploitation and justice.[[40]](#footnote-40) To conclude, in so far as toleration’s role in the constitution and maintenance of a liberal democratic order is concerned, it appears to have a much more ambivalent function than what is usually assumed by liberals. The inegalitarian charge can be summarized as follows. Since Toleration is not a “power-free” practice, it fails to live up to the moral demands of equality; hence, it is not “an appropriate ethics or element of a democratic politics.”[[41]](#footnote-41)

## The Inegalitarian Charge and the Objection Component

There could be two responses to the inegalitarian charge. One response would be to totally dismiss toleration and replace it with some other theories such as rights, respect and recognition.[[42]](#footnote-42) The more ambitious response would be to vindicate toleration. I shall advocate the latter.[[43]](#footnote-43) To use Rainer Forst’s distinction between the concept and conceptions of toleration,[[44]](#footnote-44) I concede that there are *conceptions* of toleration which are susceptible to the charge of incompatibility between toleration and democratic equality. I contest, nevertheless, that such a refusal does not necessitate the categorical condemnation of the *concept* of toleration. Conceptions of toleration are those interpretations that share the core meaning of toleration, but at the same time go beyond it. That is to say, all the different usages of “toleration” must have a semantic relation to the core meaning of toleration, to the concept of toleration. In other words, different interpretations of the concept of toleration elaborate variably the core meaning of toleration.[[45]](#footnote-45) My aim is to defend a conception of toleration which does not fall prey to the inegalitarian charge.

In order to tackle the inegalitarian charge, I will proceed to identify what renders toleration to appear as inegalitarian. The agent’s objection against a practice is assumed to constitute a power relation that allows the tolerator to exercise her power. As D.D. Raphael notes “one can meaningfully speak of tolerating a practice or belief only if one is in a position to disallow.”[[46]](#footnote-46) Being in a position to disallow has traditionally been interpreted as having the power to forbid or prevent, but it could also mean that one must have moral power, that is, a moral permission for interference, if one is to claim any credit for not exercising it. It is this very power asymmetry that allows the agent to consider the suppression of the disapproved-of. The latter qualification is of significant importance for addressing the inegalitarian charge. The power asymmetry indicates a moral standing from which the exercise of power appears to be permissible. Since the agent’s reasons for objection are assumed to generate a moral permission for suppression, the question of having a moral standing to interfere with the object of toleration is closely related to the negative judgements one holds against that object. Not all negative judgements could endow the agent with a moral standing from which the exercise of power, in the form of interference, is deemed morally justified. Whether or not the power asymmetry between parties is morally problematic depends, to a large extent, on the agent’s negative judgements which establish reasons for interference with tolerated’s doings. The latter demonstrates that in addition to the agent’s negative judgements there must be a specific moral delineation of such judgements so that the objection-condition is realised. In other words, the objection component cannot be so generally construed to include all sorts of negative judgements. It must also be determined on some basis where the agent’s negative judgements are justified or legitimate. [[47]](#footnote-47) Toleration as a compatible ideal with equality can be defended only when the agent has proved to have a morally justified reason for interference with the disapproved-of. This requires a critical determination of what can stand as a justified objection that allows the exercise of power.

The conclusion reached above indicates that prior to anything we must get things clear with the objection component. There is a question whose treatment will occupy the remainder of this chapter. In so far as the moral permission for interference is concerned, what exactly constitutes a morally justified reason for objection? How should we draw the line between morally justified and morally unjustified reasons for objection?

One way forward to answering this question is to draw a distinction between the moral and non-moral disapprovals and hold only the former as the justified kind of objection. Let’s call this the “exclusivist position”. According to the exclusivists, there are varieties of attitudes such as dislike, distaste, disagreement, disgust, aversion, disapproval and repulsion that count as negative judgements. Not all however could be sufficient to constitute a moral privilege in favour of interference. Within the exclusivist framework the realm of the objection component is tightened so as to include only what is the subject of a moral disapproval, that is, those actions and beliefs that we consider as moral wrongs. E. M Forster’s appeal to toleration for overcoming the difficulties of what nowadays is known as multiculturalism would illuminate the exclusivists’ concern regarding the inclusion of non-moral judgements. Forster writes:

The world is very full of people- appallingly full; it has never been so full before, and we all tumbling over each other. Most of these people one doesn't know and them one doesn't like; doesn't like the color of their skins, say, or the shapes of their noses, or the way they blow them or don't blow them, or the way they talk, or their smell, or their clothes, or their fondness for jazz, or their dislike of jazz, and so on. Well, what is one to do? There are two solutions. One of them is the Nazi solution, if you don't like people, kill them, banish them, segregate them, and strut up and down proclaiming you are the salt of the earth. The other way is much less thrilling, but it is on the whole the way of democracies, and I prefer it. If you don't like people, put up with them as well as you can. Don't try and love them: you can't, you'll only strain yourself. But try to tolerate them. On the basis of that tolerance, a civilized future may be built.[[48]](#footnote-48)

For Forester toleration is a solution to the diversity of life and the conflicts it brings about among the individuals’ taste, preferences, likings and dislikes. However, the grudging withstanding of the burden of the other whose colour of skin or smell one dislikes or finds disgusting, is rather hard to conceive as an act of toleration. There is certainly something perturbing about the characterisation of reluctantly putting up with the disliked other as toleration. The fact that I do not like the colour red in no ways gives me a right to demand my friends change their red outfit. Such demands would be tantamount to demanding authority for my judgements of taste. Demanding authority for one’s judgements of taste is an assertion of inequality. The failure to recognize this will give rise to what is known as the paradox of the “tolerant racist.” [[49]](#footnote-49) According to this paradox someone with extreme antipathies would be described as tolerant provided she showed restraint in her actions against the object of prejudices and dislikes. The more such prejudices she had, the greater would be her scope of toleration. Of course, the latter description would sound paradoxical; but there is more to it. It gives rise to a puzzle which is not strictly speaking a paradox, but it is nonetheless a problem. How could one be praised for non-interfering with a practice, as is indicated by the value of toleration, when one does not have a moral permission to interfere with the respective practice in the first place? To call on a racist to be tolerant is a moral mistake; what is required is instead that one should repudiate this prejudice and attempt to convince the racist of its groundlessness. This somehow resonates with Thomas Paine’s worry: “tolerance is not opposite of intolerance, but it is the counterfeit, both are despotism.”[[50]](#footnote-50) That is to say, intolerance presumes one’s right to tell the object of intolerance not to behave in a certain way, and tolerance presumes one’s right to allow the object of tolerance to behave in that way, when the truth is that it is none of one’s business in the first place to say how others should behave.

The paradox of the tolerant racist demonstrates that the exclusivists are right to claim that the acts of non-interference which are not grounded in moral judgements –but stem from one's taste, likes and dislikes, or the preferences that one holds dear –should not be recognized as acts of toleration.  [1](#_ENREF_19)9  The scope of toleration should thus be limited to the act of restraint where one forebears from interference with a practice which one morally disapproves of. We need to ensure that the objection is conceptualized not by a personal consideration of taste and preference, but by the principles that morally ground the objections. That is to say, the scope of toleration should be confined to the realm of moral wrongs.[[51]](#footnote-51) Thus, acts of non-interference which are not grounded in moral judgements, but stem from one's taste, likes and dislikes, or the preferences that one holds dear, cannot be recognized as acts of toleration.  [1](#_ENREF_19)9 19 The question which however remains to be addressed is whether the exclusivist defence of moral judgements can resist the problem of the tolerant racist. Do moral judgements ultimately fare much better in articulating an account of the objection component which would be immune to the inegalitarian charge?

As promising as the exclusivist position may sound, I claim that the acceptance of such a position runs into a deep problem. The inegalitarian charge can only be overcome if the exclusivists succeed to prove that the agent’s negative moral judgements against a practice are sufficient to justify a moral permission for interference. That is, the agent’s having a negative moral judgement against a practice is sufficient to put her in a superior position from which the interference is viewed as morally justified. I however claim that negative moral judgements are not sufficient to endow the agent with such moral standing. My reasons are twofold. First of all, it may be the case that negative moral judgements, unlike non-moral judgements, allow agents to demand compliance with morality from others. This, nonetheless, can only be the case when there is an agreement in place between the parties who demand and perform compliance with regards to the moral prohibition/wrongness of a practice. In contemporary society, however, the “fact of pluralism” prevails and every moral judgement is grounded in a “comprehensive doctrine” which itself is not accepted by all the parties involved in a disagreement. Amidst disagreement and conflict each partyaccuses the opponent of being parochial in moral judgements. From the perspective of the conflicting parties it is very difficult, if not impossible, to reach a common ground where they can agree upon some substantive moral position. This means that one’s objection could not be morally justified without appealing to some substantive moral principles. Yet, any particular moral principle to which one might appeal is likely to be contested in a pluralistic society. For one is perforce defending the justifiability of reasons for objection by appealing to what is inevitably just one moral view among the many that are represented in diverse societies. Surely others who adhere to rival moral outlooks may oppose the proposed justificatory force of the objections. The angry Muslims who were protesting against the publication of Salman Rushdi’s Satanic Verses or the Danish cartoons believed that they had sufficient moral reasons to oppose the circulation of what they believed to be defamatory and offensive. And of course, on the other side, the proponent of the freedom of speech would argue that what protesting Muslims were demanding was the blatant violation of fundamental rights and liberties, believing those objections as morally ungrounded. In the absence of a common moral ground, unless it is arbitrarily assumed that one’s moral view should occupy a privileged position, it cannot be said that one’s having negative moral judgements against a practice is tantamount to one’s having a moral permission for interference.

Second, it is highly contested as to whether or not a negative moral judgement actually generates a moral permission for interference. Some philosophers have argued that from the judgement that X is morally wrong a moral permission for interference with X would not follow.[[52]](#footnote-52) Recall that at the core of the inegalitarian charge lays the critic’s questioning of the permissibility of interference with the disapproved-of. If it cannot be shown that a negative moral judgement against a practice is sufficient to generate a moral permission for interference with the respective practice, such appeal will not help the exclusivists to address this allegation.

The difficulty that the exclusivists face cuts even deeper than what I have just demonstrated. If we, for the sake of argument, accept that there is a common moral ground and that there can be a moral judgement that justifies interference, such acceptance somehow renders toleration impossible. [[53]](#footnote-53) It would be impossible to tolerate a practice which is morally wrong, and wrong in a sense which allows interference. How could it be morally good to refrain from interference with what is morally wrong? The best course of action appears to be interference, not toleration. The “moral paradox of toleration” thus arises. It is a paradox because toleration indicates that it is morally good not to interfere with a practice that is deemed immoral.[[54]](#footnote-54) The agent therefore seems to be required to perform two contradictory acts, namely, interference and non-interference with the disapproved-of.

The existence of a moral judgement thus cannot be said to be sufficient for the question of toleration to arise on the grounds that it neither justify interference nor necessitate it. Not only is the existence of moral judgements not a sufficient condition, it is also not a necessary condition. I will offer the following example to strengthen this point. I have invited my friend, *A,* to my house for dinner. *A* is, unfortunately, a smoker and I have some negative judgements, both moral and non-moral, against smoking. The fact that I am disgusted by the smell of cigarettes (a non-moral judgement) gives me a moral ground to interfere with my friend, *A*, when he attempts to light on a cigarette in my house. Upon my interference, based on my dislike for smoking, no one could blame me for performing a morally unjustified action. The justifiability of my interference based on my non-moral judgements, proves that the moral objection is not necessary. I also happen to have another friend, *B*, who is not particularly bothered by the smell of tobacco. *B* nevertheless holds strong moral disapproval against smoking and the tobacco industry. Suppose we are all together in my house, although my interference with smoking, based on my non-moral judgement, is justified, *B*’s strong moral objection to smoking does not justify *B*’s interference. And of course, neither my dislike nor *B*’s moral disapproval permits interference with *A*’s smoking habit whilst we are in a park for a picnic.

However useful the divide may be for some purposes, the formulation of the morality of reasons for objection in terms of such a divide evades the problem which haunts toleration, namely, the spectre of the inegalitarian charge. The smoking example proves the arbitrary and misleading nature of the distinction between moral/non-moral judgements. We therefore need to nip the binary in the bud before it brings us many unnecessary theoretical complications.[[55]](#footnote-55) The exclusionists are right to draw our attention to the necessity for the moral justification of the reasons for objecting; yet, I contest that they nevertheless fail to offer us a viable solution. When it comes to the moral limitation of the objections, an appeal to the misleading scheme of moral and non-moral judgements will not effectively fulfil the task.

## A Right to Interference

The failure of the exclusivist position highlights a dilemma. On one horn, where the agent’s objections do not justify interference with the disapproved-of, toleration appears, as I demonstrated in Section 3, to be at odds with equality. The problem is best reflected in the paradox of the tolerant racist. On the other horn of the dilemma, where it is assumed that moral judgements justify inference, the moral paradox of toleration will appear. To defend toleration against inegalitarian charge one somehow needs to overcome this dilemma. As obstructive as these paradoxes appear to attempts at responding to the inegalitarian charge, upon a further scrutiny of their nature, a beam of hope may rise over the horizon. What is problematized by the paradox of the tolerant racist is the lack of a moral permission for interference with the disapproved-of. When the agent lacks permission to interfere with a practice, let’s assume due to others’ trumping right to liberty, non-interference is merely what the agent is required to do as a corresponding duty to others’ rights. Surely if the agent is under obligation not to interfere with a practice, let’s say homosexuality, she cannot at the same time have a moral permission to interfere with the respective practice. The paradox of the tolerant racist thus highlights the fact that the agent cannot tolerate something that she is under an obligation not to interfere with.

On the other hand, the moral paradox arises on the ground that the agent’s moral objection against the disapproved-of is assumed to put the agent under an obligation to interfere with the disapproved-of. When the agent is under an obligation to interfere with the disapproved-of practice, say a racist comment or harmful action, the agent’s act of forbearance cannot be counted as virtuous. This is so for the agent’s non-interference indicates the agent’s failure to fulfil her moral duty to stand against the wrongful acts. The moral paradox of toleration thus highlights the fact that the agent cannot tolerate something that she is under an obligation to interfere with.

In order to avoid the oscillation between these paradoxes a normative space needs to be carved out between the two. Toleration can only be performed in a normative space in which the agent is neither under an obligation *not* to interfere nor an obligation to interfere with the disapproved-of. A normative space in which the agent’s objection to a practice (i) does not conflict with a moral obligation not to interfere with the disapproved-of, and (ii) does not generate a moral obligation to interfere with the disapproved-of. That is, toleration can only be performed when the agent is morally permitted to interfere and yet is not obligated to do so.

This can be best explained by the notion of a liberty right introduced by Hohfeldian analysis of rights.[[56]](#footnote-56) The notion of a liberty right, which is also called “privilege” or licence,” implies the absence of a duty. The agent has a privilege to do X if the agent has no duty not do X. Thus, privilege-rights mark out what their bearer has no duty not to do. It also indicates that the agent has no duty to do X.[[57]](#footnote-57) That is, rights endow the right-holder with a discretion concerning (not) performing certain actions. Let’s substitute X with interference. To say that the agent has a right to interference with the disapproved-of is to say that the agent (i) has no duty not to interfere, and (ii) has no duty to interfere. This fully coincides with the conditions I set out above in regards to the normative space needed for the agent’s reasons for objection. Instead of considering whether agent’s objections are moral or non-moral, we should consider whether or not the agent’s objections constitute, or are accompanied with, a right to interference. Hence, the moral justification of the objection component should be framed in terms of *a right to interference*.

The smoking example that I proposed to illuminate the futility of the moral/non-moral divide will clarify my point with regards to a right to interference. My objection to *A*’s habit of smoking does not always locate me in a position in which tolerating is a permissible action. When *A* happens to be in my home or in my office, my objection to *A*’s smoking puts me in a position of power in which I am able to ask him to either stop smoking or go outside. In other words, my objection against smoking gives me a moral standing to interfere with *A*’s smoking. The moral permission to interfere with *A*’s smoking does not conflict with any obligation I may have not to interfere with *A*; nor does it bring about any moral obligation for me to interfere with *A*’s smoking. In my house, my ownership right permits me to determine what others are not allowed to do. When my disapproval of smoking is accompanied with the ownership of the venue in which smoking takes place, it gives me a right to interfere with my friend’s smoking habit. However, when I and *A* go for a walk or I am in his place my objection does not establish a right to interfere with *A*’s smoking. My objection in these occasions conflict with the obligation I have not to interfere with *A*’s doings via *A*’s right to liberty to do whatever he wishes in his own home or public spaces, within the confines of law.

Toleration should thus be redefined as follows: toleration is the agent’s act of non-interference with the disapproved-of, when the agent has a right to interference. That is, it takes place when one forgoes one’s right to interference with the disapproved-of. This can only happen when interference is morally permitted and yet one is not obligated to interfere. The question of toleration does not arise when the agent’s objection does not constitute a right to interfere and toleration reaches its limit when the agent’s objection morally compels the agent to interfere with the disapproved-of.

## A Rejoinder

I shall now consider a line of criticism that could object to my resolution of the inegalitarian charge. I concluded the previous section by postulating a right to interference as a necessary condition that must be obtained for the question of toleration to arise at all. Yet, one could argue that to overcome the egalitarian charge we may be able to find a morally less demanding solution. In fact, one may continue, such solution has already made available by scholars such as Rainer Forst,[[58]](#footnote-58) Susan Mendus[[59]](#footnote-59) and Catriona McKinnon.[[60]](#footnote-60) In order to meet this criticism, I shall now turn to what has been proposed by the above scholars.

Forst, being fully aware of the necessity of a “normatively substantive objection” for the question of toleration to arise, argues that a “certain moral threshold” must be established. The agent’s normative negative judgement should not fall below the moral threshold; otherwise we could no longer speak of toleration as a virtue. In order to filter out the kind of objections that give rise to the problem of the tolerant racist, we must formulate the “minimal conditions for objection judgements, which, to put it in negative terms, exclude “grossly irrational and immoral prejudices.”[[61]](#footnote-61) The reasons for objection, Forst claims, despite being drawn from a particular ethical belief must be nonetheless “sufficiently defensible;” although these reasons are not shared with others they must be “recognizable and intelligible as reasons” to others. Once we manage to distinguish the “meaningful negative judgement” from the morally deficient prejudice we will overcome the paradox of the tolerant racist, without needing to appeal to a right to interference that sets the moral bar too high.

I strongly doubt that a moral threshold, as understood by Forst, will properly address what is at the heart of the egalitarian charge. Forst assumes that the existence of a moral threshold would filter out the “grossly irrational and immoral prejudices” and thus “the bare references to ‘difference in appearance’ or ‘coming from elsewhere’” could not serve as “substantive criticism.”[[62]](#footnote-62) Such exclusion, I claim, will probably rule out the appeal to frivolous considerations for interfering with others’ doings, but it will not endow the agent with a moral power that justifies the interference. The tolerant racist strips toleration of its virtuous nature primarily on the grounds that it calls toleration an act of non-interference when, in the first place, any kind of judgement concerning the skin colour does not justify the interference. Racist judgements do not morally allow interference, no matter whether they are “scientifically” backed up or simply based on frivolous beliefs. In fact the history of racism shows the sizable efforts that have been made to elaborate various “scientific” arguments in favour of racist claims. The fact that these claims are “scientific,” and therefore not frivolous, does not make them less problematic. The paradox of the tolerant racist highlights the agent’s lack of moral permission to interfere with the disapproved-of, and this deficit surely could not be compensated with the sort of moral threshold that Forst envisages.

Similarly, Mendus, in her attempt to filter out the unjustified negative judgements from the scope of the objection component, points out that the problem only arises when the judgements of taste and personal preferences are believed to constitute reasons for objection. However, the solution, Mendus argues, is not to indiscriminately sweep away all non-moral judgements, but to find a way to keep the oppressive ones at bay. It should not be assumed that all non-moral judgements fall prey to our oppressive prejudices even though some of them do. Mendus accordingly claims that toleration should only be applied to the occasions where there is a possibility of change and alteration on behalf of the tolerated. We can only tolerate practices and actions which could have been otherwise.[[63]](#footnote-63) This is true both in the case of moral disapproval and non-moral dislikes. Mendus writes “[E]ven if we accept the wider scope of the term toleration and take it to cover both things which are disliked and things which are disapproved of, we may nevertheless wonder whether intolerance can be rational when applied to unalterable facets of life, to things over which the agent has no control.” [[64]](#footnote-64) In the case of agents’ racist, discriminatory and oppressive prejudices, Mendus contests, the interference cannot be morally justified on the grounds that they “are directed at a feature of the person which is unalterable.” The talk of toleration/intolerance in the racial context is in the first place misleading; regardless of whether it is based on moral or non-moral judgements, “for to speak of toleration implies that the thing tolerated can be changed.”[[65]](#footnote-65)

The failure of the alterability argument to establish a criterion for filtering out the morally unjustified objections could be simply shown by way of counter example. There are occasions where the agent’s objections pass the alterability test and yet they will remain prone to the charge of unjustifiability. For example, it could be argued that many, if not all, cultural characteristics are alterable. It would not be impossible for, say, the advocates of a religion to alter some of their practices or their religious dress code. It is nonetheless wrong to call the forbearance from interference with their doings toleration. Moreover, even in the seemingly hard core cases of non-alterability such as sexuality and race, where the characteristics of the members are assumed to be somehow innate, it could be argued that very often it is rather the cultural manifestations of these unalterable characteristics that are opposed and not the characteristics per se. In many cases, the problem is not whether homosexuals can enjoy their sexuality in private; it is rather the public manifestation of their sexuality which is the source of objection. Some, for example, may find the homosexual expression of love and affection in the form of kissing distasteful and disgusting and ask for a restriction on the public manifestation of it. It is feasible to demand homosexuals alter the specific form in which their affection is expressed; such alterability nonetheless does not remove the justifiability deficit one may find in the objection and the corresponding attempt at interference with homosexuals’ behaviour in public.

Catriona McKinnon tries to replace the moral/non-moral divide with a procedural criterion. On McKinnon’s view when it comes to the moral evaluation of the objection component “what matters is not whether opposition is constituted by dislike and disapproval per se; rather, what matters is the way in which the potential tolerator makes her judgements of dislike or disapproval.”[[66]](#footnote-66) What morally qualifies the agent’s opposition to a practice to count as a legitimate objection is the agent’s “taking responsibility for the judgements constitutive of it [objection]”. According to the responsibility criterion, regardless of the content of the agent’s judgement, as whether they are moral or non-moral, what makes an objection legitimate is the agent’s showing that “she genuinely takes these judgements to be justified, which is weaker than the requirement that the opposition actually be justified.” Taking responsibility for judgements requires agents to reflect on their judgements “through exposure to sources of information and different perspectives which have the potential to alter beliefs.” The responsibly held objections therefore differ from mere ignorance, prejudices and indoctrination in so far as they come about as a result of the agents’ active intellectual endeavour to render a judgement about the disputed issues. McKinnon believes that the distinction between responsibly and non-responsibly held judgements will help us to rid toleration from the paradox of the tolerant racist.

However, I cannot see how such a distinction will overcome the problem. First, drawing the boundary between responsibly held beliefs and mere prejudices is not as easy as it is imagined by McKinnon. In fact this difficulty is much more salient in cases which are the subject of severe dispute and controversy. The opposition of a religious person who critically assesses her religious beliefs about homosexuality, McKinnon holds, passes the responsibility test and her self-restraint from acting upon those beliefs could be called toleration. However, it is not at all clear where we can draw the line.

Second and more importantly, the paradox of the tolerant racist arises when the agent’s objection consists of a judgement which does not morally allow the agent’s interference. In such occasions when the agent does not have a moral permission to interfere with the disapproved-of we find it problematic to call the agent’s non-interference toleration. The lack of moral permission for interference however derives from the content of judgement, namely, from the fact that such judgement lacks in substantial validity. This deficiency could not be compensated by appealing to the agents’ genuine and responsible attempt at rendering the judgements.

The critical assessment of the proposed criteria for filtering out the inappropriate objections reveals that they all fail to effectively grant a moral permission for interference. Hence, we should stick to a right to interference as the best solution available to us.

## Conclusion

The vindication of toleration comes at a price. Toleration, in order to retain its highly revered and admired status as a specifically moral virtue in the liberal tradition, needs to be circumscribed. For an act to be considered one of egalitarian toleration the initial objection must be morally of the right kind. In other words, it is appropriate to speak of egalitarian toleration only where the objection against the tolerated practice is not itself morally inappropriate and does not establish an illegitimate power relation. When power asymmetries occur within the legitimate normative space of the objection component, the tolerating party’s assumed moral standing for interference renders toleration compatible with the principle of equality.

After considering various attempts at establishing which reasons for objection are morally appropriate and justifiable, I concluded that none of the proposed criteria and moral standards successfully fulfils the task. I subsequently argued that the appropriateness and justifiability of the objection component should be morally assessed by appealing to “right to interference” criterion. Toleration accordingly should be defined as the agent’s act of non-interference with the disapproved-of when the agent has a right to interference. Once the objection component is formulated in terms of a right to interference toleration can be claimed to be fully compatible with equality and mutual respect. The egalitarian conception of toleration would no longer be insensitive to the power asymmetries that may be caused by acts of toleration. It strives to exclude the morally unjustified power relations between the tolerating and tolerated parties. In fact, not only is it compatible with equality, it is demanded in addressing the equal concern for individual rights and entitlements. Within the confine of the egalitarian conception of toleration, the tolerating party’s moral standing is established by a right to interference which should be respected by the tolerated.

# Chapter 2: Tolerating Deliberation

## Introduction

In the previous chapter, I argued that in order to address the inegalitarian charge, a right to interference must be understood as necessary so that the objection-condition is obtained. On my view, unlike the view endorsed by most scholars, the objection component would not be completed unless the agent’s negative judgement against a practice either generated or accompanied a right to interference. That is, for the question of toleration to arise one’s holding a negative judgement against a practice should be deemed as a necessary, but not sufficient, condition. One’s negative judgement can be said to be sufficient only when it is proved either to be supported by or to confer a liberty/privilege for interference. On this view, facing an objectionable practice, the agent appears to have good reasons for interference. It is particularly plausible to think that one has good reason for interference because one’s reason for interference, yielded by a negative judgement, is not in conflict with other considerations that may burden one with an obligation for non-interference; otherwise one would not have a right to interference. Toleration, however, requires the agents not to act according to their reasons in favour of interference. That is to say, to tolerate X the agents should refrain from the suppression of X when they have good reasons to go ahead with suppression. Then, toleration appears to require us to take a “mysterious” course of action where “we should […] allow others to engage in practices that we believe there to be compelling reasons to avoid.”[[67]](#footnote-67) This gives rise to what I call the “irrationality paradox.”

Numerous authors have rightly argued that, since nothing can be tolerated if the very concept of toleration is incoherent, the vindication of toleration should become a common pursuit among its defenders.[[68]](#footnote-68) Different attempts have been made in this regard. Notwithstanding their differences in terms of the tactics they deploy, these attempts, nevertheless, fall under two kinds of strategy. Some try to find their way around the irrationality paradox by working on the agent’s reasons in favour of interference. The ultimate goal is to deny the agent’s objection any normative force in favour of interference. There is no paradox, they argue, because the agent who tolerates does not in fact have good reason to interfere. So there is nothing irrational about not interfering. I will call this the “denial strategy.” Others try to explain away the appearance of the paradox by working on the reasons that require the agent not to interfere with the disapproved-of practice. The ultimate goal is to prove that the agent’s reason for non-interference is superior in strength to her reason for interference. On this view, there is no paradox because, even though there is a reason to interfere, that reason is ultimately outweighed by competing considerations against interfering. I will call this the “strength-based strategy.”

What these two strategies have in common is the idea that the appearance of irrationality starts to lose its force once we manage to settle the conflict between two opposing reasons, namely, between reasons for interference and reasons for non-interference. The strategies only differ insofar as their proposed solutions for settling the conflict of reasons in the circumstances of toleration diverge; one focuses on the reasons for interference, and the other on the reasons for non-interference. In the picture depicted by these two strategies, the irrationality paradox is not after all, much trouble for the concept of toleration, and it could be easily eliminated. This is where I disagree with the advocates of these strategies. I contest that the failure of these attempts is caused by the very way in which the nature of reasoning behind toleration, which I refer to as “tolerating deliberation,” is conceived. These strategies, in other words, fail to give an adequate account of reasoning that leads to non-interference with the disapproved-of. The removal of the irrationality paradox, I therefore claim, requires the reconceptualization of the tolerating deliberation so as to let a new relation emerge between opposing reasons.

In Section 2, in order to familiarize my readers with the irrationality paradox, I will propose a provisional definition of toleration and its conceptual components. I will then proceed, in Section 3, to delineate the general features of the denial strategy in pursuit of the removal of the irrationality paradox, by exploring Jeremy Waldron’s version of this strategy. In Section 4, I will consider Rainer Forst’s attempt to remove the paradox, as a version of the strength-based strategy. In section 5, I will show that Forst’s and Waldron’s respective application of the strategies fail to solve the problem, due to a misunderstanding of the reasoning behind toleration, shared by both strategies. Since the failure of these attempts is caused by the general misconception of the structure of tolerating deliberation, I will claim that any other attempt which remains within the confines of these strategies will ultimately fail to provide an adequate response to the irrationality paradox.

In section 6, based on the critical discussion of the strategies applied to remove the irrationality paradox, I will first reformulate the provisional definition of toleration and the paradox. I will then put forward a theory of the tolerating deliberation by appealing to Joseph Raz’s account of “exclusionary reasons.” I believe such a move will enable me to explain away consistently the appearance of the paradox by offering an alternative account of the reasoning behind toleration.

## The Irrationality Paradox

In order to explicate how the decision to tolerate may appear to be irrational, I need to provide a provisional definition of toleration. To do so, I will begin by drawing on some scenarios in which we tend to say an act of toleration is performed.

Scenario 1: Suppose person *A* is an ardent opponent of the wearing of the burqa in public by Muslim women. *A*, despite her negative judgment against the practice of burqa-wearing decides not to interfere with the affairs of those who subscribe to the practice.

Scenario 2: *A* is running a Bed & Breakfast business and believes that homosexuality is morally wrong. Much to his dismay, *A* realizes that a couple who have rented a room are gay. *A*, however, contrary to his disposition to ask them to vacate the room decides not to do so and serves them regardless of his beliefs about homosexuality.

Scenario 3: *A* is hosting a friend, *Y*. *A* holds some objection against smoking and usually does not allow people to smoke in his house. On this very special occasion, *A*, despite his opposition to smoking, refrains from interfering with *Y*’s attempt to light a cigarette.

As the above examples demonstrate, toleration, generally understood, requires the agent to refrain from interfering with a practice that she deems objectionable.[[69]](#footnote-69) Toleration could therefore be provisionally articulated as follows:

T1: toleration is the agent’s act of non-interference with a disapproved-of practice, contrary to the agent’s reasons in favour of interference.[[70]](#footnote-70)

The general characterization of toleration, however, seems to indicate the existence of a puzzle in the structure of tolerating deliberation. That is to say, the reasoning appears to contain contradictory evaluations that justify both the disapproval of a practice and refraining from acting to stop the very same practice. In tolerating, in other words, the agent faces two rather contradictory reasons for action. One has, at the same time, good reason to interfere with the practice deemed objectionable and good reason to forebear from interference due to the existence of other considerations in favour of non-interference. Toleration, therefore, requires the agent not to do something (interference with the objectionable course of action) that the agent, at the same time, has reason to do. In scenario 1, *A* has some moral objections against the practice of burqa-wearing. *A* believes that such practice is limiting women’s freedom and is a setback to their autonomy, and also that it is detrimental to the maintenance of the dominant culture in *A*’s hometown. Toleration however compels *A* to ignore her reasons for action, generated by her objection against burqa-wearing. If the agent’s objection against a practice, say burqa-wearing, gives the agent a good reason to interfere with that practice, then it is unclear why the agent should ignore her reason for action and refrain from supressing the disapproved-of. To ask agents not do something that the agents have most reason to do seems to be tantamount to asking them to be irrational. The irrationality paradox therefore could be articulated as follows:

IP1: the agent ought to do something (non-interference) when she has reasons, generated by the objection against the disapproved-of, to do the contrary (interference).

The immediate response one may have is to say that IP1 relies on a far-fetched definition of irrationality. Nothing seems to be irrational about not acting upon a reason one may have to choose a course of action once other considerations that may give reason in favour of doing the respective action are taken into account. Put differently, irrationality is a matter of not acting against a reason, but an undefeated reason. This is a fair point and indeed some philosophers have tried to dismiss the irrationality paradox by appealing to the same reasoning. I will come back to this shortly and I will explain why they fail. For now, it suffices to say, in tolerating deliberation the reasons for interference are not simply reasons that give way to the reasons for non-interference. The reasons for interference are perceived to be somehow “undefeated.” As I explicated previously, they are reasons that defeat other reasons that emerge from some considerations such as respect for others’ rights and liberty, which would impose obligation for non-interference. This highlights the fact that the reasoning behind toleration has some peculiarity that is not fully grasped by those who intend to dismiss the irrationality paradox right away. The questions that call for investigation are the following: how do the reasons one has to interfere with a practice relate to the opposing reasons one has to not interfere with the respective practice? How are we to articulate the relation between these two opposing reasons that pull the agent in disparate directions? Simply put: how does the tolerating deliberation work? These are the questions that this chapter intends to address.[[71]](#footnote-71) In doing so, I will look at the strength-based and denial strategies that have been deployed to explain away the irrationality paradox in the following sections.

## The Denial Strategy

The denial strategy intends to remove the paradox by working around the reasons for interference. The irrationality paradox, seen from the denial strategy’s perspective, only emerges when the practical upshot of the agent’s objection against a practice is assumed. That is, the paradox arises when it is assumed that the agent’s moral objection against a practice generates reasons for the agent to interfere with what the agent finds morally objectionable. It then appears as if the agent is required by toleration not to interfere with what she has reason to interfere with. Once it is shown that the agent’s moral objection does not generate reasons for interference, the association between objections and interference will be rejected and there will be no paradox. To use the example offered above, an advocate of the denial strategy would argue that the irrationality paradox in *A*’s case seems to arise only when it is assumed that *A*’s moral objection to Muslim women’s wearing of the burqa would license *A* to interfere with Muslim women’s affairs. Hence, once we, in one way or another get rid of such assumption we will overcome the irrationality paradox.

Jeremy Waldron’s solution to the paradox fits neatly into the denial strategy.[[72]](#footnote-72) Waldron attempts to overcome the *prima facie* contradiction involved in practices of toleration by denying the reasons for interference which are assumed to be generated by the agent’s objection against the disapproved-of. Waldron offers two lines of argument in favour of his claim. First, he denies the connection which is very often deemed necessary between the negative moral reasons (judgement) against a practice and the moral reasons for interference with the practice. Second, Waldron denies the appropriateness of the moral negative judgements which arguably generate reasons for interference. The arguments that support the existence of the alleged contradiction/paradox, Waldron contests, are concluded from a false premise that the judgment that X is wrong provides a reason for suppressing X.[[73]](#footnote-73) For example, in the B&B scenario that I outlined in Section 2, the paradox only appears on the assumption that the owner’s negative judgement against homosexuality would generate reasons for interference with the residing homosexuals by asking them to evacuate. Yet, Waldron would claim that such an assumption is false and it cannot be shown that the owner’s negative moral judgment against homosexuality necessarily gives reason for interference.

After proposing his first solution to the problem, namely, the rejection of the practical upshot of moral judgements, Waldron proceeds to put forward his second proposal. Waldron’s second solution aims to dispel the agent’s reasons for interference by dismissing the judgements that those reasons are based on. In tolerating, Waldron argues, one comes to realise that one ought to refrain from interfering with the disapproved-of because one has no business judging the matter at hand right or wrong.[[74]](#footnote-74) On this view, one’s reason for interference would be denied credibility on the grounds that they were simply based on a misplaced judgement. Waldron believes that the latter could be shown to be historically true in the case of religious toleration. Since the early modern era, Waldron asserts, religious toleration has been an important idea in the liberal tradition and the “arguments based on the inappropriateness of political authorities making moral judgements on religious matters have played an important role in relation to the ideal of toleration.”[[75]](#footnote-75) The state’s non-interference with its subjects’ religious beliefs and practices were partly defended, as is manifested in Locke’s defence of toleration, by appealing to “the proposition that those in possession of the means of coercion should refrain from forming views about what is right and wrong in matters of religion” on the grounds that such judgment is inappropriate.[[76]](#footnote-76) Drawing on the “inappropriateness” argument, Waldron claims, the paradox could be removed by showing that the agent has no justified reason to interfere with the disapproved-of, since her initial judgment regarding the wrongness of the disapproved-of is inappropriate and must be dismissed. In Waldron’s view, therefore, non-interference does not seem to be contradicting any requirement for interference, since such a requirement never truly emerged in the first place.

Waldron’s arguments in favour of denying the agent’s reason for interference may or may not be sound. Nevertheless, my intention in this chapter is not to challenge Waldron in that regard. I rather intend to investigate whether his conclusions could effectively remove the irrationality paradox. My worry primarily is that even if we support Waldron’s conclusion regarding the misplaced reasons for interference, he cannot make a move to rid toleration of the alleged irrationality. There are two reasons to cast doubt on his position. Waldron, I claim, (i) fails to find a solution to the problem when the negative judgements actually do, at least partially and in tandem with other reasons, generate reasons for interference with the disapproved-of and (ii) only manages to solve the problem by erasing the problem. In other words, Waldron either fails to give an adequate response where the interference is justified or simply nullifies the question of toleration. Here, I will expand upon the first claim, and a defence of the second claim will be put on hold until Section 6, where I will explain why both strategies can only manage to solve the problem by erasing the question.

For now, let’s consider the claim that Waldron, at best, only could partly solve the problem. Waldron’s proposal could arguably settle the problem if the call for toleration were to emerge only where there was a moral judgement against a practice. Of course, in such occasion if no reason were established by the agent’s moral objection then the agent would not be required to interfere. Hence, one’s non-interference with the disapproved-of would not contradict any requirement for interference. The problem would seemingly be settled. The fact of the matter, however, appears to be more complicated. In fact, I claim, the controversial cases of toleration or, as I will show, the genuine cases of toleration, arise when the agent’s interference is somehow justified. The complexity of these cases lies in the fact that one’s objections do actually justify interference, either on their own or in tandem with other reasons. Waldron may solve the problem in straightforward cases where the objection does not constitute a reason for interference; but, he does not offer much when it comes to less straightforward cases, where one appears to be justified to act upon one’s negative judgements and, thus, interfere with the disapproved-of. After all, the difficulty lies in the controversial cases that resist straightforward solutions. Consider the smoking scenario. The person *A* is hosting her friend, *Y*. *A* has some moral and non-moral concerns against smoking; *A* dislikes the smell of tobacco and also believes that smoking is morally wrong because it contributes the harm caused by the unjust and exploitative conditions in which the tobacco industry is run. Under normal circumstances (when *Y* is not invited to *A*'s place) it seems that *A,* despite having a moral objection against smoking, is not permitted to interfere with *Y*'s smoking habit. That is, *A*'s moral objection regarding smoking does not establish a justified reason in favour of interference with *Y*'s smoking because it is inappropriate or does not have any practical upshot. After all, *Y* has a liberty to do whatever he wishes to do. However, when *Y* is at *A*'s place things are entirely different. It seems plausible for *A* to interfere with *Y*'s smoking and ask him, for example, to smoke in the garden or not smoke at all. Here *A*'s moral judgement against smoking seems to be playing a role in justifying *A*'s interference with smoking. *A*’s negative judgements no longer seem to be inappropriate and lacking in practical upshot.

One might object to the example by saying that what actually justifies the interference is not *A*'s moral judgement against smoking, but her ownership of the venue. It is *A*’s property rights that allow *A* to ban or restrict some practices within her own property. But, to give all the credit to the ownership rights seems to miss something important. The property right permits the owner to determine what others are or are not allowed to do. Yet, for doing things that are exclusively permitted for the owner she needs to have some reasons. Of course these reasons could be grounded in the owner's desires, interests and judgements. The mere moral objection to smoking might not on its own establish a justified reason, i.e., a reason that compels a practical consequence, namely, *A*'s interference with smoking, but it surely gives *A* reason to interfere with *Y*. In some occasions, like the one I am considering here, however such a reason when accompanied with other reasons may bring about some practical consequences. In the example here, I claim, when *A*'s moral disapproval of smoking is accompanied with *A*'s ownership of the venue in which smoking takes place, it gives a justified reason to *A* to interfere with *Y*'s smoking habit. In this case, *A*'s ownership of the venue is not a reason for *A* to interfere with the smoking, but it is a reason that brings the reasons generated by the moral disapproval to a practical fruition.

The above example shows that Waldron, at best, eliminates the appearance of the paradox in cases where moral reasons do not justify interference with the disapproved-of. But, Waldron does not have much to offer when a justified reason for interference is indeed established, as in the case of smoking. For now, I set Waldron case aside to proceed to discuss the strength-based strategy in the next section, before coming back to both strategies in Section 5.

## **The Strength-Based Strategy**

Within the confines of the strength-based strategy the ultimate goal is to reveal that the agent’s reason for interference with the disapproved-of lacks strength and, thus, is prone to be outweighed by the superior reasons against interference. From the perspective of the strength-based strategy, the paradox appears when there are conflicting reasons which pull the agent in opposite directions. The failure to decisively determine the respective weight and strength of the conflicting reasons is to blame. When the conflict between opposing reasons is not properly settled, it looks as if there is a paradox, that is, one ought to do something that at the same time one ought not to do.

The remedy to what that seems to be an irrational act of an agent, an advocate of the strength-based strategy would argue, lies in the recognition of a hierarchy among different reasons in terms of weight and strength. Once the hierarchy is established, and each reason finds its appropriate place in the vertical order of reasons, it will not be difficult to fix the conflict by considering the place of the weightier reasons. Toleration arises when the reasons in favour of non-interference categorically override the reasons to the contrary. We will thus no longer face a situation in which the agent is required to do something that she is also required not to do; since the reasons for non-interference outweigh the reasons for interference. The agent is, hence, doing what she has to do on the balance of reasons, namely, not interfering.

Rainer Forst, in order to remove the paradox offers a solution which is based on the strength of “higher order” moral reasons.[[77]](#footnote-77) Forst writes:

The solution of this paradox therefore requires a distinction between various kinds of “moral” reasons, some of which must be reasons of a higher order that cannot be trumped and which ground and limit toleration.[[78]](#footnote-78)

Forst’s hierarchy of reasons is set up against the backdrop of a Neo-Kantian distinction between morality and ethics.[[79]](#footnote-79) According to this distinction, moral norms and ethical values belong to two different “contexts of justification.” The agent’s normative answer to the question “what should I do?” is *morally* grounded when the agent considers the legitimate claims of all morally affected persons. Moral norms therefore need to be justified to all who are affected by them. The *ethical* grounding, however, requires the agent to consider “the values, ideals and “final ends” that constitute a good life and how this is then to be realized.”[[80]](#footnote-80) Whereas in ethical matters it is ultimately the agent who decides about the direction of her life, in moral matters it is others to whom the agent owes good reasons. The moral point of view concerns what is equally good for all, and is therefore, not relative to a particular subject. The ethical values relate to what is good for me (or us) in the long run, that is, the (collective) goals relative to a particular subjective history, tradition, or way of life.

Moral norms that “regulate how the most important rights and resources are granted and distributed”, Forst asserts, “have to be justified with reasons that can be accepted equally by all citizens as free and equal persons.”[[81]](#footnote-81) The need for justification of moral norms, Forst argues, stems from “the moral notion of the person as a reasonable being with *a right to justification.*”[[82]](#footnote-82) Forst’s notion of the “acceptability” of moral norms to “all citizens as free and equal persons,” that is, as a response to others’ rights to justification, is explained in terms of “generality” and “reciprocity.” In other words, moral norms are acceptable or inter-subjectively justifiable to all citizens insofar as they fulfil the requirements of reciprocity and generality. The reciprocity requirement, Forst holds, is that “nobody may deny others their basic (moral) right to justification, to be given adequate reasons for actions or norms that affect them in their status as free and equal persons.”[[83]](#footnote-83) The requirement of generality is to show what could stand as “adequate reasons”. A norm meets the criterion of generality, Forst claims, as long as the norm cannot be “reasonably rejected” with reasons that are themselves reciprocally non-rejectable.[[84]](#footnote-84)

Tolerant citizens have “willingness and the capacity to distinguish between one’s ethical beliefs about true and good life, on the one hand, and the moral norms and principles one thinks every person, regardless of his or her view of the good, has to accept, on the other hand.”[[85]](#footnote-85) The recognition of the two distinct contexts of justification enable citizens “[to] see that an ethical objection does not amount to a legitimate moral rejection; and they also see that they have a moral duty to tolerate all those ethical beliefs and practices that they disagree with but that do not violate the threshold of reciprocity and generality.”[[86]](#footnote-86) Toleration occurs when the agent’s objections against a practice, which are grounded in her ethical beliefs, are outweighed by the agent’s moral reasons not to interfere with the disapproved-of. The moral reasons for non-interference are grounded in the fact that interference fails to pass the threshold of reciprocity and generality. That is to say that the mere ethical disagreement, let’s say the disagreement over wearing a burqa in public, or smoking cigarettes, does not suffice to establish a moral norm for interference with an ethically objectionable practice.[[87]](#footnote-87)

Since the “higher order” moral reasons always categorically override lower order ethical reasons, there is, therefore, no paradox in the conceptual scheme and practice of toleration. In tolerating, the reasons for objection may be based on one’s particular ethical views; the acceptance reasons, however, will be based on a moral consideration as to whether the reason for objection are good enough to be reasons for rejection—that is, whether they are “reciprocally” and “generally” justifiable.[[88]](#footnote-88) If the reasons for objection turn out to be sufficient for a negative ethical judgement, but not for a negative moral judgement, the case for toleration arises: for then one has to concede that one’s ethical judgement does not justify a moral condemnation and, therefore, a rejection.[[89]](#footnote-89)

## 5. The Failure of the Denial and Strength-Based Strategies

Both strategies conceive the irrationality paradox in terms of the unsettled conflict of reasons. The conflict of reasons itself is subsequently understood as a trade-off which should be settled by weighing up the reasons against each other. In so far as the irrationality paradox is concerned, the aim of both strategies is to show that once due attention is paid to the balance of reasons the paradox will be resolved. The agent’s reasons for non-interference either override the agent’s reasons for interference, as is the case with the strength-based strategy, or prevail due to the dismissal of the agent’s reasons for interference, as is the case with the denial strategy.[[90]](#footnote-90) The construal of the circumstances of toleration as an unsettled conflict of reasons, however, cannot go without incurring serious problems for those who attempt to explain away the paradox. In this section, I intend to show that neither of strategies can solve the problem without erasing the question. When the problem is conceived as a conflict of reasons and is described in terms of weight and weighing-up metaphors, we no longer address the question of toleration. In what follows I will defend this claim.

If the circumstance of toleration is simply defined as where we have some conflicting reasons as whether to interfere with a course of action to which we object, then the results of a trade-off between these reasons will come in two forms: either the reasons in favour of interference or the reasons for non-interference outweigh the opposing reasons. In the former the agent simply ought to interfere, as her reasons for interference override the reasons in favour of non-interference. No act of toleration therefore takes place. In cases where the agent’s reasons for non-interference are of moral kind, in fact, the agent seems to be under a moral duty to interfere with the disapproved-of. Not only does toleration not occur but the agent is under a duty not to tolerate the disapproved-of.

In the latter, where the reasons for non-interference are proved to prevail by the weighing-up process the agent accordingly ought to refrain from interfering with the disapproved-of. According to the strategies, this is, believed to be an occasion of toleration. But is that really so? In order to show that these occasions of self-restraint should not be identified as acts of toleration, I consider two possible scenarios in which a conflict of reasons as to whether the agent ought to interfere with the disapproved-of object is settled by a balance of reasons that compels the agent not to interfere.

In the first scenario, a fairly straightforward weighing process proves that the reasons in favour of non-interference outweigh the opposing reasons. This seems to be the case when the conflict of reasons is overcome within the framework of the strength-based strategy. Recall Forst’s articulation of the higher order moral norms that categorically outweigh ethical norms.[[91]](#footnote-91) In the second scenario, though the agent is presented by some reasons that *prima facie* outweigh the reasons for non-interference, a deeper examination reveals their actual weakness, and therefore the agent’s reasons for interference ultimately prevail. Waldron’s denial of the agent’s reasons for interference fits into this scenario. It seems that the agent’s negative moral judgements generate strong reasons in favour of interference; upon deeper scrutiny, it nonetheless becomes clear that the agent’s moral judgements are in fact not sufficiently strong enough to justify interference.[[92]](#footnote-92)

In these scenarios, the agent’s self-restraint is due to the fact that on the balance of reasons, namely, after reasons are weighed against each other, the reasons for objection fail to justify the interference, for these reasons are either outweighed by some stronger reasons, or overlooked due to their nature. The agent, therefore, on the balance of reasons is not justified to interfere with the disapproved-of. On Forst’s and Waldron’s views, there are some moral considerations, such as respect for individual’s right to justification or individual’s liberty and her right to do wrong, that tip the balance in favour of non-interference. Toleration is ultimately an act of non-interference which is owed to others as a matter of respect for their rights.

There are two caveats. First of all, if toleration is only an instantiation of respect for other’s rights and liberties when a system of rights is in place, there is no need for describing the non-interference with others’ rights as toleration. Toleration seems to be a redundant concept which once belonged to a socio-political order in which a system of rights was not conceptually and practically available.[[93]](#footnote-93) Secondly, not all occasions of non-interference which come about as a result of a weighing up process can be defined as toleration. For instance, it does not sound right to call “toleration” all the occasions of non-interference with what other people wear, eat or say despite the fact that one may have some objections against them. The idea of toleration implies, after all, that there is a preferred or orthodox position which deigns to “tolerate” or put up with dissenting view; and this discriminating posture may seem offensive to the very idea of respect that underlies Forst’s and Waldron’s accounts. While forbearing from interference with others’ practices the “tolerant” person continues to treat others’ practices as inferior. Micheal Walzer voices this concern: “to tolerate someone else is an act of power; to be tolerated is an acceptance of weakness. We should aim at something better that this combination, something beyond toleration, something like mutual respect.”[[94]](#footnote-94)The generous usage of “toleration” for describing occasions of non-interference seems to be more troublesome when we are dealing with morally significant cases such as racism and sexism. Arguably, something is wrong with using “toleration” to describe the act of non-interference with people of colour or homosexuals. What the trivial everyday occasions of non-interference share with the morally significant occasions is that in neither of these cases the interference seem to be justified in the first place. The moral deficit of the reasons for objection, as I demonstrated in Chapter 1, will give rise to what in the literature is known as the paradox of the “tolerant racist”.[[95]](#footnote-95) According to this paradox someone with extreme antipathies would be described as tolerant provided only she showed restraint in her actions against the object of prejudices and dislikes. And the more such prejudices she had, the greater would be her scope of toleration. As I argued in Chapter 1, it is somehow wrong to call on a racist to be tolerant because the racist, in the first place, lacks a moral permission for interference. For this matter, more generally, I argued that the question of toleration does not arise when one is under an obligation not to interfere with the disapproved-of. On Forst’s and Waldron’s views toleration is an act of non-interference which correlates with others’ rights and liberties. When the agent’s reasons for interference are either overridden by the strength of other reasons in favour of non-interference or are deemed inappropriate, the act of non-interference seems to be simply an occasion of respect for other’s rights and liberties. Since one is under an obligation not to interfere with citizens’ practices vis-à-vis their rights and liberties one cannot be said to have a moral permission to interfere with the disapproved-of. This will bring to the surface a question that is lurking underneath: does the question of toleration even arise when there is no moral permission, in the first place, for the agent to interfere with disapproved-of? Waldron is well aware of this objection and summarises it as follows.

These philosophers tell us that if a proposal to refrain from suppressing X is based on the proposition that the potential suppressors really have no business forming a judgment about X’s rightness or wrongness at all, then it is not really a proposal to *tolerate* X. That X is to be tolerated is supposed to presuppose a judgement that X is wrong, and wrong in a sense that has a conceptual link to the appropriateness of suppressing X. That’s why the philosophers say that toleration properly understood is paradoxical.[[96]](#footnote-96)

The philosophers’ criticism, which is captured in Waldron’s words, is premised on the following assumption: the question of toleration only arises when the agent’s interference is morally justified. From this premise it has been concluded that when the interference is not morally justified, that is, when the negative judgements do not generate a moral reason for interference or when the reasons for interference are overridden by reasons for non-interference the question of toleration does not emerge. What this proposition is asserting is that the agent could only tolerate X where her objection to X constitutes a justified reason for her to interfere with X. In other words, the call for toleration comes forth when the tolerator’s right to interference is established by a judgment that X is wrong, and wrong in a sense that allows the suppression of X.

This assumption, i.e., toleration by definition entails the existence of a right to interference, is in fact what Waldron’s broad definition of toleration intends to dismiss. Waldron, in order to meet the above criticism, takes an ambitious step to reject the necessity of a right to interfere for the act of toleration to arise. Waldron, accordingly, defends what he calls the broad “tradition-based” conception of toleration against what he takes to be the “narrow philosophical conception of toleration”:

On what authority do the philosophers insist—as a “theoretical condition”—that tolerating X has to imply or presuppose that X is wrong (in some suitably robust sense of “wrong”)? After all, this is not revealed by analysis of ordinary usage. It is, at best, something constructed; and I think it is constructed just for the purposes of sponsoring arguments of philosophical interest. The philosophers want to define a narrow concept of toleration to give themselves an interesting conundrum to play with. They actually want toleration to be a paradox, in regard to which they can then show off their special skills and poise and clear-headedness. And it is pursuant to this interest—and this interest only—that a narrow definition seems desirable.[[97]](#footnote-97)

The significance of the existence of a justified right to interference for an account of toleration, I previously argued, has not merely been defended for the sake of “philosophical interest” and having a “conundrum to play with”, as is held by Waldron. What Waldron calls the “narrow definition”, as opposed to his broad “tradition-based” definition, of toleration, which as “theoretical condition”, requires a normative judgement that establishes a justified right to suppression of the disapproved-of, is not only supposed by philosophers because they want to make toleration to be a paradox, “in regard to which they can then show off their special skills and poise and clear-headedness.” It is rather a response to a criticism that toleration is based on power relations and hence inegalitarian. The failure to see the moral significance of the assumed right to interference strips toleration of its virtuous nature.

Waldron as a way of responding to the above criticism accepts that “toleration arguments always seem to be condescending, judgemental and insulting” but he argues that it is due to the mis-characterization of toleration by those who intend to distinguish between toleration and respecting rights.[[98]](#footnote-98) To show that the mis-characterization of toleration could be avoided Waldron proposes the following re-characterization. He starts with this initial characterization of toleration:

T1: I believe that what you are doing is wrong, wrong, *wrong*, but as a matter of grace and favour (or for reasons I can barely formulate) I will *tolerate* your practice, that is, I will permit you to do it anyway, despite my strong and justified inclinations to the contrary.[[99]](#footnote-99)

Waldron admits that the above characterization of toleration falls short of competing with the rival characterization of non-interference which goes “you have a right to religious freedom, and the character of your beliefs is simply none of my business.” Waldron nevertheless contests that (T1) should be replaced by the “much more attractive, much more illuminating and much better-thought-through version” of the tolerating attitude. He then proceeds to propose this amended version:

T2: I disagree with your practice and, as you know, I judge it wrong. But I acknowledge that that does not in any way make it appropriate for me to interfere with what you are doing, especially since it is not harmful.

Waldron believes that (T2) overcomes the worry regarding the condescending and insulting nature of toleration. I concur with Waldron that, on the occasions in which our moral judgements are inappropriate, (T2) is a better description of non-interference. T2 is simply describing the agent’s act of non-interference where the non-interference is due to the agent’s recognition of the fact that she lacks the moral standing to apply her judgement against the disapproved-of. What Waldron fails to see is that not all the occurrences of non-interference are occasions of toleration. The aim of those who emphasise the need for being attentive to the nature of the agent’s reasons for objection is to distinguish different kinds of non-interference with the disapproved-of.[[100]](#footnote-100) To avoid the repressive conception of toleration we should call toleration the instances of non-interference in which the agent’s normative negative judgement against a practice is morally justified. If the practice with which the agents disagree in T2 is homosexuality the agent’s acknowledgement of the fact that her judgement is inappropriate does not make her non-interference an occasion of toleration. The agent’s non-interference would merely be an occasion of respect for other’s right to choose and express their sexual preferences. In fact, this very right renders the agent’s judgement inappropriate by denying the agent a moral standing to make such a judgement.

## Toleration Reconceptualised

The foregoing critical analysis of the strategies deployed by scholars to vindicate toleration from the irrationality paradox revealed that a) in the conceptual scheme of toleration the conflict between reasons for interference and non-interference cannot be settled by a weighing up process, and that b) for the question of toleration as a principled virtue to arise there must be a justified right to interference. My criticism against the portrayal of the opposing reasons in terms of weight and strength leaves us with a question to be answered: what distinguishes an act of toleration from other acts of non-interference where the reasons against interference simply outweigh reasons for interference? To put it crudely, the difference, I claim, lies in the fact that the act of toleration is constituted only if the agent refrains from interfering with the disapproved-of, when the agent has a right to interference. That is to say, toleration occurs when an agent refrains from acting upon the result of a balance of reasons in which the reasons in favour of interference override the opposing reasons. The act of toleration therefore should be reconceptualised as follows.

T2: Toleration is the agent's act of non-interference with a disapproved-of practice, contrary to a balance of reasons that morally justifies interference with the respective practice.

The above criticism against the strategies, and the subsequent definition of toleration (T2), will face an objection. One may quite justifiably contest that T2, despite addressing the conceptual need for a right to interference, not only does not remove, but reinforces the irrationality paradox (IP1) more thoroughly. This is due to the blatant conflict between T2 and the general principle of reasoning. Following Raz, I will define the general principle of reasoning (R) as follows: “it is always the case that one ought, all things considered, to do whatever one ought to do on the balance of reasons.”[[101]](#footnote-101) If R1 is true, then T2, which requires the agent, contrary to the balance of reasons, to refrain from interfering with the disapproved-of seems to demand the agent act irrationally. The genuine paradox can therefore be formulated as follows:

IP2: the agent, contrary to the balance of reasons, ought not to interfere with the disapproved-of.

Does the reappearance of the irrationality paradox mean we should succumb to the paradox and throw our hands up in the air? I shall answer this question with another “no”. The appearance of irrationality can be removed, I claim, by re-conceptualization of the relation between reasons for interference and reasons for non-interference. The relation between opposing reasons should no longer be framed in terms of a “balance” and their respective weight and strength. The pervasive use of “weight” metaphor in describing the conflict of reasons suggests that all practical conflicts conform to one logical pattern: the conflicting reasons are reasons that push against each other and the conflict is to be resolved by the superior strength of one side that ultimately outweighs the opposing side.[[102]](#footnote-102) Raz has, however, argued that one cannot always grasp the nature of conflict by framing it in terms of strength and weight.[[103]](#footnote-103) Reasons can also stand in an exclusionary relation to other reasons. The “exclusionary reasons” do not outweigh reasons in the sense that I may decide that another’s interests outweigh mine and that I should forgo what I want to do. They are rather “second order” reasons which serve to exclude actions justified by the balance of “first order reasons.”[[104]](#footnote-104) An exclusionary reason permits the agent not to act on some other reasons, but it does not override them. In Raz's terms, some reasons could exclude other reasons by forcing the agent to disregard or suspend the validity of other reasons that pushes the agent to do otherwise. The very point of an exclusionary reason is to exclude acting for another consideration which is a valid reason for action. Exclusionary reasons are therefore reasons not to act for certain reasons.

Raz formulates the exclusionary relation between the first- and second-order reasons as follows. If *p* is a reason for *x* to do *z*, and *q* is an exclusionary reason for him not to act on *p* then *p* and *q* are not strictly conflicting reasons. *Q* is not a reason for not *z*-ing. It is a reason for not *z*-ing for the reason that *p*. The conflict between *p* and *q* is a conflict between a first-order reason and a second-order exclusionary reason. It is worth emphasising that in this formulation, *p*, which is a reason for *x* to do *z*, is established by a balance of reasons in which *p* has outweighed the opposing reason *r*. As is indicated by this formulation there are two levels of reasoning where reasons hold two rather different relations to each other. On the one hand, in the initial balance of reasons (the first level of reasoning) where *p* and *r* push against each other so as to determine whether *z* ought to be done, the result is to be decided by giving due consideration to the strength and weight of *p* and *r*. Note that *p* and *r* are both reasons which concern the nature of *z* per se; one is in favour and the other against it. On the other hand, on the second level of reasoning, *q* does not push against *p* and is not a reason for not doing *z* per se. In fact, *q* is not a reason for doing or not doing *z* at all. It is only a reason for not doing *z* on the ground of *p*. In other words *q* is not directed at *z*, but at the balance of reasons in which *p* is established as a reason for doing *z*. *Q* therefore does not outweigh or override *p* but only defeats (disregards) the balance of reasons (the first level of reasoning) that validate *p* as a reason for doing *z*.

Raz, in order to illuminate his point, considers a few scenarios in which the exclusionary reasons are at work. Since a comprehensive analysis of Raz’s account is not what I am pursuing and I am bound by space limitation, I only consider the first scenario where the untrustworthiness of reasons/judgements leads an agent (Ann) to disregard the balance of reasons. I believe this example could provide us with a pattern pertinent to tolerating deliberation. Ann is looking for a good way to invest her money. Late at night, after a tiring day followed by an evening drinking with friends in a pub, she gets home to find that a friend has left her a message regarding an investment opportunity. Due to the nature of the opportunity Ann should decide immediately and let her friend know about her decision. It is a very complicated offer and Ann needs to evaluate all pros and cons in order to determine her decision. Although there are good reasons that make the offer sound, namely, that it appears rewarding, Ann decides to turn down the offer on the ground that it is a too important an issue to be looked over when she is very tired and exhausted. Ann therefore tells her friend that she cannot make a rational decision about the case and she knows that refusing to consider the case is tantamount to rejecting it. Ann thus rejects the offer not because she thinks the reasons against it override those in its favour but because she cannot trust her judgement at this moment. In other words Ann refuses to take up a course of action on the ground that she suspends the reasoning necessary for making a decision.

It is important to take notice of the fact that Ann does not reject the offer because her fatigue or emotional stress is a reason against the investment per se, or a reason that makes her determined not to invest. The fatigue and emotional condition only makes her retreat from making a decision regarding the investment, no matter what the reasons are against or in favour of the investment. In fact a quick review of the reasons available to her might prove the *prima facie* superiority of the reasons in favour of investment.

The irrationality paradox only gets off the ground if R1, i.e., “it is always the case that one ought, all things considered, to do whatever one ought to do on the balance of reasons,” is true. The logic of the exclusionary reasons however puts in question the validity of R1. Raz claims that R1 is not always true and that there are occasions on which one is permitted *not* to do whatever one ought to do on the balance of reason.[[105]](#footnote-105) As Raz suggests, one therefore could affirm the validity of the following:

R2: one ought not to act on the balance of reasons if the reasons tipping the balance are excluded by an exclusionary reason.

Now, having R2 at hand, I can make the final move to eliminate the irrationality paradox. That requires a revision in our understanding of the relation between the agent’s reasons for interference and non-interference. Reasons for non-interference should only be conceived as exclusionary reasons that enable the agent to act against the balance of reasons in favour of interference. That is to say, in tolerating deliberation an exclusionary reason would allow one to disregard/suspend the balance of reasons on which one otherwise ought to interfere with the disapproved-of. The definition of toleration, therefore, needs to be reformulated once again:

T3: Toleration is the agent's act of non-interference with a disapproved-of practice, where an exclusionary reason defeats a balance of reasons that would otherwise justify interference with the respective practice.

To make my point clearer, I return to my smoking example. *X* has invited *Y* over for dinner to rescue their friendship which has been going downwards recently. *X* has decided to be kind and welcoming so as to make up for the troubles he made for *Y* a few days earlier. Unfortunately, *X* has had an emotionally distressing day as he heard a saddening family story prior to the arrival of *Y*. *X* normally does not let anyone smoke in his place due to his moral beliefs against smoking. But, when *Y* asks for permission to light a cigarette *X* lets *Y* do that. The reason why *X* does not interfere with *Y*’s smoking is not that he has changed his mind about the wrongness of smoking, or believes *Y* has a right to smoke. *X* only excludes all the reasons he has against smoking on the ground that he thinks in those particular circumstances, when the purpose of meeting is the restoration of friendship, and when he has had a very bad day that makes it hard for him to makes a decision about *Y*’s request, it is better to suspend his judgement regarding the permissiveness of smoking in his place. *X*’s act of non-interference in this example fulfils all the criteria set by T3. *X* has an objection against smoking. *X*’s objection on the balance of reasons, in so far as the morality of *X*’s interference is concerned, establishes a right to interference. *X* nonetheless decides not to act on the balance of reasons which is excluded (suspended) by *X*’s exclusionary considerations.

Before bringing this discussion to an end, I would like to consider another objection. One might ask, since exclusionary reasons are second-order reasons, how do they differ from the higher-order moral reasons suggested by Forst? In fact, this question is likely to arise because of a general concern one may have regarding the ways that reasons for interference can be defeated. As the above analysis of the conceptual scheme of toleration shows the agent’s reasons for interference with the disapproved-of can be defeated in two ways. In some occasions, the conflict of reasons is resolved when the stronger (weightier) reasons in favour of non-interference defeat the agent’s reasons for interference. On the other hand, in some occasions the agent’s reason for interference is defeated by a second-order exclusionary reason. In Forst’s analysis of toleration the agent’s ethical reasons for objection are defeated by what he calls second-order (higher order) moral reasons. The question is that why Forst’s second-order moral reasons that outweigh the agent’s reasons for interference cannot be considered as what I call, inspired by Raz, an exclusionary reason for non-interference. To answer this I only need to reiterate the argument I made previously.

When two reasons, say, *p* and *r*, conflict relative to *x* doing *z*, it means that *p* is a reason for *x* to do *z* and that *r* is a reason to refrain from *z*-ing. In such occasions, the conflicts are to be settled by weighing up the respective reasons regarding *x*’s *z*-ing. On the balance of reasons, the stronger reason overrides or outweighs the weaker. If *p*, for example, is a reason for interfering with *x*’s smoking and *r* is a reason for not interfering with smoking, when *p* is a weightier reason, *p* will tip the balance of reasons in favour of interference. Here the resolution of the conflict, which is achieved by appealing to weighing metaphor, has two characteristics: 1) the reasons which are weighed against each other are both reasons for doing or not doing *z*, and 2) the weightier reason overrides or outweighs the opposing reason. Dissimilarly, the exclusionary resolution has neither of these two characteristics. The exclusionary reason *q* is neither a reason for doing *z* nor a reason for not doing *z*. It is a reason for not doing *z* because of *p*. Since *q* is not a reason for doing or not doing *z*, it does not stand in a weighing relation to *p*, it excludes or suspends it. On Forst’s view, both ethical reasons for objection and moral reasons for acceptance are reasons in favour of doing or not doing something, namely, interference. Consider burqa-wearing example. *A*’s ethical objection against the practice gives her a reason *r* to interfere with Muslim women who wear burqa. On the other hand, Muslim women’s rights to justification, and the fact that *A*’s objection cannot pass the threshold of reciprocity and generality, gives her a reason p not to interfere. *A,* in order to take an action, namely, to interfere with Muslim women, needs to weigh up these conflicting reasons as to determine which one tips the balance of reasons. What determine what *A* must ultimately do is the weight of *p* and *r* on the balance of reasons. On Forst’s view of tolerating deliberation, first- and second-order reasons correspond with moral and ethical reasons, respectively.[[106]](#footnote-106) To describe the relation between these reasons, Forst appeals abundantly to metaphors such as “weight,” “balancing” and “overriding.”[[107]](#footnote-107) The difference between moral norms for non-interference and the ethical reasons for non-interference is ultimately captured in terms of weight metaphor. In Forst’s hierarchy of reasons, moral reasons for non-interference occupy the superior position in virtue of their weight and that is why they outweigh the ethical reasons for interference. This indicates that on Forst’s view there is only one level of reasoning in tolerating deliberation. In such cases one’s ethical objection is outweighed by a moral reason in favour of non-interference. One thus acts on the force of one’s moral consideration regarding others’ right to justification. I previously, in Chapter 1, argued that one’s non-interference with the disapproved-of that is motivated by respect for others’ rights should not be confused with toleration. Forst’s account of tolerating deliberation, as suggested above, fails to avoid this confusion.

## Conclusion

The irrationality paradox emerges as a result of a confusion regarding the reasoning behind toleration. Put differently, the challenge for us is to explain how one’s reason for non-interference with the disapproved-of is played out against one’s reason for interference. Throughout this chapter, I demonstrated that the appeal to denial- and strength-based strategies fail to formulate the relation between reasons for interference and non-interference because these strategies tend to understand tolerating deliberation in terms of the weighing up model of reasoning that underlies the justice-based duties of non-interference.

Understanding tolerating deliberation in terms of exclusionary reasons enables us to distinguish two types of non-interference: a) justice (right)-based non-interference and b) toleration. Justice-based non-interference relies on the weighing up model of reasoning, whereby the opposing reasons are assessed in terms of their “weight” and “strength.” There is only one level of reasoning involved whereby one’s reasons for interference with the disapproved-of would be weighed up against other moral considerations such as other’s rights and liberty. If they failed the test and proved outweighed one would be under an obligation not to interfere. Hence, there would be a justice (right-based) non-interference.

Toleration is totally a different matter. Unlike the justice-based duties of non-interference, according to T3, toleration relies on a two-level model of reasoning, whereby the balance of reasons (the result of the first level of deliberation) is defeated by a second-order exclusionary reason. T3 avoids the failure of the denial- and strength-based strategies to recognise that toleration is a particular form of non-inference which should not be reduced to the more general form of non-interference (justice-based) that is generated as a result of a weighing-up process.

# Chapter 3: Is Political Toleration a Redundant Practice?

## Introduction

In my discussion of toleration, I have so far investigated the general conceptual scheme of this notion. In previous chapters, the conceptual scheme of interpersonal toleration was modelled. That is to say, I explored what it means for one individual to tolerate other individuals. The following question was answered: what conditions should be obtained for toleration to occur between two individuals? I argued, after critical investigation of varying conceptual puzzles, that toleration should be defined as the agent’s act of non-interference with the disapproved-of, when the agent’s right (a moral permission) to interference is established (Chapter 1). This definition, lays out the necessary conditions that need to be obtained for the question of toleration to arise at all. I consequently addressed the question concerning the reasoning behind toleration. I argued that only a two-level model of deliberation that incorporates the exclusionary relation between first- and second-order reasons can explain the structure of reasoning behind toleration (Chapter 2). As a result of the arguments provided in the previous chapters, a coherent conceptual scheme is now available to define and explain a tolerating relation between two individuals. The site of toleration, nevertheless, is not restricted to the personal relations. Toleration is, in fact, an old political pedigree. It is in origin a political practice. Religious toleration as the first form of toleration grew out of the tumultuous political circumstances in Europe, with the aim of bringing back the stable and secure political order that was on the brink of extinction as a result of the horrors of religious wars. Any study of toleration therefore cannot ignore the question of *political* toleration, that is, the tolerating relations between the state and citizens. Formulating an account of political toleration, contrary to what it may appear, is not an easy task. The application of the conceptual scheme of toleration modelled at a personal level to the relation between the state and its subjects, namely, citizens, will give rise to two major problems. First, there seems to be a conceptual conflict between toleration and the state’s neutrality. Second, the state’s justice-based non-interference appears to be a morally more appropriate response to diversity than toleration is, given the liberal belief that in a liberal constitutional order the legitimate limits of the state’s exercising of interference should be restrained by the citizens’ entrenched constitutional rights. It is concluded from the above assertions that toleration is at best morally redundant, if not unjust (the redundancy charge).

In this chapter, I will first explicate the conditions of political toleration, and I will then proceed to shed light on the difficulties that obscure the prospect of having a coherent concept of political toleration. I will then proceed to critically examine the responses that the redundancy charge has prompted in the literature. Many scholars, being reluctant to succumb to the claim that political toleration is an obsolete practice that holds no function in contemporary liberal constitutional orders, have resisted the critics by arguing that political toleration is still as relevant as it was at the time of conception. At the end of this chapter, I will critically investigate one of the solutions, before subsequently turning to the others in the following chapters (4, 5). This chapter’s ultimate goal is to demonstrate that how many attempts at making sense of political toleration fail. I will then put forward an alternative solution in Chapter 6.

## Pluralism and Political Toleration

In contemporary political discourse, toleration is believed to be at the heart of the liberal theory of politics, and practices of toleration are deemed to be a solution to the problems of diversity. Much of the discussion of toleration revolves around what John Rawls has called “the fact of pluralism.”[[108]](#footnote-108) In societies that are marked by diversity and multiculturalism there are people with different and conflicting conceptions of the good, with incompatible and adversarial attitudes and ideals concerning public and private life; each pursuing her own preferred individual and collective form of life. As is rendered evident by the occurrences of many political controversies, these forms of life have some public claims regarding the way in which political institutions and procedures, public spaces, fundamental political principles, aspirations and aims, and in general a form of coexistence should be constituted. The rise of various controversies in recent years has proved that the public claims that are engendered by different forms of life do not always converge. The vehemently debated issues such as the prohibition of wearing Hijab in schools or other public places in some European countries,[[109]](#footnote-109) the constitutional ban on erecting Minarets in Switzerland,[[110]](#footnote-110) or the limits of free speech and the threshold of an insult to others’ sacred beliefs in cases such as Rushdie affair[[111]](#footnote-111) and more recently the publications of cartoons depicting Prophet Mohammad[[112]](#footnote-112) are only a few examples of such controversies. The attention has been drawn to toleration as a principle that could restrain the conflicts over public claims by bringing about a general consensus as how the society should be administered.

Since political toleration primarily deals with public claims put forward by citizens, and it is secured by a society’s public authorities and ultimately manifests through public arrangements and processes, therefore we can describe it as “public” toleration.[[113]](#footnote-113) Whereas in personal toleration what is at stake is of a “private” nature, emanating from individual’s conflicting claims regarding interpersonal relations, political toleration usually starts with the observation that there are different value systems in use in society, and they consequently give rise to various and often conflicting public claims. Political toleration is thus concerned with the question of the coexistence of the available systems of value in a society. Toleration as a political principle arises when the object of judgement is a public claim that reflects the interests and wants of an individual or collective agent and conflicts with the other agents' claims in a political community. In other words, borrowing the terminology of Jeremy Waldron, toleration as a political principle comes into the picture when the pursuit of a “communal aim” by the individual or collective is “incompossible” with the realization of another communal aim pursued by other identities.[[114]](#footnote-114) Where there is a diversity of conflicting communal aims the task of a liberal order is, in Isaiah Berlin’s words, to guarantee the fair cooperation of all parties in a way that is wished by “most modern liberals.”

Most modern liberals, at their most consistent, want a situation in which as many individuals as possible can realize as many of their ends as possible, without assessment of the value of these ends as such, save in so far as they may frustrate the purpose of others. They wish the frontiers between individuals or groups of men to be drawn solely with a view to preventing collisions between human purposes, all of which must be considered to be equally ultimate, uncriticizable ends in themselves.[[115]](#footnote-115)

Here, since political toleration aims to tackle the disagreements and conflicts that accompany pluralism, the need to mention two distinctions appears to be of great significant. The first one, to which I have already hinted, is the distinction between pluralism as mere fact, that is, as a description of a state of affairs, and pluralism as a normative demand and a goal which is to be achieved, secured and fostered. Rawls’ treatment of pluralism falls to the former category. What Rawls regards as “the fact of pluralism” is the reality of the reasonable persons’ inability to agree upon a comprehensive conception of the good. In this sense, holding a belief in pluralism is tantamount to the recognition of the inevitability of reasonable disagreement about the good. Rawls writes that “a modern democratic society is characterized by a pluralism of incompatible yet reasonable comprehensive doctrines. No one of the doctrines is affirmed by citizens generally.”[[116]](#footnote-116) The ontological and metaphysical concerns around the normative status of pluralism, within the Rawlsian framework, have deliberately been put in bracket. Pluralism is simply a point of departure for a further theorising about the fundamental principles of a political association. Those who, however, adopt pluralism as a normative principle, I claim, take pluralism to be normatively required rather than a mere (unfortunate) fact, and try to ground the fundamental principle of political association in a principle of pluralism.[[117]](#footnote-117) The latter position is particularly interesting on the grounds that it attempts to justify political toleration by appealing to the value of pluralism. I will critically assess the validity of this claim in the next chapter by assessing Joseph Raz’s autonomy-based account of political toleration.

The other distinction, as is pointed out by Charles Larmore, [[118]](#footnote-118) takes notice of the difference between pluralism as a doctrine with respect to the nature of the value (metaphysical or ontological pluralism), and pluralism as a doctrine with respect to the interpretation of the value (epistemological pluralism). The former, that is, ontological pluralism holds that there is no ultimate principle that can help us locate a value above the others in all cases where values clash. There is no single source of value. A value pluralist therefore holds, roughly, that there are several moral principles to which we owe allegiance. The plurality of sources of value cannot be reduced to one underlying moral principle or set of principles. Berlin as one of the pioneers of moral pluralism states

[…] life as affording a plurality of values, equally genuine, equally ultimate, above all equally objective; incapable, therefore, of being ordered in a timeless hierarchy, or judged in terms of someone absolute standards […] entails the permanent possibility of inescapable conflict between values.[[119]](#footnote-119)

The epistemological pluralism, as a doctrine concerning the plurality of interpretations and beliefs about value, asserts a moderate and less controversial claim that people naturally tend “to disagree about comprehensive visions of the nature of value.” Regardless of whether there exists a single source of value, as is claimed by monists, or there are many different and incomparable sources, as is claimed by moral pluralists, people tend to have different interpretations of values.

In so far as the question of political toleration is concerned, I do not need to commit myself to the stronger claim that ontological pluralism is true. Whether or not the ontological claim is true, the epistemological claim certainly is (people have different beliefs about value whether or not those beliefs are true). What is pertinent to my pursuit here is the fact that the latter would inevitably result in the acceptance of the “fact of pluralism.” There are different versions of pluralism, e.g. metaphysical and epistemic, but what is important here is whether some version of pluralism is accepted. Pluralism, whether it arises as a result of the diversity of the sources of value or disagreement about understanding of the single source of value, is the cause of conflict in society. What I will be assessing is whether political toleration has a role to play in settling what is caused by pluralism.

## Political Toleration and *Modus Vivendi*

Liberals of varying types tend to reject toleration as a form of *Modus Vivendi*. *Modus Vivendi*, generally speaking, is understood to be a form of the state’s non-interference which is motivated by unprincipled reasoning, coming about as a result of a balance of power. Using Rainer Forst's classification of different types of toleration, it can be said that *Modus Vivendi* is tantamount to the “permission conception” and “co-existence conception” of toleration.[[120]](#footnote-120) In the former, toleration simply means the acceptance of the dominated minorities by the authority of the dominating majority. The main rationale behind the assertion of this kind of toleration is the pragmatic one. This form of toleration is regarded as the least costly of all possible alternatives and does not disturb the civil peace and order. The justification of the pragmatic rationale is grounded in the advancement of a historical conflict between parties, with the prospect of the total collapse of the context in which all parties involved in the conflict maintain their existence. On this conception, the tolerator grants one a permission to live in accordance with one’s convictions, which are understood as “deviant,” on the condition that one does not challenge the supremacy of the tolerator. Toleration is bestowed and it can be revoked at any time, if the tolerated fails to meet the conditions set up by the tolerator. On the one hand, the authority grants the tolerated a certain security and liberties and, on the other hand, the tolerated must pay for this by obedience and loyalty to the authority. A historical example of the permissive conception of toleration could be found in the Edict of Nantes in 1598 or the Toleration Act 1698, both intended to settle the devastating religious conflicts in Europe.

The co-existence conception of toleration is also an unprincipled one. In this form of toleration the parties involved in a conflict, unlike the permissive form, have reached a stand-off wherein neither has the upper hand. The historical balance of power is held where the parties, who are roughly of equal power, recognize that for the sake of social peace and their own interest toleration is the best of all possible alternatives. The state of toleration is preferred to conflict as a matter of historio-practical necessity. A historical example of this kind of reasoning could be seen in Peace Treaty of Augsburg 1555.

What is wrong with the historical and non-principled form of toleration that makes it undesirable to liberals? What aspects of *Modus vivendi* form of toleration falls short of liberal principles and aspiration? There are two lines of argumentation developed by liberals in favour of a plea to a principled toleration. I will in what follows sketch briefly these arguments, and by doing so I also intend to spell out the substantial relation between the core beliefs of liberalism and political toleration. My ultimate aim is to assess the liberal appeal to political toleration to settle the problems caused by diversity and conflicting conceptions of the good.

The gist of the liberal argument is that the non-principled accounts of toleration a) fail to meet the moral requirements of liberal justice and b) could not ultimately bring about peace and stability which seems to be the main practical rationale for the acceptance of them. Thus, there are two kinds of criticism: a) criticism from a moral standpoint which rejects non-principled toleration on the grounds that it could not measure up to the requirements of justice and b) criticism from the practical-instrumental standpoint which disapproves the non-principled position due to its failure to meet the requirements of practical benefit.

### 3.a. The Fragility of *Modus Vivendi*

The main concern that has pushed liberal theorists to consider constructing a principled account of toleration is the fragility of the *Modus Vivendi*. This form of toleration comes about as a result of power relations between the parties involved in the conflict. Two warring parties only come to a decision to suspend their hostility once the chances of victory no longer seem worth the fight. *Modus Vivendi* only comes about as a result of a contingent and unstable configuration of a balance of power between the rival parties, due to the exhaustion of their resources or the devastating consequences of the continuation of enmity between them. Yet, as long as it is seen merely as a *Modus Vivendi*, toleration will be vulnerable to shifts in power. In other words, the involved parties are required to remain loyal to non-interference only in so far the balance of power secures their interests. Should the balance of power between parties in a *Modus Vivendi* change such that one group acquires enough power to impose their commitments on others in a way that promotes their self-interest, then it is no longer in their interests to abide by the conditions of toleration. This fragile and volatile state of peace and coexistence is certainly far removed from the ideal state of affairs sought by liberals. A liberal theory aims to specify terms of a fair system of “social cooperation between citizens regarded as free and equal, and as fully cooperating members of society over a complete life, from one generation to the next.”[[121]](#footnote-121) Any articulation of such terms could not take its starting point to be a contingent state of affairs in which the parties are only self-interested agents sitting in waiting to ambush and maximize their interests.

Liberals therefore look for an account of toleration that does not merely rely on a contingent state of affairs. Toleration is thus depicted as a form of moral commitment, which is endorsed by an agent’s systems of value. The stability of toleration should be guaranteed by the fact that “[a]ll those who affirm [the principles] start from within their own comprehensive view and draw on the religious, philosophical, and moral grounds it provides.”[[122]](#footnote-122)

### 3.b. Liberal Values and the Principle of Constraint

Liberals also tend to reject the moral validity of the non-principled accounts of toleration on the grounds that non-principled toleration is not consistent with the core moral principles of a liberal order: liberty and equality of concern and respect.[[123]](#footnote-123) A common belief held among all liberals is that the respect for individual freedom and liberties is the cornerstone of a liberal political order. The most important aim and aspiration of a liberal democratic order is to establish a scheme of rights in which “each person has an equal right to a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all.”[[124]](#footnote-124) The just scheme of rights which is entrenched in the constitution of liberal democracies incorporates a various range of political and socio-cultural liberties. Liberals, for example, recognise the intellectual freedom, freedom of speech, association and civil liberties. In socio-cultural realm, liberals defend freedom of religious beliefs and practice, freedom of life-style and freedoms concerning sexual conducts and marital affairs. Since the liberal state assumes the duty to respect and secure individuals’ freedom and liberties as a matter of justice and what is owed to citizens, the *Modus Vivendi* toleration, which is based on prudential reasons and practical expediency, cannot be deemed as an appropriate socio-political arrangement to settle the conflicts fuelled by pluralism.

The constitutive principle of equality has been interpreted in two ways. In the first interpretation, equality “requires that the government treat all those in its charge as equals, that is, as entitled to its equal concern and respect.” The second interpretation gives a rather distributive flavour to equality by saying that “it requires that the government treat all those in charge equally in the distribution of some resource of opportunity.”[[125]](#footnote-125) The question as to whether these two interpretations pull the principle of equality in disparate directions, or are closely interconnected, is somewhat peripheral to what I pursue here. In so far as the question of toleration is concerned, the principle of equality in its deepest semantic core, which is somehow asserted by both interpretations, holds that the liberal state must treat equally all citizens in their pursuit of a conception of the good. Citizens’ diverse commitments and engagements within the framework of their preferred conception of the good is worthy of equal respect by the liberal state. The equal respect for diverse conceptions of the good, of course, requires the state to do what it can to ensure that all citizens benefit equally from a scheme of rights and liberties and a fair distribution of resources.

In liberal tradition the constitutive principles of freedom and equal respect and concern have given rise to a general principle of governing: the principle of constraint. This principle on the most basic level holds that respect for individuals in their capacities as autonomous agents generates a fundamental political requirement that “all aspects of the social should either be made acceptable or be capable of being acceptable to every last individual.”[[126]](#footnote-126) In so far as the coercive use of state power in settling the conflict is concerned, there is a shared belief, which is the cornerstone of liberalism as a distinct political doctrine emerged in the wake of the dismissal of the old orthodoxies: ‘the fundamental principles of political association, being coercive, should be justifiable to all whom they are to bind.”[[127]](#footnote-127)

The neutral liberal state must be impartial in the sense that it must neither seek to promote directly or favour systematically any conception of the good life, nor should it adopt policies which have as their aim the elimination or discouragement of lifestyles which are, according to popular sentiment, deviant or degenerate. The ideal of neutrality thus seems attractive because it can provide a principled rationale for some of liberalism's most distinctive commitments.

## Political Toleration and the Problem of Redundancy

Liberal’s criticism against the *Modus Vivendi* form of toleration indicates the direction that a liberal conception of political toleration needs to follow. We need something stronger than *Modus Vivendi*: a form of toleration which is well grounded in moral principles. Since political toleration is expected to draw the boundaries and determine the conditions of the state’s legitimate use of power, any conception of liberal toleration must be compatible with the constitutive ideal of liberalism, namely, liberty and equality. A liberal state intends, in accordance with its constitutive principles, to accommodate as large a number as possible of diverse conceptions of the good and their concomitant forms of life into the inclusive political entity. For the state to tolerate different conceptions of the good or forms of life, it is simply required not to prohibit a form of life to be pursued by the people who desire so. In this sense the appeal to political toleration seems to be tantamount to the appeal to the principle of constraint, which is manifested in neutrality of the liberal state. It is not therefore surprising that in the liberal political discourse, in so far as the issue of diversity and the coexistence of various conceptions of the good are concerned, toleration, pluralism and neutrality are very often used interchangeably.

However, the liberal interpretation of toleration within the framework of state neutrality does not go uncontested. There seems to be a conflict between the conceptual requirements of toleration and the requirements of liberal commitment to state neutrality.[[128]](#footnote-128) The conceptual scheme of toleration that is modelled on the individual level suggests that for the question of toleration to arise there must be some conditions. The conditions are the following: 1) there should be a negative judgement against the object of toleration, 2) the agent’s negative judgement must, on the balance of reasons, establish a moral permission for interference (a right to interference), and 3) the agent’s reason for interference generated by the balance of reasons must be excluded by the agent’s exclusionary reason. Having these conditions and the liberal requirements of neutrality at hand, we can now turn to the problem that emerges when an attempt is made to yield a theory of political toleration.

On the one hand, the liberal state’s commitment to the constitutive principles of liberty and equality, manifested in the ideal of neutrality, compels the state to constitute a system of rights in which each and every citizen is treated equally.[[129]](#footnote-129) The state is, in other words, an embodiment of an impersonal constitutional structure that contains laws and regulations, which are justifiable to all who are affected by them. The state’s non-interference with the citizen’s preferred conception of the good is therefore a duty that the state owes to them via citizen’s rights and entitlement. Toleration, on the other hand, assumes the tolerator’s right to interference. For the question of toleration to arise, there should be a moral permission for the tolerator to interfere with the tolerated’s liberty. Toleration also conceptually requires a negative judgement. The tolerator cannot be neutral towards the object of toleration.

The brief comparison between the requirements of toleration and state neutrality shows that the state’s neutrality and the protection of citizen’s rights do not leave room for the state’s toleration. Since a) state neutrality is incompatible with the necessity of objection required by toleration and b) state’s non-interference as a duty owed to citizens is in conflict with the necessity of a right to interference assumed by the conceptual scheme of toleration, then it can be argued that toleration is a redundant, if not unjust, practice. The most illuminating example that reveals the nature of incompatibility between political toleration and state’s neutrality is the issue of non-interference with citizen’s religious views. The political transformation from autocratic to liberal democratic orders shows how the non-interference with religious views which was once considered as the ideal type of toleration turned into a fundamental right enjoyed by all citizens. In the pre-liberal autocratic order the sovereign assumed a right to interference, endowed to him by God or Nature, with the dissenting party whose religious views were perceived as wrong and deviant. Since the sovereign had the power and permission to interfere with the dissenting view, the non-interference, where the sovereign decided to forego his right to interference due to the consideration of peace and stability or a mere grace, constituted an occasion of toleration. The autocratic sovereign was, however, replaced with a democratic sovereign who was no longer endowed with a right to interference with his subjects. The non-interference was owed to citizens who, in contrast to the pre-liberal order, possessed rights and liberty that guaranteed their pursuit of the preferred religious beliefs. Rights and liberties that enjoy constitutional protection therefore pre-empt a liberal democratic state to be either tolerant or intolerant; non-interference has become a principle inbuilt in liberal constitutions, and embodied in universal rights.

The contrast between non-interference with religious freedom as a matter of justice and non-interference as a matter of toleration is well captured in words of George Washington. In a letter Washington wrote to the Hebrew Congregation at Newport in August 1790, he clearly emphasised the construal of freedom of religion in terms of citizens’ rights.

The citizens of the United States of America have a right to applaud themselves for having given to mankind examples of an enlarged and liberal policy: a policy worthy of imitation. All possess alike liberty of conscience and immunities of citizenship. It is now no more that toleration is spoken of, as if it was by the indulgence of one class of people, that another enjoyed the exercise of their inherent natural rights. For happily, the Government of the United States, which gives to bigotry no sanction, to persecution no assistance requires only that they who live under its protection should deem themselves as good citizens, in giving it on all occasions their effectual support.[[130]](#footnote-130)

The genealogy of non-interference with the dissenting religious outlooks shows that political toleration is not an idea that can be readily transposed from the political circumstances of the sixteenth and seventeenth centuries to those of contemporary liberal democracies. If the state as a matter of liberal principles owes to citizens the non-interference with religious views, it is in no position either to tolerate or not to tolerate its citizens’ diverse religious commitments. Thus, it might seem that religious toleration, either as a political principle or as a political practice, has become obsolete. It is not at all surprising that some scholars have concluded that toleration belongs to the politics of a by-gone age. It may have had a role to play in autocratic order in which the freedom of subjects depended upon the grace of their rulers, but it has no place in a democratic order, where each and every citizen enjoys equal status and equal rights. The successful trajectory of the idea of toleration paradoxically led to its own decline, or at least made it superfluous in its traditional political form. As Bernard Williams pointed out, toleration may prove to have been an “interim value,” a political necessity along the path from a persecuting to a fully pluralistic society.[[131]](#footnote-131) This conclusion, derived from a historical analysis of religious toleration, is fully in convergence with the conceptual scheme of toleration proposed in previous chapters. We already witnessed that the question of toleration would not arise when a right to interference could not be assumed on the part of the tolerator. In other words, the non-interference with the disapproved-of cannot be identified as an occasion of toleration when the agent lacks a moral permission to interfere with the disapproved-of. Since the state owes non-interference to its subjects as a matter of respect for their fundamental rights and entitlement, the state lacks a moral permission to interfere with its subjects. The state’s non-interference therefore cannot be identified as occasion of toleration. It could be argued that, on the grounds that the state’s non-interference should be described and explained in terms of the state’s duties regarding its citizens’ fundamental rights and liberties, the language of toleration in describing the state’s non-interference is at best morally redundant, if not morally problematic. The conceptual incompatibility between toleration and liberal democracy casts doubt on whether toleration remains an appropriate ideal for addressing the issues of diversity and conflicts in constitutional liberal order.[[132]](#footnote-132)

As plausible as this conclusion may sound there has been some resistance among scholars to grant the redundancy of political toleration. The defenders’ attempts to vindicate political toleration are motivated by the assertion that, contrary to the critic’s claim, toleration is pertinent, perhaps more than any time, to the kind socio-political life we live. That is to say, the vindication of political toleration is not merely motivated by scholars’ theoretical ambition and curiosity; the ultimate goal is to show that there is a function in a constitutional liberal order that can be served by toleration. What this function is and how toleration is meant to serve it, of course, varies from one defence to another. What remains common among different attempts at vindication of political toleration is the belief that toleration, after a theoretical revision, can find its place in politics. The place that will remain unoccupied, if we totally dismiss the relevance of political toleration in contemporary politics, as is the case in the critics’ analysis of toleration. The resistance has been consolidated in two fronts. On the one hand, it has been argued that toleration should not be dismissed; since the concept has some descriptive potentiality that could be used in political theorising. On the other hand, some scholars have claimed that the prescriptive force of toleration could have been rescued had we succeeded to question some of the premises of the redundancy argument. Two attempts have been made in this regard: one is based on the idea of respect for autonomy (autonomy-based political toleration), the other is based on the idea that we owe others recognition (recognition-based account of toleration).

In what follows, in the final section of this chapter and the following chapters (4, 5), I will critically investigate various defences put forward by advocates of political toleration. In the remainder of this chapter, I will investigate the claim that we can defend political toleration by making sense of toleration as a descriptive category. In the following Chapter 4, I will turn to the autonomy-based account of toleration before considering the recognition-based accounts of political toleration in Chapter 5. My primary aim is to demonstrate that, although it may generally be right to assert the pertinence of political toleration, these attempts fail to specify the space in which political toleration can be said to function. In Chapter 6, I will defend an alternative account of political toleration which can resist the charge of redundancy without succumbing to the shortcomings of the other accounts. I will demonstrate that political toleration has a significant role to play in a liberal constitutional order which should not be confused with the role of justice-based duties of non-interference.

## Political Toleration as a Descriptive Category

As a response to the redundancy argument, Peter Jones contests that “arguments concerning toleration have lost none of their salience for political life” and that there is still a way to make sense of political toleration as “a contemporary political idea and as a feature of liberal democratic arrangements ideally conceived.”[[133]](#footnote-133) On Jones’ view, the dismissal of political toleration “stems from a misconception of the role of political authority in relation to toleration.”[[134]](#footnote-134) The reason why we fail to see the relevancy of toleration to a liberal order is that we attempt to conceive political toleration within the framework of interpersonal relations. Political toleration is assumed to differ from interpersonal toleration in so far as the nature of parties to a tolerating relation changes. In political toleration, the state and citizens stand on the tolerating and the tolerated ends of the relation respectively. Jones believes that the construal of political toleration in terms of the interpersonal model is the source of failure, and therefore “rather than locating political toleration in the dispositions and vagaries of governments or majorities,” we should understand it in terms of society’s legal and political arrangements. We need to explore the idea of the “tolerant society rather than the tolerant ruler.” Political toleration is not merely a principle that regulates the conduct of the ruler with the ruled; it is rather a political ideal that describes a state of affairs that the liberal state is aiming for. A tolerant society, as the ultimate aim of the liberal state, is a society that “secure[s] an order of things in which people can live their lives as they see fit, unprevented by disapproving others who might otherwise impede them.” A tolerant political arrangement is not tolerant because the ruler enters to a tolerating relation with its subjects, but it is tolerant in so far as it upholds an ideal of toleration, because “itholds intolerance at bay.*”* Upholding an ideal of toleration requires providing “an arena within which people can engage in acts of toleration.” To borrow Jonathan Wolff’s terminology, instead of framing toleration as a relation between the state and individuals we should understand political toleration as a “social ethos.”[[135]](#footnote-135)

One way to bridge the gap between toleration and neutrality therefore seems to be a “moral division of labour,” between the virtuous citizens engaged in acts of toleration and the neutral political institutions and practices which foster practices of toleration.[[136]](#footnote-136) Neutrality is the virtue of institutions and toleration is the virtue of individuals.[[137]](#footnote-137) When confusion reigns and one fails to recognize the distinct spheres in which toleration and neutrality operate, the relation between the two becomes rather obscure. That is why many scholars seem to have had a hard time delineating the relation between these two distinct occasions of non-interference. Neutrality as a political virtue concerns public policy and the basic structures of polity such as institutions, laws, practices and procedures of deliberation and decision making. A liberal state nonetheless cannot achieve its goals by operating on neutrality alone. The individuals are the basic entities whose interactions give content to the formal structure of societies. Certain forms of moral character and moral virtues are required if the individuals’ interactions are to be consistent with the aims of a liberal political order.[[138]](#footnote-138)

The institutions and practices may be expected to be bound by the idea of neutrality; it nevertheless seems rather implausible to expect citizens to be fully neutral in their interactions with other citizens. Since a neutral society in which all citizens are fully neutral in view of the activities of others is rather impossible, and indeed undesirable, the citizens are expected to manifest the virtue of toleration. Rawls’ beliefs regarding the political significance of citizens’ conduct can be illuminating. For Rawls, justice as fairness includes an account of certain moral virtues to which he refers as “political ideas” and “political virtues.”[[139]](#footnote-139) Among such virtues toleration along with reasonableness and the sense of fairness is of significant importance. Rawls, for example, states that a neutral constitutional regime may take steps “to strengthen the virtue of toleration and mutual trust, say by discouraging various kinds of religious and racial discrimination […]”.[[140]](#footnote-140)

The manifestation of political virtues such as toleration is not simply a matter of interpersonal relation between citizens. It has far reaching political consequences, namely, the maintenance of peace, stability and social cohesion. These virtues are political on the grounds that they are necessary to “sustain fair social cooperation between citizens regarded as free and equal.”[[141]](#footnote-141) Citizens by refraining from acting upon their negative judgements against the disapproved-of, where it is deemed justifiable for them not to be neutral towards different conceptions of the good, work towards the realization of peace and stability in society.[[142]](#footnote-142) The fact that the state is absent from the interpersonal relations where individuals often refrain from interfering with the disapproved-of does not make such non-interferences less political. What defines non-interferences as political, in other words, is not the fact that it is performed by the state. The political quality of non-interference can be established by the role it plays in settling disagreement and conflict in polity. Citizens in polity and during their daily routine naturally disagree about issues that cannot be said to be of no political significance. In fact, citizens’ interaction in polity is mostly induced by the broader vision each citizen has as to how the polity should be run and how the individuals should live. The individuals’ attitude and behaviour towards their neighbours, colleague and the people they encounter on buses, in shopping centre, parks and all places they frequent in their everyday life is shaped by their understanding of the good. This extended network of individual relations should not be misinterpreted to be a political void, where all interactions are devoid of political significance. Once the citizens’ acts of non-interferences with what they deem objectionable in their daily interactions is understood to have some political significance, it can be claimed that interpersonal toleration has acquired a political feature. Hence, even if we grant the claim that the state cannot be the subject of toleration it does not render political toleration redundant.

As attractive as this may sound, bringing together toleration and neutrality will not be as easy a job as it was suggested above. There are two problems. First, the suggested solution does not offer much, in fact anything at all, as to how the relation between the state and citizens can be regulated by the principle of toleration. Recall that, the question is not whether or not there are non-interferences among citizens that are of political significance. The question is whether or not there are occasions of state’s non-interference that can be described as toleration. After all, it is this specific use of political toleration which is under attack by the redundancy argument in the first place. The redundancy argument does not push us to accept that political toleration is a redundant concept in general, it is rather believed to be redundant in so far as the state’s non-interference with citizens are concerned. Any solution to the problem of political toleration understood as a form of relation between the state and citizens should overcome the problem not by confusing the meaning of political toleration, but by identifying occasions of state non-interference which cannot be explained by appealing to neutrality and basic rights. In so far as the latter demand is concerned, the solution that cast “political” meaning on toleration by bringing to light the political indications of interpersonal toleration, no matter how successful it is in identifying its political ramifications, will not be satisfactory. The demand can only be met by an account of toleration that is capable of opening space for a tolerating relation between the state and citizens.

The ambiguous employment of toleration is not restricted to the above confusion. The suggested solution to the problem of redundancy appears to be successful only by conflating toleration as a descriptive category with toleration as an action-guiding principle. The redundancy charge rejects the possibility of political toleration as an action guiding-principle. What is defended above is however toleration as a descriptive category. Toleration understood as a descriptive category refers to the absence of intolerance. It simply describes a state of affairs in which the practices of non-interference prevail or, as Jones’ put it, the intolerance is kept at bay. The descriptive account of toleration perhaps finds its most celebrated manifestation in Rawls’ work where he describes a tolerant society as one which is administered according to the principles of justice.[[143]](#footnote-143) In a tolerant society the political ideal of toleration is “expressed in terms of the rights and duties protecting religious liberty in accordance with a reasonable political conception of justice.”[[144]](#footnote-144) A tolerant society remains “over time just and stable,’ although ‘divided by reasonable religious, philosophical and moral doctrines.” [[145]](#footnote-145) Rawls may be right that the society he describes is (descriptively) tolerant. But it is tolerant not because the state is governed – guided – by a principle of toleration, but because the state is guided by a principle of neutrality, etc. So toleration (descriptive) is the result of something other than toleration (action-guiding).

What the critics of political toleration are rejecting by appealing to the redundancy argument is in fact the possibility of a prescriptive account of political toleration as an action-guiding principle. An account of political toleration which attempts to identify toleration in a society, where the ideal of toleration is upheld and citizens treat each other accordingly, fails to do justice to the action-guiding principle of toleration. It wrongly conflates the descriptive and prescriptive accounts of political toleration and fails to see the fact that the alleviation of intolerance in society does not necessarily come about as a result of toleration.[[146]](#footnote-146) In other words, toleration and intolerance do not stand in opposition to each other. Intolerance and toleration are not logically related in such a way that the absence of the former indicates the presence of the latter. The intolerance, that is, the coercive interference with others’ ways of life, can come about for different reasons. One might have various negative judgements against a specific religion or culture which is rooted in one’s particular way of upbringing imbued with prejudices against the respective culture or religion. One may disregard a practice simply on the ground that it cannot live up to one’s aesthetic taste. Or by one’s failure to recognize that others are entitled to exercise their constitutional liberties by taking up a course of action. Since intolerance, that is, coercive interferences with others, is motivated and pursued by different reasons, its termination can also be motivated by different reasons. Non-interference could simply be motivated by an agent’s self-interested reasons.[[147]](#footnote-147) Or the intolerant person may happen to recognize that the course of action which is restricted by her interference should be allowed on the grounds that all citizens should enjoy the liberty of doing it. In this case, the intolerance regarding *x* is removed by way of questioning the moral credibility of judgements against *x*. Once the judgements are rejected the intolerance will disappear. The non-interference with *x* could not however be identified as toleration, since the rejection of judgements against *x* will result in the disappearance of the objection component, which is necessary for the question of toleration to arise. The intolerance also may be eliminated by the fact that the intolerant becomes aware of others’ rights and liberties and recognizes that her objection does not justify the interference with *x*. One may also simply move away from the ignorance as a result of upbringing and inherited prejudices and begin to admire previously disliked practice. In general, non-interference might be motivated by what is referred to as the “burden of Judgement.” Citizens having realized the fact that they might be wrong in their negative judgements will accept some scope for reasonable doubt on what they believe to be right. For example, Rawls writes “they also recognize that all persons alike, including themselves, are subject to these burdens, and so many reasonable comprehensive doctrines affirmed, not all of which can be true (indeed one of which may be true)”. He adds, “we recognize that our own doctrine has, and can have, for people generally, no special claims on them beyond their own view of its merits. Others who affirm doctrines different from ours are, we grant, reasonable, and certainly not unreasonable.” [[148]](#footnote-148) As a result of the foregoing piece of reasoning citizens refrain from acting upon their judgements, especially when doing so may result in negative consequences on others basic rights and liberties. If we recognize that others’ outlooks are reasonable comprehensive doctrines and that we should not interfere with them, but instead simply let them live as they wish, then it is very hard to think of our initial disagreement as a kind of opposition that gives us reason to interfere. Once the agent does not have that kind of reason the question of toleration does not even arise. A similar argument can be presented when toleration is understood as a political virtue derived from citizens’ sense of justice and what is right to do.

All these occasions of non-interference, although they eliminate intolerance, do not manifest what is defined and defended as action-guiding principle of toleration. Given the fact that interpersonal non-interferences are ultimately motivated by requirements of justice and simply reveal the fact that citizens have fostered a “sense of justice,” they cannot be taken to be occasions of political toleration.

Even if we grant the political significance of personal interactions in polity, it is still difficult to identify occasions of politically salient interpersonal toleration. It may be true that citizens’ interactions in polity are of significant political upshot, but these interactions are motivated by what is laid down by justice. The political virtues that citizens are expected to foster are nothing but compliance with what justice requires from them. This compliance could of course be described as toleration, but it is not to say that toleration as an action-guiding principle is at work. Since the politically significant forms of interpersonal non-interferences should be explained in terms of citizens’ respect for and conformity with rules of justice, there is no need, in fact, no space, for an appeal to toleration. For example, recall Rainer Forst’s account of justice-based non-interference (discussed in Chapter 2). Within this framework, in deciding what kind of practices should be allowed without the state’s repressive measure being sought, there must be an appeal to criteria such as reasonableness or minimal accessibility. If a practice lies beyond the scope which is well adjusted to the minimum requirement of reasonableness and acceptability, it should be disallowed. Imagine the members of a radical group who oppose the use of violence in pursuit of their goal, and believe that their preferred way of life should be promoted in civil society. Here it is clear that liberal citizens do not agree with extremists’ position, but since the extremists refuse to pursue their goals by violent means the state nonetheless allows their non-violent activities in polity. Liberal citizens, facing members of the extremist group who promote their cause on the street, do not appeal to repressive measures or demand the state deliver such a task. Citizens somehow put up with the members of the radical group and let them do what they do as long as they do not commit something that necessitates repressive measures. It is very tempting to describe the non-interference in terms of toleration; I nonetheless believe the non-interference must be attributed to compliance with the requirements of justice. It is true that citizens refrain from interfering with the non-violent activities, but the reason for not doing that in fact derives from their respect for what justice expects them to do. Their non-interference is ultimately grounded in the belief that all members of society have rights and entitlements that allow them to promote their preferred ideas and practices as long as such promotion does not violate others’ similar rights. There is no place left for interpersonal toleration, either the disapproved-of activity ought to be rejected, if it does not pass the minimal requirement of acceptability, or it ought not to be allowed if it fails to pass. In either case what give direction to citizens’ conduct is the rules of justice. Toleration seems to have no role to play.

Unlike the argument I proposed above, Peter Balint has set himself to reconcile political toleration with liberal democracy by defending a descriptive account of toleration. In Balint’s eye, what in fact brings a wedge between toleration and the liberal political order is the moralization of toleration.[[149]](#footnote-149) Balint, therefore, argues that once we succeed in getting rid of the moralised account of toleration, we will be left with a descriptive account of toleration which “helps make sense of the liberal state as an agent of tolerance.” The gist of Balint’s argument is the following: since the fulfilment of the criteria set by a moralised account of toleration is not usually easy, therefore the moralised accounts of toleration are neither “particularly useful nor sufficient,” where there is a need for defending the individuals’ freedom against intolerance. Balint, contrary to Jones, is mindful of the distinction between descriptive and prescriptive accounts of political toleration, and is willing to explicitly articulate his descriptive account of toleration. On Balint’s descriptive account, the agent manifests an act of toleration in so far as the agent is refraining from interfering with the disapproved-of, when the agent has power and disposition to interfere. On this descriptive account, we should call the acts of non-interference toleration when the above conditions are met, regardless the moral quality of the reasons the agent is holding as to whether or not interfere with the disapproved-of. The characteristic feature of the descriptive account of toleration that makes it distinguishable from “moralised” accounts of toleration is that it “does not make any qualitative distinction between reasons for objection.” In other words, for the question of toleration to arise the existence of an objection against the disapproved-of suffices, regardless of its moral quality. In so far as the relation between the state and citizens is concerned, since within the non-moral account of toleration there is no need for a right to interference, that is, a moral permission to repress what is deemed objectionable, whenever the state refrain from interfering with a practice, regardless the justifiability of the disapproval, such refrainment can be identified as toleration.

Of course, the descriptive account would let Balint identify the state’s act of non-interference as toleration, since on the descriptive account the morality of the state’s objection is no longer an obstacle for identifying the state’s act of non-interference as toleration. What renders toleration redundant, the critics argue, is the fact that the state is in no position to render morally justified negative judgements against citizens’ practices. In the absence of a moral standing, the state’s non-interferences cannot be accounted for as toleration on the grounds that the state would lack a moral permission to interfere in the first place. What the non-moral account of toleration, as is defended by Balint, intends to do is to dismiss the latter qualification. However, the dismissal of a moral permission for interference as a necessary condition for toleration will come at a price. As I argued in Chapter 1, what compels us to include the necessity of a moral permission for interference in the conceptual scheme of toleration is to render toleration compatible with the egalitarian spirit of our time. Balint’s account, which fails to see this egalitarian demand, is susceptible to the inegalitarian charge as explained in the first chapter. Balint is, of course, allowed to talk about the state’s act of toleration on his descriptive account, but what he is not allowed to talk about is the compatibility of the state’s non-interference with the fundamental principles of freedom and equality.

Balint nevertheless believes that the descriptive account has one potential advantage: “it captures significant ordinary language use of the term.” [[150]](#footnote-150) Since the non-moralised account of toleration is more aligned with the ordinary usage of toleration, Balint argues that it is a more sufficient account than is its moralised rival. In order to illuminate his point, that is, the descriptive account of toleration is rather more sufficient in defending the individuals’ freedom, he appeals to the example of religious conflict. Balint envisages a conflict between non-Christian newcomers with Christians in a neighbourhood which for years has been exclusively inhabited by the latter. The existence of differing religious outlooks in this neighbourhood generates social and moral conflicts over various issues. Balint claims if we are to secure the freedom of the newcomers, the descriptive account of toleration is a much better candidate. Since the moralised account of toleration states that the question of toleration only arises when the objection establishes a moral permission for interference, Balint argues, on many occasions such as the one described above, it is very hard to show that this condition is obtained. Due to the difficulty of determining the moral quality of objection in such circumstances, Balint concludes, if we are to prioritise the realization of the good of freedom we should favour the descriptive account over the moralised account of toleration. Balint’s argument is however fundamentally flawed. What the advocates of the moralised account of toleration claim is that the objection against non-Christian’ religious beliefs does not establish a moral permission. Hence, non-interference with their practices should not be defined as toleration. This by no means indicates that Christians are right in their opposition to newcomers and should be allowed to continue the violation of non-Christians’ rights and freedom. What is questioned by the advocates of the moralised accounts toleration is not whether or not the Christians are justified to repress the newcomers. The Christian, of course, must be stopped, but not in the name of toleration; since non-interference is simply required by newcomers’ constitutional rights and liberties. The advocates of the moralised account of toleration believe that Christians are simply under an obligation not to violate the newcomers’ rights and liberties, and this is the most appropriate way of construing non-interference in this situation.

Considering Jones’ and Balints’ attempts to make sense of political toleration by appealing to its descriptive meaning, I argue that such attempts will ultimately fail to establish that toleration can benefit us in theorising the state’s relation to citizens. However, not all attempts at making sense of political toleration intend to defend political toleration as a descriptive category. Some more ambitious attempts have been made to show that toleration can still be defended as an action-guiding principle which can regulate the state’s relations with citizens. In the following chapters, I will consider in some detail two accounts of political toleration that pursue the aforementioned aim.

## Conclusion

The redundancy charge consists of two interrelated claims. It first asserts a conceptual conflict between what is required by justice (rights and neutrality) and toleration. Toleration conceptually requires a negative judgement regarding a practice that provides the agent with a reason to interfere with the disapproved-of. On the other hand, justice requires the state not to take sides on the issues at hand and simply remain neutral to the interests of conflicting parties. It secondly emphasises the absence of space for toleration to occupy. Since the fundamental principles of liberalism endorse and foster a set of constitutional rights that restrict and regulate the state’s non-interference, there seems to be no place left for toleration. Hence, the critics argue that the combination of neutrality and the entrenched constitutional rights will render toleration redundant.

Some have challenged this argument by arguing that political toleration is, in fact, needed now more than it has ever been. This is, they believe, due to the rapid and deep transformations of contemporary societies that have intensified pluralism and social antagonism in an unprecedented manner. What is needed is not the total dismissal of toleration, but its revision. Once the nature of social transformation is correctly conceived and toleration is revised accordingly, we will come to realize not only that toleration is not obsolete, but it is a necessary practice for the maintenance of a just political order.

In the next two chapters, I will consider two accounts of political toleration that intend to revise political toleration by appealing to the value of autonomy and recognition.

# Chapter 4: Political Toleration and the Value of Autonomy

## Introduction

In the previous chapter, I argued that, within the confines of liberal thought, political toleration appears to be a redundant notion. In liberal democracies of the kind that are in order in the West, a wide range of the constitutionally entrenched social and political rights grant citizens’ freedom from interference, once assumed to be secured by acts of toleration. The normative content of citizens’ right to liberty appears to be quite simple and clear: no citizen can be prosecuted under the law because of her preferred way of life, no matter how different it is from that of the majority so long as it does not infringe on anyone else's exercise of rights. The state’s non-interference therefore is owed to citizens as a matter of respecting their rights, rather than toleration. In such regimes where citizens are free to set and pursue their own preferred way of life, as long as they do not harm others or restrain their freedom, the state is in no position to establish a “right to interference.” Since the individuals are believed to have a moral right to hold a belief or maintain a practice the state is rendered obligated not to interfere with their doings. In a constitutional order, the boundaries of the state’s interference are clearly delineated by laws and regulations. The state should either stand aside when citizens are enjoying their legitimate liberties, or interfere where there are justified reasons, such as the violations of citizens’ rights by their fellow citizens or reasons related to collective goods such as stability, security and well-being. Either way, the state is in no position to tolerate citizens. So one could well ask: if the aforementioned claim is true, should we totally give up on political toleration, because it seems to be incompatible with, or at least redundant in, a political order which constituted upon a system of rights?

Toleration literature shows that philosophers are rather reluctant to give up on the idea of political toleration and succumb to the force of the redundancy charge. This is not motivated only by theoretical curiosity and the exercise of rigorous thinking. It is believed that toleration has a specific role to play in contemporary society, which is often neglected by advocates of the redundancy charge. In this chapter, I will explore an account of political toleration that is motivated by the value of autonomy. According to the autonomy-based account of toleration, not only is toleration not a redundant practice which has no bearing on our temporary socio-political life, but it is a necessary condition for the realization of the most fundamental value of modern era, namely, autonomy. Political toleration therefore must be defended on the grounds that in its absence individual’s autonomy would perish.

In this chapter, I will examine a version of the autonomy-based account of political toleration offered by Joseph Raz. I will first detail Raz’s understanding of autonomy and his articulation of the relation between autonomy and toleration. In Section 3, I will proceed to critically examine and ultimately disentangle the relation between autonomy and toleration deemed necessary by Raz. I will argue that the autonomy-based account of toleration is prone to conflate toleration with a right to autonomy. This will in turn render autonomy-based toleration susceptible to the redundancy charge discussed in the previous chapter (Section 4). That is to say, within this framework the state’s non-interference is ultimately believed to be owed to citizens as a corresponding duty to their right to autonomy. Since the autonomy-based accounts of toleration cannot make a distinction between the latter non-interference and toleration, the redundancy charge will remain unaddressed.

## Political Toleration and the Value of Autonomy

Despite the fact that toleration acquires its validity from variety of arguments, Raz claims, there is a “specific liberal” argument in justifying toleration. This argument derives its normative force from what is “the spirit of liberal approach,” that is, the fundamental value of autonomy.[[151]](#footnote-151) Raz thus aims to spell out a version of the autonomy-based argument which could well accompany his perfectionist vision of state. In fact, since the neutralist vision of the liberal state is replaced with a perfectionist state which pursues the good of autonomy, there seems to be a solution to the problem caused by neutralism.

An autonomous person is a person who, at least partly, authors her life. For one to be the (part) author of one's life one needs to control, to some degree, her own destiny, to fashion it through successive decisions throughout her life.[[152]](#footnote-152) If a person is to live an autonomous life, Raz states

he must have the mental abilities to form intentions of a sufficiently complex kind, and plan their execution. These include minimum rationality, the ability to comprehend the means required to realize his goals, the mental faculties necessary to plan actions, etc. For a person to enjoy an autonomous life he must actually use these faculties to choose what life to have. There must in other words be adequate options available for him to choose from. Finally, his choice must be free from coercion and manipulation by others, he must be independent.[[153]](#footnote-153)

As the above passage indicates, the availability of choices and ability to choose matter a great deal. In other words, what is definitive in determining the autonomous life is the fact that a person is offered with “an *adequate* range of options” and is capable to opt for the preferred options. Only those who are not coerced to opt for a particular choice or whose choosing capacity is not marred by any other cause, such as mental or physical disability, could be regarded as autonomous person.[[154]](#footnote-154) One therefore, in order to lead an autonomous life, has to be able to develop the important capacity of “choosing one's own life.” This capacity is crucial for a person to genuinely, and not by simulation, deceit or manipulation, determine her own life.[[155]](#footnote-155)

To illuminate the significance of the “adequacy” condition for the options available to the agents, Raz considers two hypothetical cases of “the hounded woman” and “the man in the pit.”[[156]](#footnote-156) In the former, the woman finds herself in a desert island inhabited by a fierce carnivorous animal which perpetually hunts her. In such a situation the woman's capacities for autonomy “are taxed to their limits by her struggle to remain alive.” In the other case, a person falls in the pit and remains there for the rest of his life. He has only enough food to survive. In this situation his choices are confined “to whether to eat now or a little later, whether to sleep now or a little later, whether to scratch his left ear or not.” Raz holds that neither the hounded women nor the man in the pit enjoys an autonomous life. It is due to the fact that one has only trivial options to choose from. The man’s options are all short-term and negligible in their significance and effects. The other person's predicament is the opposite one. All her choices are potentially horrendous in their consequences. If she ever puts one foot wrong she will be devoured by the beast.[[157]](#footnote-157)

There are therefore two general conditions, in so far as the issue of the adequacy of options is concerned, that need to be met. Firstly, taking into account that each particular option being picked by a person would concentrate on some and neglect other capacities of the person, it is necessary to have the “the incompatible forms and styles of life as available options for the person to be considered.”[[158]](#footnote-158) Hence, Raz claims that autonomy “presupposes choices involving trade-offs, requiring relinquishing one good for the sake of another.’ [[159]](#footnote-159)

The incompatibility between different forms of life available to individuals, according to Raz, is necessary, but yet not enough. We should also consider whether or not the available options are morally acceptable. Raz claims that, in order to have an adequate range of options for individuals to choose from, all options must be morally acceptable. The gist of Raz's argument is that, since morality is so demanding and we constantly fight for moral survival, the genuine autonomous choice could not be obtained where we choose between good and evil. Similarly, we cannot consider an option which involves a serious physical threat, as in the case of being faced with the proverbial gunman demanding your money or your life, as a genuine option, we cannot regard an option as a genuine one where a remarkable moral risk is involved. Autonomy, Raz writes, “cannot be obtained by a person who is constantly fighting for moral survival. If he is to be moral then he has no choice, just as the person struggling for physical survival has no choice if he is to stay alive.”[[160]](#footnote-160)

Building on the above assertions, that is, the options must include a) the incompatible and b) morally acceptable choices, Raz argues in favour of the necessity of the moral or value pluralism. Being seen as the necessary condition for the realization of autonomy, pluralism is itself a normative demand. It is this normative demand that compels the state not to interfere with diversity, to be tolerant, so to speak. The state’s interference with diversity is incongruent with the moral demands generated by the value of autonomy. The imposition and monopoly of a particular conception of the good in the marketplace of the goods would, firstly, in the long run, rule out and marginalise other conceptions of the good. That is, it would limit the range of options that people may have to choose from. Secondly, the imposition itself would enforce individuals to conform to the dominant conception of the good and not being able to opt for other conceptions of the good when they have not yet been totally eliminated. That is, it would coerce people indirectly to choose from a narrower range of options in such a way that the fulfilment of “independence condition” is rendered impossible.

As things stand in Raz's argument, it seems that he links autonomy successfully to pluralism. What seems to be problematic, however, is that it is not at all clear how the state’s non-interference in the name of pluralism, which is construed as toleration, differs from the state’s non-interference regarding the individuals’ right to autonomy. That is to say that pluralism-based non-interference could in the final analysis be seen as the fulfilment of the state’s duties which correlates to citizen’s autonomy-based rights. This claim is actually backed up by scholars who ground rights in the value of autonomy (agency).[[161]](#footnote-161) The identification of the state’s autonomy-based duties of non-interference will render Raz’s account vulnerable to the redundancy charge. The conceptual scheme of toleration, as was previously explicated, entails a right to interference. If we are to make sense of political toleration at all, we need to show that the state’s non-interference is performed when the state’s right to interference is established. Since, in the Razian picture, the state is under an obligation not to interfere with the diversity of the conceptions of the good, due to its duty to foster pluralism and protect citizens’ autonomy, it is very hard to see how the state’s right to interference can be assumed. The state cannot, at the same time, be obligated not to and permitted to interfere with the disapproved-of. In order to remove this conflict, so as to make sense of political toleration, it must be shown that the state is not under an obligation to advance autonomy, as a corresponding duty to citizens’ right to autonomy. Otherwise, the state’s non-interference to advance autonomy, which is understood as acts of political toleration by Raz, would be conflated with the state’s duty of non-interference owed to citizens, *vis-à-vis* their rights to autonomy. Such conflation would render political toleration redundant.

## Is There a Right to Autonomy?

Notwithstanding his stringent belief in the value of autonomy, Raz believes that autonomy is not something to which individuals have a right. It is important to bear in mind that Raz does not claim that there is no duty regarding autonomy. For, he clearly purports that there “is a concern to enable people to have a good life,” and that there is a duty that “arises out of people's interest in having a valuable autonomous life.”[[162]](#footnote-162) The claim is rather that the nature of duties that we have *vis-a-vis* autonomy differentiates from the duties that stem from what rights incur upon us. In what follows, I will attempt to show that, despite Raz’s contention that his account of autonomy does not establish any claim-right to autonomy, his formulation of a moral duty to respect the value of autonomy deeply resembles the general features of the rights-based duties, as it is depicted in Raz’s theory of rights. I therefore contest that Raz ultimately fails to deny the existence of a right to autonomy. This will in turn have a negative consequence for Raz’s depiction of the state’s non-interference as political toleration. If the state’s non-interference is something that the state owes to citizens as a corresponding duty to their right to autonomy, the state will not have a moral permission (a right to interference) to interfere with citizen’s doings in the first place. The latter, I previously argued, is demanded by the conceptual scheme of toleration.

The above claim demands further clarification. It must be demonstrated that there is a similarity between individuals’ interests in having a valuable autonomous life and the interests that grant them various rights. I will show this by analysing the distinction Raz draws between different duties we shoulder with regards to autonomy and rights. My intention is to show that, contrary to Raz’s claim, our autonomy-based and rights-based duties are of the same kind and, therefore, Raz is mistaken in his denial of a right to autonomy.

On Raz’s account, “‘X has a right’ if and only if X can have rights, and, other things being equal, an aspect of X’s well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty.”[[163]](#footnote-163) One could then be said to have a right to autonomy, in so far as one’s interest in having an autonomous life is a sufficient reason for holding others to be under a duty. In Raz’s words, this means that “a right to autonomy can be held only if the interest of the right-holder justified holding members of the society at large to be duty-bound to him to provide him with the social environment necessary to give him a chance to have an autonomous life”.[[164]](#footnote-164) The question now is to determine whether one’s interest in autonomy is a sufficient reason for holding others, that is, “member of the society at large,” to be under a duty to protect that interest. Raz does not believe that it is the case:

assuming that the interest of one person cannot justify holding so many to be subject to potentially burdensome duties, regarding such fundamental aspects of their lives, it follows that there is no right to personal autonomy.[[165]](#footnote-165)

Raz’s argument suggests that whether or not one’s interest (well-being) is a sufficient reason to make others duty-bound depends on whether or not the duty is “potentially burdensome.” That is, one cannot be said to have a right to autonomy if it can be shown that the imposed duties to protect one’s interest in autonomy are too onerous a burden to be shouldered by other members of society. The argument can go through if and only if the autonomy-based duties are proved, as is claimed by Raz, as potentially burdensome. A discussion of the autonomy-based duties is necessary.

According to Raz, the protection of one’s interest in autonomy imposes three types of duties on others. First of all, there is a duty to provide the individuals with an adequate range of options. Our second duty is “by and large confined to securing the background conditions which enable a person to be autonomous.”[[166]](#footnote-166) Raz does not say much to clarify what exactly constitutes as the “the background conditions.” However, it could be claimed that, based on the totality of his argument, by “background conditions” he refers to the institutional settings required for the cultivation of the *capacity* of autonomy. As is clear from the definition of autonomy, no one could be enforced to be autonomous. The background conditions could nevertheless be set in such a way that facilitates one to determine one’s course of life, that is, to become autonomous. Raz believes that many of the things that make up the background conditions such as the existence of social practices, professions, or supportive environments, are collective goods. The provision of such goods requires others to bear “potentially burdensome duties, regarding fundamental aspects of their lives.”[[167]](#footnote-167) The third category of duties comprises of duties that are required for the cultivation of “the inner capacities” necessary for living an autonomous life. There are four fields of concern in relation to inner capacities. The first concern covers the cognitive capacities such as the power to absorb, remember and use information, reasoning abilities and the like. The emotional and imaginative make-up establishes the second area of concern. The third concern emphasises the importance of physical health and skills. And finally the care for the characteristic traits such as stability, loyalty, and the ability to form and maintain intimate attachments and relationships constitute the fourth field of concern.[[168]](#footnote-168)

The individuals’ interests in living an autonomous life therefore require the provision of the background conditions and the realization of inner capacities. Creating and sustaining the autonomy-cultivating environment, Raz believes, imposes a potentially burdensome duty that cannot be expected to be delivered by others. It is implausible, according to Raz, to hold all individuals responsible for creating and maintaining a social environment which is necessary for the protection of autonomy. Hence, there is no right to autonomy.

The premise of Raz’s argument is based on the dissimilarity between rights-based and autonomy-based duties. A closer inspection of the autonomy-based duties would however reveal that autonomy-based duties are not actually as dissimilar to rights-based duties as Raz thinks they are. Or, at least, it could well be argued that there are many occasions in which the fulfilment of the rights-based duties is as much difficult as the fulfilment of the autonomy-based duties. Breaking up the autonomy-based duties into two familiar categories of positive and negative would be helpful to mark the similarities.

In so far as the negative autonomy-based duties are concerned, Raz acknowledges that our negative duties only entail non-interference with others' pursuits and goals, and their attempts to realize them. The unjustified interferences with others’ preferred way of life would be the blatant setback on their interest in being autonomous. The negative duty to refrain from doing or saying something that might jeopardize another's autonomy, however, does not seem to be more burdensome than the right-based duties that require the state to refrain from interfering with citizens’ rights and liberties. The negative duties that one may bear with regards to others’ autonomy therefore do not substantially diverge from the rights-based duties that one should burden. In both cases, non-interference is deemed necessary for the protection of the individuals’ interest. The foregoing discussion shows that Raz is mistaken to assert that, because some autonomy-based duties (perhaps positive duties) may be burdensome, all duties, including negative duties, are too burdensome.[[169]](#footnote-169) Nevertheless, a successful rejection of Raz’s position needs to prove similarities not only between negative, but positive, right-based and autonomy-based duties.

The positive autonomy-based duties only start to appear burdensome if we presuppose the following assumptions: 1) that the individuals’ interests in autonomy is enhanced in isolation from others’ similar interests, including those who shoulder the burden of duties, 2) that every single individual is responsible for the provision of a fully full-fledged autonomy-enhancing environment, and not that each individual is only responsible to contribute to the creation and maintenance of such an environment and 3) that we need to start from the scratch to create an autonomy-enhancing environment. My contention is that none of these assumptions should be granted.

The deliverance of a duty, according to Raz, would be too burdensome to be a sufficient reason for holding others duty-bound where the weight of the disadvantages caused were more than the interest served and protected. Raz’s account of the rights-based duties however seems to be based on a narrow understanding of the protected interests. This leads Raz to hold that, as Waldron puts it, “we should regard a duty as right-based only if our reason for holding others to be under that duty concerns the importance of the interest of some individual considered on its own.”[[170]](#footnote-170) The caveat is that it is rather difficult to think of an individual’s interest in isolation from others’ interests. One’s interests are, in fact, entangled with others’ interest. I will call this “interest entanglement.” The autonomy-based duties only appear to be too burdensome when the interests and disadvantages are weighed up against each other, without paying attention to the interest entanglement. One by delivering one’s duty to advance another’s interest in autonomy, say by contributing to setting up autonomy enhancing laws and institution, not only shoulders a burden to enhance another’s interest, but also one’s own interest in enjoying the benefit of living in a society with autonomy enhancing laws and institutions. In other words, *A* in delivering *B*’s autonomy-based duty not only serves *B*’s interest, but her interest too, and therefore in measuring the weight of the protected interests both *A*’s and *B*’s interests should be weighed up. This would surely reduce the disadvantage that may be caused by shouldering the autonomy-based duties because one’s effort would partly serve one’s interest in having an autonomous life. Moreover, there are some interests that are shared by the members of community: common interests.[[171]](#footnote-171) The common interest, generally speaking, is an interest that is shared by all members of society. It is of great importance to mention that the argument that Raz has elsewhere developed is inconsistent with his view on autonomy-based duties. Raz in *Ethics in the Public Domain* argues for the freedom of expression as public good, as something that serves the common interests of all members of community. Raz asserts that rights exist only if we could prove that the interests they protect are greater than the disadvantage they incur upon someone who is subjected to carry out the duties in question. Raz however asks whether “the interests of those who benefit from the fact that the would-be right-holder's interests is respected count in the case for the existence of a right.”[[172]](#footnote-172) Raz’s response to this question is surprisingly at odds with what he believes in the case of the autonomy-based duties. Raz asserts that “to deny the relevance of the existence of third-party interests which it so serves would be odd, since it amounts to asserting that considerations which affect the importance of a right are irrelevant to its existence.”[[173]](#footnote-173) He subsequently concludes that taking into account that the interests of third parties counts towards the justification of a right, we can plausibly talk about the justification of rights in terms of their service to public good. Raz, with regards to a right to freedom of expression writes:

That right is a public good, a good not merely to its holders but to the public at large. Furthermore, it follows from the above that the right's service to the public good is a major reason for its importance, a reason of greater weight than the value of the right to each individual who has it.[[174]](#footnote-174)

The above analysis shows that duties of autonomy cannot simply be framed in terms of an individual’s interest in having an autonomous life. The interest in having an autonomous life is more like a common interest, the interest that all members of a community share. Nicole Hassoun, in order to develop this point similarly appeals to what she refers to as “collective goods.”

It should be at least as intuitive, however, that there are many rights whose provision requires collective goods. We have seen that the right to a health and life require this much, for instance. So do the rights to a decent standard of living and physical security. Individuals need a social system that protects these rights. Such a system may impinge on a great number of other people’s lives. That is no objection to these (appropriately limited) rights’ existence especially if it is not too demanding to fulfil them. Everyone is obligated to vote for standard protections against physical violence, for instance, even if such protections only help very small minority groups avoid persecution. [[175]](#footnote-175)

The duty to establish the background condition necessary for individuals to have an autonomous life, such as establishing the relevant institutions, practices, laws and regulations as well as the adequate range of options, is not something that only serves an individual’s interest in autonomy. All members of community are to be served by such provision. In rendering a judgement regarding the existence of a right to autonomy, the protected interests that are compared to sacrifices, should not be restricted to an individual’s interest in autonomy, but all members of community whose interest in autonomy is enhanced by the respective sacrifices.

The second presupposition upon which the denial of a right to autonomy is based concerns the subject who is expected to deliver the autonomy-based duties. In Raz’s argument it is presupposed that the autonomy-based duties should be delivered individually, and in isolation from other individuals. However, these duties, such as creating and maintaining of an autonomy-enhancing environment, can be delivered collectively. It is not only the protected interests that should be considered as common or shared, but the burden should also be thought of as a common burden. Each of us has to do our part in creating the social conditions in which individuals’ autonomy can flourish. This contribution is primarily mediated by the state, and thus the individual efforts for creating an autonomy enhancing environment should be seen in the broader context in which the state is operating. Even the rights-based duties when expected to be delivered by an individual will begin to appear rather difficult. For example, in the case of a right to security and health care, it is the state that is responsible to accomplish the task of establishing efficient security and police forces, and a universal and reliable health care system. It would be absurd to hold each individual separately responsible for discharging such duties. When the state is in charge however we are not inclined to say that the burden of setting up a police force or health service is too much and therefore we should not consider security or healthcare as rights. So should be the case with the autonomy-based duties. Once the positive autonomy-based duties are perceived to be discharged by, not individual citizens, but the state, Raz’s claim that autonomy-based duties are too burdensome to be accounted for as right-based duties, will begin to lose its credibility.

Lastly, in delivering the autonomy-based duties, Individuals don’t start from the scratch. There are already different practices, regulations, customs and institutions that play a role in providing the background conditions for autonomy and there is mostly only a need to alter them in such a way that they will bring about our desired goals. I will further this claim by way of offering an example: the issue of marriage and the structure of family. This is, in fact, an example that Raz puts forward when he discusses the nature of the autonomy-enhancing culture. Creating and sustaining long-term intimate bonds and commitment is necessary for individuals to conduct an autonomous life. Accordingly, Raz argues that the autonomy-based duties entail creating and maintaining an environment that guarantees and secures the existence of different possibilities for developing intimate forms of relationship. That is, there is a duty to foster and cultivate an adequate range of options with respect to intimate relationships (marriage, homosexual and group partnerships). This duty nevertheless is not expected to be carried out individually by the members of society. This is the aim that each individual is responsible to contribute to its achievement. For example, the individuals could be held morally responsible and under a duty to vote in favour of a legal and regulative change so as to bring about a more suitable institutional form in which the plurality of partnership is attainable. These changes however are gradual and most of the times do not materialize in a radical way. These are embedded in the historical current of social changes. In the case of marriage and the structure of family the change has come about as a result of the transition to modernity. The point that I want to highlight is that in this case the members of community, of course, do not have an individual duty to provide others by whatever necessary means that is required for the observance of this right. They do nevertheless have an individual duty to contribute to the sum total of actions required to secure having an autonomous intimate relations. We do not begin to carry out our duties in this regard in the absence of any institutions (practices and environment required) whatsoever. They already exist, but in need of some alterations. In some cases, only a few legal changes may be necessary to protect an individual’s autonomy against the most common threats. And this could be done by the collective participation of all members of community and not by the single act of individuals.

The foregoing critical analysis of the autonomy-based duties (both negative and positive) demonstrates that the similarity between these duties and right-based duties is greater than what Raz allows. The denial of a right to autonomy would ultimately cut cross almost all other rights, including human rights.[[176]](#footnote-176) Such denial would exclude almost all of what we think of as the first generation of human rights (political rights) from the ambit of Raz’s definition of rights. These rights do not necessarily protect only an individual’s rights but the interest which are shared by all members of community. If we accept Raz's refutation of a right to autonomy we can *mutatis mutandis* apply his argument to the effect of denying all rights whose corresponding duties resemble that of autonomy. This is definitely not something that Raz is willing to assert, as his assertion of a right to freedom of expression shows, but it seems to be the logical consequence of his argument.

## Conclusion

Raz’s failure to distinguish autonomy-based duties from the rights based duties is of significant consequence for his account of political toleration. Political toleration, in Raz’s picture, is the state’s autonomy-based duty of non-interference. This understanding of political toleration can overcome the redundancy charge only if it can be proved that the state’s non-interference is not owed to citizens due to their rights to autonomy. Otherwise, the state’s non-interference is an occasion of respect for rights. That is to say, the state, facing the existence of the conflicting conceptions of the good, is under an obligation not to interfere with what may be deemed objectionable. There is no moral permission for the state to interfere; that is, the state lacks a right to interference. This, as I argued before, renders political toleration redundant, if not unjust; since the existence of a right to interference is necessary for toleration to be a virtuous and just practice. However, Raz fails to distinguish the autonomy-based duties from the rights-based duties. This will in turn make him fail to distinguish political toleration from the state’s rights-based duties of non-interference.

Having shown that the autonomy-based account of toleration fails to find a place for political toleration in a constitutional order, in the next chapter, I will consider another attempt at vindicating toleration, which is motivated by the rise of identity-based conflicts in contemporary society and what recognition theories have to offer in this regard.

# Chapter 5: Political Toleration and Recognition

## Introduction

In the last two decades or so, we have witnessed the revival of interest in the notion of recognition.[[177]](#footnote-177)The re-appropriation of recognition in contemporary political philosophy, which initially occurred as a response and alternative to the dominant distributive-based account of liberal justice,[[178]](#footnote-178) has expanded its influence into other domains of philosophical theorising. Soon after the proliferation of recognition theories, theoretical endeavours of prominent figures such as Charles Taylor[[179]](#footnote-179) and Axel Honneth [[180]](#footnote-180) to name only two amongst many other, caught the attention of toleration scholars. These recognition theories appeared to offer an opportunity for articulating an alternative account of political toleration, which could resist the objections levelled against the mainstream liberal accounts of toleration.[[181]](#footnote-181) Anna Elisabetta Galeotti’s theoretical endeavour in *Toleration as Recognition* is certainly the most ambitious attempt to incorporate recognition into a theory of political toleration.[[182]](#footnote-182) Galeotti claims that political toleration in the liberal tradition has thus far been construed wrongly in terms of non-interference. This is why the critics assume that in the presence of entrenched constitutional rights there would be no place for political toleration. Unlike others, Galeotti argues that the state’s rights-based non-interference could not provide a solution to all forms of conflicts in contemporary societies. For example, the rise of new forms of identity-based conflict shows that such conflicts cannot be effectively addressed by appealing to the state’s rights-based duty of non-interference. The resolution of such conflicts demands an affirmative approach. Hence, Galeotti suggests that an alternative account that understands toleration not only negatively in terms of non-interference, but positively as recognition of difference will generate a better account of political toleration. I will begin, in Section 2, by laying out Galeotti’s analysis of the traditional understanding of toleration and her diagnosis as to why it needs to be revised according to the demands of identity politics. In Section 3, I will move on to assess whether or not Galeotti’s account, that is, toleration as recognition, can meet the redundancy charge. In doing so, I will first ask what recognition can possibly stand for in the toleration as recognition thesis. I will then, in Section 4, argue that recognition should best be understood in terms of the *elimination of misrecognition.* I will, finally, demonstrate that such understanding of recognition may well render Galeotti’s account of political toleration coherent, but not effective enough to overcome the redundancy charge.

## Toleration as Recognition

Galeotti begins her project by welcoming the redundancy charge, conceding that the proliferation of rights to various domains of social life have obscured issues such as freedom of religious belief and worship, which have been historically the *locus classicus* of toleration.

The idea that differences in matters of religion, lifestyles, moral and aesthetic values, and so on do not constitute legitimate possible objects of direct political intervention, but belong to the individual’s sphere of liberty, is embodied in liberal constitutions and translated into a system of rights. The inclusion of the ideal of toleration in constitutional rights as a means of protecting individual freedom of conscience, expression, and association seems to render the very notion of toleration superfluous. If everyone is granted the right to entertain and to pursue his or her own conception of the good and its corresponding lifestyle, as long as no harm to any third party is produced, the state has no right to tolerate any different behaviour, ideas or morality, since it has no right to “tolerate” (in the strict sense) what it has no entitlement to forbid in the first place.[[183]](#footnote-183)

Galeotti, in congruence with the redundancy charge, argues that the classic issues of disagreement, such as religious conflicts, can no longer be appropriately addressed by appealing to toleration. She, nonetheless, refuses to conclude that political toleration is absolutely redundant in our societies. As fresh social and political rifts open, the constitutional liberal order will face new forms of antagonism. This highlights the urgent need to revise our understanding of toleration. Galeotti accordingly argues that, rather than taking a dismissive attitude towards toleration and its relevance to our political life, we have to revise our conception of toleration. Since “genuine cases of toleration” are emerging, a new conception of toleration should be in place so as to address what has currently befallen the constitutional liberal order. By “genuine cases,” Galeotti refers to the issues that are genuinely controversial. The religious disagreement illuminates the contrast between what Galeotti believes to be the genuine cases of toleration and other disagreements which should no longer be considered as issues of toleration. Whilst religious disagreements may still give rise to some problems, the battle for the freedom of religion as a constitutional right has been fought and won. There are however, other controversial issues that remain matters of real conflict, which the state’s rights-based duties of non-interference fail to adequately settle. On Galeotti’s view, the controversial cases of toleration emerge not because of the disagreement between the individuals’ values and beliefs, but the existence of groups and collective identities who do not enjoy equal standing in society.

The source of the genuine issues of toleration is pluralism, understood as the coexistence within the same society of a plurality of groups and cultures with unequal social standing. [...] I hold that non-trivial contemporary questions of toleration are basically made up of conflict concerning the assertion and the recognition of (usually ascriptive) collective identities linked to the excluded, marginalized or invisible groups inhabiting contemporary democracies.[[184]](#footnote-184)

An example of a genuine case of toleration, Galeotti proposes, is the controversial matter of wearing the Islamic headscarf (hijab) in public schools in France. This example is the representative of a whole range of controversies in western societies that entail a clash between cultural (religious) minorities and the established rules and conventions of the wider society. The admission of gays into the army and regulations regarding the speeches that incite violence or hatred are among the other examples that Galeotti offers to illuminate the nature of genuine cases of toleration. The failure to adequately deal with such problems is due to “the interpretive framework underlying all versions of liberal toleration,” which “provides an insufficient understanding of what is at stake in contemporary cases.”[[185]](#footnote-185) Galeotti believes that in “liberal tradition” toleration is framed in terms of “moral conflict” and “clash of values and cultures.” To put it differently, toleration is meant to deal with the kind of disagreements, moral disapprovals and dislikes that are directed at the individuals' chosen beliefs and practices. The scope of toleration, i.e., the range of objects to which the practice of toleration applies, is thus confined to the realm of individual beliefs and their concomitant practices. Within such a framework “toleration amounts to granting every citizen a free choice, and exercising a “public blindness” when it comes to forming policy.” Toleration is thus reduced to the liberal principle of non-interference and neutrality. The negative formulation of toleration, which only requires the state’s non-interference, would not to be sufficiently appropriate to deal with the contemporary identity-based social problems. It ignores the need for positive intervention which is required to guarantee equal respect for all participants in a political order.[[186]](#footnote-186) The genuine cases of toleration arise because of the differences between groups rather than individuals. Group differences that give rise to socio-political conflicts, unlike the cases discussed by classical theories of toleration, are ascriptive in nature. They are features ascribed to a group from the outside by non-members. No choice is involved.

Within the pluralism of groups, cultures, and collective identities, the salient conflict does not concern moral disagreement, at least not primarily, but rather concerns asymmetries in social standing, status, respect, and public recognition, which then sustain ideological and cultural contrasts.[[187]](#footnote-187)

A closer scrutiny of the genuine cases of toleration reveals that these cases arise when the representatives of minority groups claim public acceptance for their different practices, behaviour, and religious and cultural symbols. In these cases, what is at stake is a disapproval or dislike directed at the ascriptive characteristics of a group, which is produced in the oppressive and unjust power relations between “minorities” and “majorities.” For example, in the case of the Islamic veil in France, the dislike and disapproval concerning the hijab takes place in the broader context in which the Islamic culture is perceived by the white western majority. Islamic culture is vastly perceived to contradict the liberal values of, for instance, freedom and individual autonomy. The hijab is therefore seen as a mechanism that denies women’s autonomy by invisibility and subordination.[[188]](#footnote-188) As the controversy surrounding the hijab demonstrates, the conflict does not merely consist of a moral disagreement regarding a belief or practice; it is rather a conflict which is generated by the perception of a minority by majoritarian attitude.

If what is really at stake in contemporary issues of toleration is equal respect and social standing for minority groups, then the issue of public toleration must be addressed not simply in terms of the compatibility between liberal institutions and various cultures or practices, but in terms of the contestation over the inclusion of distinct identities and their bearers in a polity via the public recognition of their differences. “Toleration as recognition” challenges the liberal account of toleration for failing to respond adequately to the minorities’ need for social and political acceptance. From the constitutional point of view, neutrality requires that the state treat all positions equally because their occupants are assumed to be full members of society. Genuine cases of toleration, however, reveal that the neutralist position, which aims to secure the equal exercise of rights through non-discrimination, fails to tackle fully the issue of inclusion. The task of a recognition-based account of toleration, as is expressed by Galeotti, is therefore to establish “a semantic extension from the negative sense of non-interference to the positive sense of acceptance and recognition.”[[189]](#footnote-189) The semantic extension of toleration from non-interference to “acceptance and recognition” entails “the assertion and the recognition of (usually ascriptive) collective identities linked to the excluded, marginalized or invisible groups inhabiting contemporary democracies.”[[190]](#footnote-190)

## Two Meanings of Recognition

The critical assessment of Galeotti’s project demands a closer scrutiny of the way that notion of recognition has been incorporated into her thesis.[[191]](#footnote-191) In other words, whether or not toleration as recognition would succeed in making sense of political toleration to a large extent depends on what recognition is taken to mean in this thesis. To put it simply: we need to clarify what “acceptance and recognition” amounts to. In order to do so, I begin with a distinction. Recognition can be taken to mean two different things. On the one hand, recognition demands, in Taylor’s words, “a politics of universalism, emphasising the equal dignity of all citizens.” This is, to guarantee “the equalization of rights and entitlements” for all individuals, regardless of their particular socio-cultural allegiances.[[192]](#footnote-192) On the other hand, recognition can be taken to mean a “politics of difference”, which asserts everyone's right to “be recognized for his or her unique identity” and requires the recognition of the equal worth of “difference.” Borrowing Nancy Fraser’s terms, I will for ease of reference, refer to these interpretations as “status model” and “identity model” of recognition, respectively. [[193]](#footnote-193) The ultimate aim of the status model of recognition is not the positive affirmation of identities, as is the case in the identity model, but to accord full citizenship to all individuals irrespective of their particular identity.

As simple as the above distinction may sound, Galeotti’s position on the meaning of recognition is by no means free from complication.[[194]](#footnote-194) In what follows, in order to assess Galeotti’s account of toleration, I will try to examine two possible interpretations. On the one hand, Galeotti appears to advocate a version of the status model. On this reading, recognition coincides with the standard liberal view that no way of life can claim to have any positive valuation and privilege within a political order more than any other way of life. Recognition, generally speaking, amounts to equal respect for an individual's rights and liberties. The fact that people hold different views or have different tastes and forms of life, does not have any bearing on the way the state should treat individuals in their capacity as equal citizens. “Toleration as recognition” therefore, seen from the “difference-blind” position of “right-liberalism,” is not concerned with identities but with respect for individuals’ basic rights and liberties. What is required is the recognition of individuals’ freedom and the equality of all individuals as citizens with a set of universal needs, **s**uch as “primary goods” including income, healthcare, education, religious freedom, freedom of conscience, freedom to vote and so on and so forth. There are passages in Galeotti’s work that endorse the above reading. For example:

Differences should be publicly recognised not because they are important or significant per se…but because they are important for their bearers[…] public recognition with the aim of legitimating the public presence of diversity is content-independent […]. It neither says nor implies that the difference in question is intrinsically valuable, beautiful, or important for the human good […].[[195]](#footnote-195)

Despite the existence of some textual evidences in support of Galeotti’s advocacy to the status model of recognition, there are two reasons to believe that the status model cannot be the right kind of framework to interpret Galeotti’s intended meaning of recognition. Firstly, there are a plethora of passages in Galeotti’s works that contradict the status model. These passages outnumber the passages, like the one I mentioned above, where Galeotti appears to have subscribed to the status model. Secondly, taking recognition to mean something that is implied by the status model seems to be at odds with the aims that she sets herself to fulfil. I will begin with the latter point by referring to some supporting textual evidence.

Galeotti admits that her account of recognition “shares with the standard conception of neutralist liberalism the view that toleration is a matter of justice.” She nevertheless immediately clarifies that the prevailing understanding of justice which is grounded in the idea of impartiality and the universal recognition of “equal concern and respect” for all individuals fails to satisfy the particular demands of marginalised and excluded groups. Within the pluralism of groups, cultures, and collective identities, the salient conflict is the asymmetries in social standing, status, respect, and public recognition, which in turn maintain the ideological and cultural contrasts. A genuine case of toleration “does not primarily concern equal liberty, but equal terms of inclusion.”[[196]](#footnote-196) “Equal terms of inclusion,” seems to demand something more than non-interference and the formal recognition of citizens’ right to inclusion.

Inclusion here is meant not only in the formal sense of having citizenship rights, but in the substantive sense of enjoying the status of full membership in society. It is not a resource to be distributed, but, rather, designates the capability to make use of citizenship rights and social opportunities; therefore it makes a difference to how people are socially and publicly regarded.[[197]](#footnote-197)

From Galeotti’s point of view, in order to tackle the genuine cases of toleration we need an alternative conception of toleration which goes beyond the rights-based distributive framework. To become a functioning citizen one needs, not only to hold equal standing with others in the exercise of legal rights and benefit from the fair distribution of resources, but to have the “capabilities” to make use of them.[[198]](#footnote-198) After all, “toleration as recognition” is, more than anything, a plea for “re-conceptualization of toleration.”[[199]](#footnote-199)

The alternative way to make sense of recognition is to explain it in terms of the identity model. Within this framework, the proper re-cognitional attitude entails, in Taylor’s words, “recognizing the equal value of different ways of being.” The politics of recognition requires “that we all recognize the equal value of different cultures; that we not only let them survive, but acknowledge their worth.”[[200]](#footnote-200) In many passages, Galeotti appears to be endorsing an account of recognition which bears resemblance to the identity model of recognition. Galeotti insists that recognition should be accorded “not despite one’s origin, culture, skin colour, or sexual preference, but precisely because of such features”; that “recognition works only if it is granted to particular identities...it must be granted to each difference separately”; and that we achieve toleration as recognition when, ‘the public presence of minority identities is publicly declared acceptable, not just the public presence of individual members as individuals, but with their full blown identities, customs and ways of life.”[[201]](#footnote-201)

Accepting Galeotti’s assertion of the identity model of recognition will however raise a problem for “toleration as recognition” thesis. The requirement of “acceptance and recognition,” understood as taking an affirmative attitude towards difference, seems to be at odds with one of the constitutive components of the concept of toleration, namely, the “objection component.” Toleration conceptually entails a negative judgement against the practice under consideration.[[202]](#footnote-202) Toleration only makes sense when there is disapproval. Without a negative judgement there would be no toleration. It would be absurd to say that I tolerate something that I believe to be right or true. Recognition as is depicted by Galeotti, however, seems to require us to fully replace our negative judgments concerning what we find morally wrong or distasteful with an affirmative one. This positive evaluation required by recognition would bring about a tension in the conceptual structure of the “toleration as recognition” thesis. On the one hand, recognition would seem to entail ascribing a positive value to an action or belief and, on the other hand, toleration would presuppose the existence of an irreplaceable negative judgement. So how can we simultaneously tolerate and recognize? How is it possible to retain the disapproval that is essential to an act of toleration while according the approval that should be embodied in the act of recognition?I will call this “the conceptual incompatibility” argument. The argument questions the validity of Galeotti's position for purely conceptual reasons. The question is the following: does Galeotti’s extension of the idea of toleration in the direction of recognition means that the result of this extension, as an account of toleration, would struggle to fit within the conceptual boundaries of toleration?

## Toleration as Elimination of Misrecognition

The conceptual incompatibility argument only goes through if the premise of the argument is true. The premise is the following: recognition in Galeotti's thesis stands for the positive evaluation of the content under consideration. There are statements in Galeotti’s works which seem to endorse the positive evaluation of identities, and hence reinforce the charge of incompatibility; I will nonetheless argue that the public toleration of social differences, which is the centrepiece to the toleration as recognition thesis, can withstand the charge. In order to show this, I will pursue an alternative interpretation that follows a negative logic: recognition as elimination of misrecognition. In Galeotti’s work, I claim, recognition entails, rather than the positive evaluation of difference, the negative approach to (mis)recognition. Recognition, I suggest, only amounts to the elimination of various forms of misrecognition that mar “the public presence of minority identity.” Recognition as elimination of misrecognition requires “reversing the chain which links public invisibility, persistent social prejudice, and discrimination” of a minority group “with humiliation, self-hatred, and a lack of self-esteem and self-respect.”[[203]](#footnote-203)

The exclusion of certain differences and their bearers from the public space is, in fact, the problem from which a demand for their public recognition starts. Exclusion, in the form of marginality, oppression, or invisibility, implies that some obstacle makes it hard for the bearers of different identities to be “normally” present and “quietly” visible in the public space. The obstacles – whether legal impediments, customary practices, or the minorities own timidity — need to be actively removed [...].[[204]](#footnote-204)

Galeotti’s main criticism against the liberal accounts of toleration is that, although the controversial issues of toleration arise from ascription of negative and demeaning characteristics to a group by a powerful majority in a matrix of power relations, within the liberal framework the disliked and disapproved-of “difference” is deemed to be matters of individuals’ private beliefs and practices.[[205]](#footnote-205) That is why the negative account of toleration fails to properly identify the cause of “exclusion” as it appears “in the form of marginality, oppression, or invisibility.” As the above passage shows, the key to understanding how recognition is played out in Galeotti's thesis, and how a positive account of toleration is to “meet the demand for public recognition,” unravels the relation between the construction of “minority identity,” misrecognition and the injustice of socio-political exclusion.

First of all, I should emphasise that on Galeotti’s view, minorities are not defined in a numerical way. The fact that minorities are for the most part outnumbered by the majority is not definitive of a minority group. For example, in South Africa despite the fact that blacks were numerically more than whites they were still considered as “minority” during the Apartheid regime. What puts a group in a majority position is its power to define what is “normal” and “proper” in a political order. A majority sets and upholds what Galeotti calls societal standards or conventions.[[206]](#footnote-206) Recall that, for Galeotti, the primary causes of the exclusion of minorities are social factors, such as prejudice, stigmatization, and discrimination in everyday social interactions, and the very fact of being different from the norm.[[207]](#footnote-207) Due to the “normality-defining” social power of the majority, members of minorities cannot themselves choose or refuse the status of being in minority; as soon as they are perceived as different, they become members of minority in Galeotti's sense. Minorities are therefore groups that are seen as “different” and “deviant” by the majority, relative to the social norms defined by the latter. [[208]](#footnote-208)

What Galeotti calls “minorities,” in fact, bears resemblance to Taylor’s “false, distorted and reduced mode of being” that is subjected to misrecognition.[[209]](#footnote-209) Minority identity is constructed by the ascription of properties that are as much imposed through relations of domination, as well as the repressive and coercive practices as they are chosen by the members of a group. Members of the minority groups have a “confining or demeaning or contemptible” picture of themselves that is actually imposed upon them by powerful majorities and can only express them within the confines of the role that is assigned to them by those majorities. Minorities, to use Appiah's term, are the actualization of social “scripts.” [[210]](#footnote-210) The misrecognised minorities are therefore harmed and oppressed by being “imprisoned” in their ascriptive identities. It is worth highlighting that the problem is not the existence of the scripts as such (we are all living by scripts, majority and minority alike), but the content of the scripts that reduce their options and settle them with devalued properties.

Minorities, in other words, are constructed as a result of a social network of misrecognition that jeopardizes the “full inclusion” of the members of a “minority identity” in significant public affairs of the political order.[[211]](#footnote-211) That is to say, in a society where the minorities’ identity is ascribed to them by the dominant majorities, “minorities” are likely to fail to actualize the “capabilities” necessary for full participation in socio-political affairs of a polity. As defined by Galeotti, “capabilities” are the conditions that are required for a person to be able to “function” as a citizen.[[212]](#footnote-212) One way to understand these conditions is to translate them in terms of what Rawls refer to as “primary goods.”[[213]](#footnote-213) Rawls argues that primary goods are "things which is supposed a rational man wants whatever else he wants,” and include income and wealth, the basic liberties, freedom of movement and the choice of occupation, powers and prerogatives of offices and positions of responsibility, and most importantly the social basis of self-respect. Rawls believes that everyone deserves primary goods, and that primary goods are perceived to be a means for people to pursue their life goals.[[214]](#footnote-214) To show how minorities’ access to primary goods is marred, I will consider basic liberties and “the social basis of self-respect.” According to Rawls, self-respect is a precondition for citizens to pursue their aims. The claim that without self-respect “nothing may seem worth doing, and if something has value for us, we lack the will to strive for them”[[215]](#footnote-215) captures accurately Galeotti’s causal claim that the members of minority groups fall short of full membership in a polity due to social marginalization. The feeling of shame, humiliation, and self-hatred experienced in connection with their differences, reinforced by the required public invisibility of their identity, prevents minorities from developing an adequate level of self-respect and self-esteem.

As for “basic liberties”, Galeotti claims that minorities’ basic liberties are violated not only because they are simply denied such rights, but on the grounds that the actualization of these liberties are rendered impossible due to what Iris Young refers to as “cultural imperialism.”[[216]](#footnote-216) Consider the basic right to expression and freedom of speech. Minorities are unable to freely express themselves because the “dominant meanings of a society render the particular perspective of one’s own group invisible at the time as they stereotype one’s group and mark it out as Other.”[[217]](#footnote-217) Since the majority’s experiences shape the dominant norm, they have exclusive access to the means of interpretation and communication. Onora O’Neill explicates the shortcomings of the negative account of liberty, which only requires non-interference, by drawing on a distinction between communication and expression.[[218]](#footnote-218) The aim of expression is to establish a form of communication. In other words, self-expression is always directed at a particular audience. This self-expression is a form of getting a message or content across. Communication, however, is not a unilateral attempt to convey a message. It must be a receiver who attentively participates in the communication process. The attentiveness of the receiver is not tantamount to the assertion of the message *per se*. It only indicates a willingness and openness to others who intend to initiate communication. A mere act of non-interference, understood as a passive receptivity, diminishes the possibility of an expression to engender proper communication. On such occasion even if the communication takes place, the passive non-interference strips the message of its intended significance. It therefore reduces the content of the intended communication to a “trivial and indifferent matter, not worthy of discussion or refutation, a merely a private matter.” In such condition, although minorities may formally exercise their right to freedom of expression, they will have their means of communication curtailed.

On the same terrain, new-republicans have argued that freedom should not merely be framed in terms of negative liberty, which only requires non-interference. Freedom should instead be equated with non-domination as the absence of mastery by others. On this reading, interference is not the only constrain on freedom. Phenomenon as diverse as relationship of dependency, arbitrary power, and social hierarchy can be seen as obstacle to realization of one’s freedom. Thus citizens’ freedom can be denied by the ‘institutional patterns of cultural value that prevent them from participating as peers in social life.’ As a result, they will be dominated, and hence not free, by such institutional pattern.[[219]](#footnote-219) Similarly, Cecile Laborde, in the context of Hijab controversy in France, by capitalizing on the republican idea of freedom as non-domination, argues that the exclusionary social norms, which reduce minorities to their ‘presumed identity, culture or religion, and consequently stigmatized as immigrant, Arab or Muslim,’ can be seen as a form of domination that obliterate citizens’ republican freedom.[[220]](#footnote-220) “Toleration as recognition” is claimed to have as its main aim the elimination, or at least alleviation, of the kind of injustices portrayed above. To redress the injustice of exclusion, so Galeotti argues, is the emphasis on the public toleration “as a symbolic form of public recognition for the collective identity of a marginalized, oppressed or invisible group.”[[221]](#footnote-221)

Recognition of differences becomes an important step in order to reverse the feeling of humiliation and shame suffered by those who are despised and oppressed because of their membership in a particular group. The goal to be attained is public respect and consideration, which contribute to an individual’s ability to function as a citizen, and make good use of their rights, resources, and opportunities.[[222]](#footnote-222)

In the recognition paradigm of the kind purported by Galeotti, since the injustice of exclusion is understood as cultural, that is, something that is rooted in social patterns of representation, interpretation, and communication, the remedy must be also cultural. Hence, a symbolic change and transformation in the public space must take place. Recognition should not be limited to the valorisation of group differences that is associated with mainstream multiculturalism. Rather, it should encompass the deep restructuring of the symbolic order. The restructuring of the symbolic order requires the elimination of all forms of misrecognition and disrespect. “Public recognition of difference,” Galeotti holds, “entails an undertaking to question and revise those conventions which are based on what the majority considers to be the norm, so as to take into account the views of minorities.”[[223]](#footnote-223) To use the new-republican language, recognition in Galeotti’s thesis does not demand the state to positively affirm minorities’ identity, but to remove the dominating patterns of social norms that deny citizens’ freedom as non-domination. Public toleration should reverse the invisibility and marginality of different identities which public blindness, far from dispelling, in fact reinforces. Toleration therefore first and foremost requires the elimination of exclusionary misrecognitions.

## Recognition-Based Duty of Non-Interference

What I proposed in the previous section as the most coherent reading of Galeotti’s thesis, that is, toleration as elimination of misrecognition, will effectively serve two aims. First of all, in the most plausible way, it makes sense of what recognition stands for in the “toleration as recognition” thesis by offering some textual evidence. Secondly, as a consequence of clarifying the meaning of recognition, Galeotti’s thesis can avoid the incompatibility charge. The fulfilment of these aims, nonetheless, would not enable Galeotti to articulate an account of toleration which could offer a remedy to the specific concern that I have been discussing in this chapter, i.e., the redundancy of political toleration. Galeotti ultimately grounds toleration’s normativity in justice. On her view, political toleration is owed to citizens on the grounds that all member of political community have a right to recognition, or as I interpreted it, a right not to be misrecognised. Galeotti insists that the “toleration as recognition” thesis, notwithstanding its radical dimension, follows the liberal path of justice.[[224]](#footnote-224) Recognition or, as I interpret it, the elimination of misrecognition has an instrumental value in Galeotti's account. The ultimate aim of recognition, or as it were its *telos*, is liberal justice: the full inclusion and equal respect for all citizens. Galeotti construes misrecognition as a form of injustice, where the equal participation of citizens is impaired due to the various forms of stigmatization, misrecognition, and domination. The commitment to political liberalism, generally construed, requires society to protect the individuals’ political participatory capacities. Liberalism’s cornerstone is the assumption that each and every individual has an equal right to participation, that is, an equal say in decision making processes about the fundamental practices and institutions of society. The violation of the fundamental right to participation accordingly imposes the major socio-political injustice that liberalism intends to address. Galeotti's understanding of “toleration as recognition', which in my interpretation is tantamount to the elimination of misrecognition, normatively relies on a liberal right to equal participation. The members of minorities are subjected to various forms of injustices that are the violation of their right to participation. The ultimate goal of toleration so understood is to guarantee and secure the equal participation of all citizens on the same footing: to actualize the ideal of “participatory parity.”

To understand and construe toleration as respect for citizens' right to participation, however, would bring back the redundancy problem. Toleration would be reduced to the duty of non-interference that we as individuals, and the state as the representative of the individuals, have with respect to other individuals as the cohabitants of the socio-political order. That is to say, the state would be deemed to be obligated to tolerate citizens because they have a right to participation. This should in turn be done *via* elimination of all forms of misrecognition that impairs citizens’ equal and effective participation.

To clarify the point and to illuminate the inherent connection between toleration as recognition and the normativity of rights, I consider the homosexuals status in our society. Galeotti refers to homosexuals as a minority group whose membership identity is by and in large defined and constructed by the heterosexual majority. The case of a ban on the expressive homosexual relations in the U.S Army or the resistance to legalisation of gay marriage in many countries are examples of the exclusion of homosexuals and a society’s failure to provide them with full participation. The violation of homosexuals' right to participation is an instantiation of injustice. In this case, toleration as recognition is directed at the elimination of the various forms of misrecognition produced by marginalization and stigmatization of homosexuals. The elimination of this discriminatory form of misrecognition is normatively enforced by homosexuals’ right to recognition, or as I interpreted, by homosexuals’ right not to be misrecognized. The crucial point that I want to highlight here is that the duty of toleration as recognition (elimination of misrecognition) is generated by a fundamental right that homosexuals are entitled to: a right to participation. We are obligated to “tolerate” homosexuals' behaviour and the homosexual form of life due to their right to pursue whatever form of life they prefer to choose. The state is morally expected to respect this fundamental right, irrespective of majorities’ attitude towards homosexuals. In other words, the state is not entitled to decide as to whether or not interfere with citizens’ choice of intimate relations. It is simply under an obligation not to interfere. Its failure to deliver on this obligation will harm homosexuals by the way of violation of their rights.

## Conclusion

Galeoti’s recognition-based account of toleration ultimately fails to address the redundancy charge. However, as I argued, it is possible to propose an understanding of recognition that renders Galeotti’s thesis coherent; yet still, this modified account cannot disarm the redundancy charge. The elimination of misrecognition is normatively motivated by what justice requires, namely, citizens’ right to participation. That is to say that the duties that are imposed on the state by toleration as recognition, bear, in the final analysis, fundamental resemblance to the duties of rights (justice). Toleration as recognition therefore is vulnerable to the worries I developed in Chapter 3 regarding confusing toleration with rights-based duties of non-interference. If non-interference is owed to citizens as a corresponding duty to their right to participation, there cannot be any right to interference for the state in the first place. I previously (in Chapter 1) argued that the existence of a right to interference is the necessary condition for the question of toleration to arise at all. Moreover, in a liberal constitutional order, citizens’ rights to participation are secured by constitutional measures. Once such constitution is in place, toleration as a means to secure citizens’ right to participation appears to be redundant.

# Chapter 6: Towards a Realist Account of Political Toleration

## Introduction

In the three previous chapters, I firstly explicated the obstacle that an account of political toleration needs to overcome: the redundancy challenge. I then surveyed a few attempts at resisting this charge. After a critical analysis, I concluded that none of these attempts is successful. According to the redundancy charge, political toleration that is conceived as the exercise of restraint by a political authority with respect to interference with practices deemed objectionable has no place in contemporary liberal societies. The redundancy charge is anchored in the assertion that in a constitutional liberal order justice-based non-interference, rather than toleration, is morally the most appropriate way of dealing with diversity. Justice requires the state to be neutral and respect citizens’ constitutional rights. Both requirements restrain adequately a political authority’s interferences with citizens’ practices and leave no space for toleration to occupy. The redundancy of toleration in the presence of justice-based duties of non-interference is concluded on the grounds that 1) there is a conceptual conflict between toleration and state’s neutrality, and that 2) the state’s rights-based duty of non-interference, preclude the existence of a right (moral permission) to interference as a necessary condition for the question of toleration to arise.

In this chapter, I will face the redundancy charge. I admit that the state’s justice-based duties of non-interference are the most common form of restraint that the state applies in its dealing with citizens. I concede happily that, in a liberal order, justice-based non-interferences do actually much of the work that was historically delivered by toleration. I nonetheless contend that from these assertions the redundancy of political toleration does not logically follow. Another step, and arguably not an easy one, needs to be taken to conclude that there is *no* space left for political toleration at all. My intention is to identify a space in which political toleration can operate along justice-based non-interference, without being conflated with, or viewed as mutually exclusive to the latter.

Instead of offering a new conceptual understanding of political toleration, I will try to reconcile political toleration with the state’s justice-based non-interferences, by applying the conceptual scheme I developed in the first two chapters. The main idea is that there are occasions of conflict and antagonism that could not be effectively addressed by practices of non-interference motivated and justified by the requirements of justice, namely, the concepts of neutrality and constitutionally entrenched rights. Upon discovery of such terrain, justice-based non-interference and political toleration could complement, rather than exclude each other within the confines of politics. I will refer to what I am defending in this chapter as “complementarity thesis.”

I will first outline the complementarity thesis by a critical analysis of Catriona MacKinnon’s attempt to bridge the gap between toleration and the liberal state. In Section 3, I will proceed to clarify what makes the complementarity thesis fail within McKinnon’s framework of thought by juxtaposing political and interpersonal toleration. The comparison reveals the similarity between the problems political and interpersonal toleration face. I will then attempt to revise the complementarity thesis in order to find a solution to the problem of political toleration by appealing to the two-level model of deliberation that I developed in Chapter 2. I will finally, in section 4, defend a realist approach to politics which enables me to make sense of political toleration by applying the two-level model of tolerating deliberation.

## The Complementarity Thesis (CT)

Contrary to what is suggested by advocates of the redundancy argument, the complementarity thesis holds that justice-based non-interferences do not take up all the political space when it comes to the relation between the state and citizens in a liberal constitutional order. Justice-based non-interference and political toleration are understood to work in complementary manner to settle the disputes over the limits of the state’s interferences. The complementarity thesis introduces a new category of objects to which the state can be said to be in a tolerating relation: the objects of disapproval to which the state can legitimately hold a negative judgement (no neutrality required), and yet not to be required to interfere with them. The claim that toleration completes the scope of the state’s non-interference could be demonstrated, only if it were shown that the state has reasons not to interfere with views and practices toward which the state’s non-neutrality is guaranteed. The state’s neutrality has limits. The state is not required to be neutral towards all practices and views held by citizens. In a division of labour between political toleration and justice-based non-interferences, when the state’s neutrality is not appropriate the space for political toleration opens up. The state in this putative space can hold a negative judgement, yet refrains from interfering with the disapproved-of. On such occasion it can be said that the state tolerates the disapproved-of.

There is an obvious caveat concerning the above position. Within a liberal order, non-neutrality is justified when it is required by justice. This means that the state is only allowed to be non-neutral towards unjust practices. However, the right attitude towards unjust practices should be prohibition, not permission. Hence, there is a question to be answered: how can it be justified for the state to turn a blind eye on what justice requires, namely, prohibition, and allow the unjust?

Catriona McKinnon has recently proposed a model for political toleration which is constructed along the above understanding of complementarity thesis.[[225]](#footnote-225) In order to examine whether such understanding can address the above question, I will turn to McKinnon’s account. McKinnon holds that in an ideal political order, one which is consistent with Rawls’ conception of “justice as fairness,” political authorities are not required to be neutral towards all citizens across the whole range of values that they hold. The place for political toleration, which she refers to as “vertical toleration,” is thus “beyond the limits of neutrality.” McKinnon sets up her argument against the backdrop of the Rawlsian ideal of political order. She accordingly offers a hypothetical scenario in which “the milliners” and “the secularists” conflict over the practice of bowler hat wearing in an ideal political order, Liberalia. Milliners demand the practice to be legally required and enforced upon everyone, and the secularists want to ban it altogether. Since the enforcement of the practice or its absolute ban cannot be reasonably defended, that is, cannot be justified to all who would be affected by it, the state should remain neutral, given the commitment of the state to the requirements of justice as fairness. It is clear that in so far as milliners and secularists do not violate others’ rights, for example by appealing to the use of violent measures, the state should refrain from interfering with their activity. The question is: how the state’s non-interference ought to be conceived and described? The advocates of the redundancy argument will find the question too easy to answer. The non-interference here is simply required by principle of neutrality. Neutrality, in so far as the state’s non-interference is concerned, does the entire normative job. Since the state is not allowed to hold a negative judgement against a position which does not violate the requirement of justice, the corresponding non-interference cannot be identified as toleration. MacKinnon, however, believes the question is more complicated than what is assumed by the advocates of the redundancy argument. The complication comes to light when we consider the activities of the “passive” milliners and secularists. Law-abiding passive milliners and secularists do not cause wrongful harm to others. Nor do they violate any one’s rights. They are not however whole-heartedly committed to what is mandated by justice as fairness. Their conformity with laws and regulations is not motivated by their allegiance to the political conception of justice and simply is yielded by the balance of power. What makes them abide with laws is a mere sense of expediency and the fact that they are well aware of the negative consequences involved in the exercise of unlawful measures. Since they reject the permanence of reasonable pluralism, and as a consequence are willing to change the condition so that the state promotes their cause, even the lawful activities of the passive milliners and secularists may in the long term pose a serious threat to the peaceful coexistence of different groups in society. Their activities, for example, may undermine what makes Liberalia stable over time and lead to the ultimate domination of a group which seeks to repress others when the time is ripe. The worry is that “the emergence of such groups degrades and damages the bottom-up allegiance given to the state by citizens, without whom the maintenance of just institutions will require top-down force and coercion.”

What the passive milliners and secularists do constitutes a direct, albeit permissible, attack on Liberalia’s stability. Importantly, this is the case not simply because the passive milliners and secularists reject the burdens of judgement at the heart of the justification of justice as fairness. Rather the attack is on the foundations of stability in the present support political authorities have among the reasonable majority of citizens in Liberalia.[[226]](#footnote-226)

Mackinnon illustrative example’s point however is not to show how precisely the passive milliners and secularists threaten the underlying principle of a liberal order; the purpose is to show that it is not implausible to assume that such activities can have a serious negative affect on the liberal political order. McKinnon accordingly argues that the state need not be neutral towards the passive milliners and secularists. That is to say that the state is allowed, and perhaps obligated, to oppose what they promote. In Liberalia, the state refrains from preventing the passive milliners and secularists from publicly expressing their opinions on wearing bowler hat, and does that on plausible grounds. Since “two of the basic rights all people in Liberalia have are freedom of expression and freedom of association,” the passive milliners and secularists are entitled to pursue their cause, despite the fact that the state is not neutral about what they are promoting. MacKinnon concludes that the very fact that the state in Liberalia lets the passive activists enjoy their freedoms such as freedom of speech and association shows that there is still scope for the liberal state to practice political toleration with respect to some of its citizens. As long as passively intolerant people remain in a political order, the circumstances of political toleration will continue to exist.

However, the question which remains to be answered is the following: does toleration really add something to the scope of state’s non-interference in the above example, as is claimed by Mackinnon? Do the activities of passive Milliners or secularists constitute an issue which falls beyond the boundaries of justice, where the working principles are neutrality and respect for basic rights? MacKinnon, in order to prove that the state’s non-interference with passive milliners and secularists constitute an act of political toleration, should face two difficulties. Firstly, Mackinnon needs to justify the state’s non-neutrality towards passive milliners and secularists. Secondly, she needs to show that the state’s non-interference with passive Milliners and secularists is not motivated by the state’s commitment to requirements of justice. My contention is that neither task is adequately resolved by Mackinnon.

Contrary to MacKinnon’s claim that in her proposed scenario the state is non-neutral, the story of passive milliners and secularists fails to show that the state holds non-neutrality towards them. The state’s neutrality is not only comprises of a neutral attitude, but it also manifests itself in what the state does, that is, in laws, regulations and policies. The state’s neutrality is manifested where, for example, the state refuses to pass laws and policies which restrict the promotion and circulations of some beliefs, while rivals are fully free and perhaps supported in promotion their cause. MacKinnon succeeds to prove the state’s neutrality towards passive milliners and secularists only by reducing neutrality to the existence of an attitude, not something that should be actualized in the state’s practices.

The redundancy charge is premised on the requirements of justice. As I argued earlier (Chapter 3) justice requires two interrelated things: neutrality and respect for basic rights. Mackinnon, in order to make her case for “vertical toleration,” considers these two intertwined components of justice separately. She assumes that showing that there are occasions in which the state is permitted to take sides and not be neutral towards some practices, suffices to overcome the redundancy charge. The requirement of neutrality, however, is not the only obstacle to political toleration. The proponents of the redundancy argument claim that the state cannot be the subject of toleration on the grounds that it does not have a right to interference with the disapproved-of. When moral permission is lacking the state’s non-interference cannot be shown to constitute an act of toleration. The state’s failure to secure a moral permission for interference is caused by citizens’ constitutional rights as well as the principle of neutrality. MacKinnon at best succeeds to show that the requirement of neutrality can be waived, but she does not offer anything to show how the state’s interference can be justified while facing the individuals’ rights. In fact, MacKinnon, in order to ground the state’s non-interference, ultimately appeals to the individuals’ rights. She believes that, despite the fact that the state is justified in being non-neutral towards passive milliners and secularists, the state should nonetheless respect their fundamental rights to freedom of expression and freedom of association and other similar rights. But, there is no mentioning of the problem raised previously. If the citizens, even passive milliners and secularists, are entitled to exercise their rights, how is it possible to assume a right to interference for the state?

McKinnon’s example proves more than anything the practical difficulty involved in determining what neutrality actually requires and the extent to which citizens are allowed to enjoy their rights and liberties. The passive milliners and secularists are allowed to promote and publicize their preferred way of life in so far as such activities do not in any shape or form threaten others’, individual or collective interests. If the activities of passive milliners or secularists are likely to affect the stability of society by undermining the citizens’ allegiance and conformity with the fundamental liberal ideals and virtues, the state appears to have adequate reasons to prevent such activities. In other words, the state’s non-interference in this example should be framed in terms of justice and rights, rather than toleration.

## Why the Complementarity Thesis Fails

In this section, I intend to clarify in more detail what lies at the heart of the complementarity thesis’ failure. Once the cause of this failure is fully identified, I will be able to offer a solution. So far, the critical analysis of the complementarity thesis has revealed that in the presence of the rules of justice, it is rather difficult to distinguish toleration from justice-based non-interference. Within the political authority’s jurisdiction, the rules of justice determine the scope of the state’s interference. Facing a particular course of action that falls within the state’s jurisdiction, the state must determine whether interference is morally permitted. On such occasion, the rules of justice require either interference, if the action deemed intolerable, or non-interference. Of course, when interference is required the state ought to act accordingly to restrain the disapproved-of action. Therefore, there will not be any space for toleration when justice mandates interference with the disapproved-of. That is, the state’s obligation of interference precludes toleration. This indicates that the state could be said to tolerate a practice only when interference is not upon the state by the mandate of justice. However, if non-interference is simply required by the rules of justice, for example when interference violates citizens’ rights and liberties, such non-interference cannot be described as toleration. As I previously (in Chapter 2) argued, an understanding of toleration that generously includes all instances of justice-based non-interference would fail to resolve the problem of the tolerant racist. Hence, when the question as to whether or not a particular course of action ought to be restrained is determined by an appeal to the rules of justice the question of toleration either does not arise at all (when interference is morally not permitted) or simply collapses into justice-based non-interference.

As the example of Liberalia shows, the complementarity thesis fails because it is unable to give political toleration an independent operating space, where non-interference is not mandated by justice. That is, even if we assume, as MacKinnon does, that there are occasions within which the state is justified to hold a negative judgement, the reasons generated by negative judgements are ultimately outweighed by reasons for non-interference generated by citizens’ constitutional rights. That means that in Liberalia, as is suggested by McKinnon, the state is perceived to be under an obligation not to interfere with citizens because they have a right to promote and practice what they believe, in so far as they do not violate others’ rights and liberties. However, political toleration is only possible when non-interference is not determined by reference to the rules of justice. That is, when the state does not owe non-interference to citizens because of their deontic rights. Within McKinnon’s framework, political toleration is precluded because the state cannot be said to have a right to interfere with an action when the state is under an obligation not to interfere with the respective action.

The above diagnosis indicates that the complementarity thesis can only be successful if it can give toleration a space in which the state has a right to interfere with the disapproved-of. However, the right to interference can only be obtained when 1) the state has a justified negative judgement against a practice (not being neutral) and 2) the state’s negative judgement generates a reason for interference that on the balance of reasons outweighs the reasons generated by citizens’ constitutional rights. When these two conditions are obtained, the state can be said to have a right to interfere with the disapproved-of. Yet their fulfilment simultaneously renders political toleration impossible in a liberal order. The state can be said to tolerate only what it has a right to interfere with. Yet, the state’s right to interference can only be obtained if a certain practice is objectionable in the sense of being unjust. However, the unjust practice has to be prohibited. This is tantamount to say that the state can enjoy a right to interference only with regards to what is prohibited. There seems to be a paradox: the state can only tolerate what is prohibited; for example the religious practices that entail physical harm to others. In other words, political toleration can only emerge when interference and non-interference are required at the same time. On the one hand, the state ought to interfere with the prohibited and, on the other hand, toleration requires the state not to do so. Let’s call this “the paradox of political toleration”. What is indeed problematized by this paradox is twofold. Political toleration seems to be both an *irrational* and *unjust* practice. It is irrational because it requires the state not to interfere with the disapproved-of (the prohibited) despite having reasons to do so. Moreover, political toleration appears to be unjust because it requires the state not to deliver what justice mandates, namely, interfering with the prohibited. If toleration is a moral virtue, it should promote what justice and morality requires. How can it be the case then that toleration contradicts justice?

The above discussion suffices to show that the complementarity thesis cannot succeed to resolve the redundancy charge unless the paradox of political toleration is effectively removed.

## Political Toleration and Exclusionary Deliberation

As it was concluded in the previous section, a coherent defence of the complementarity thesis partly requires settling the irrationality problem. In this section, I will argue to this effect by offering an exclusionary account of reasoning behind political toleration. The aim of this section, in so far as the structure of reasoning is concerned, is to show that political toleration is not reducible to justice-based non-interference. This is the case because in political toleration the relation between reasons for and against interference is distinct from such relation in justice-based non-interferences.

An immediate response to the irrationality concern is to say that it relies on a far-fetched definition of irrationality. Accordingly, it can be argued that irrationality is not a matter of acting against a reason, but an undefeated reason. Nothing seems to be irrational about not acting upon a reason one may have to choose a course of action once other considerations that may give reason in favour of not doing the respective action are taken into account. In tolerating the disapproved-of practice, the reasons for non-interference simply defeat the reasons to the contrary; hence the non-interference. Nothing is necessarily wrong with this piece of reasoning, in so far as the relevant reasons are rightly taken into consideration. It is a fair point, yet it does not get political toleration off the hook; for the simple reason that political toleration indeed requires the state not to interfere with the disapproved-of despite an undefeated reason in favour of interference. In the deliberation behind toleration, the reasons for interference are reasons that establish a prohibition against a disapproved-of practice. The state’s prohibition can be only established when the reasons in favour of interference override reasons to the contrary. Political toleration thus requires the state not to interfere with the prohibited, contrary to the initial balance of reasons in favour of interference. Yet, the state, in order to keep in line with the general principle of reasoning ought to interfere with what is prohibited as is required by the balance of reasons. This demonstrates that political toleration appears irrational because it breaches the general principle of reasoning that requires the state to do whatever it ought to do on the balance of reasons. This highlights the fact that the reasoning behind political toleration has some peculiarity that is not fully grasped by those who intend to dismiss it as redundant. The question that calls for investigation is the following: how do the reasons the state has to interfere with a practice relate to the opposing reasons it has not to interfere with the respective practice?

The problem of political toleration, in fact, bears resemblance to the problem that interpersonal toleration faces (discussed in Chapter 2). Among individuals, the question of toleration only arises when the agent refrains from acting upon the balance of reasons which establishes a moral permission (a right) to interfere. When non-interference is simply motivated by a balance of reasons and the agent’s reasons for interference are outweighed by deontic reasons (reasons generated by the rights and liberties of the disapproved-of party), such non-interference cannot be described as toleration. What the agent does is simply compliance with the moral demands of individuals’ rights and liberties. For the question of interpersonal toleration to arise, similar to the question of political toleration, the agent should overcome a paradox. The agent in order to perform the virtue of toleration needs to have a moral permission (right) to interfere, established by a balance of reasons. Such balance of reasons however requires the agent to interfere with the disapproved-of. The agent, by refraining from interfering with (tolerate) *X* has to paradoxically have a conclusive reason to interfere with *X*. Having explicated how the exclusionary model eliminates the paradox within the confines of interpersonal toleration (in Chapter 2), I will refrain from reiterating the details of this argument, but offer a brief reminder. To remove the paradox, in so far as interpersonal toleration is concerned, I proposed a two-level model of deliberation by appealing to exclusionary reasons. On the first level of reasoning, the agent weighs up all reasons for and against interference with the disapproved-of. When the reasons generated by the agent’s objection outweigh other reasons, the agent has a conclusive reason to interfere with the disapproved-of. The necessary condition, namely, a moral permission for interference is thus obtained. The agent however can be said to have tolerated the disapproved-of only on the condition that the agent has a reason not to act upon the result of the first level of reasoning. This can only come about as the result of the second level of reasoning, where the exclusionary reasons disregard/suspend the balance of reasons (first level of reasoning). The existence of an exclusionary reason will allow the agent not to interfere with the disapproved-of, while she has the moral permission to interfere.

So much for interpersonal toleration!If the problem that political toleration faces inherently bears resemblance to the problem I previously resolved at the interpersonal level, a similar approach can be taken up here to provide a solution. Since the nature of the problem in both cases is identical, the application of the two-level model of deliberation, which successfully overcame the problem at the interpersonal level, should see success at the political level.

Similar to interpersonal toleration**,** the state’s non-interference can also come about as a result of the two-level model of deliberation. Political toleration should be understood as the outcome of a two-level deliberation. On the first level, the state’s right to interference is established by a balance of reasons in favour of interference. On the second level of deliberation, an exclusionary reason allows the state not to act upon the balance of reasons in favour of interference. When the state disregards the result of the balance of reasons, and refrains from interfering, such non-interference can be no longer described as the outcome of a simple balance of reasons. The state, in fact, refrains from interfering with the disapproved-of, contrary to the balance of reasons that demands the state’s non-interference.[[227]](#footnote-227) Political toleration should be defined as *the state’s act of non-interference with the disapproved-of (the prohibited) practice, when an exclusionary reason allows the state to disregard/suspend the balance of reasons that establishes a right to interference.*

The exclusionary model of deliberation allows a clear distinction between political toleration and the state’s justice-based duties of non-interference. They are neither identical nor reducible to each other. Justice-based non-interference is imposed on the state by citizens’ rights (rights-based non-interference). On such occasions, there is only one level of deliberation involved, whereby reasons for non-interference tip the balance. Unlike justice-based non-interference, political toleration occurs as a result of the state’s foregoing its right to interfere with the disapproved-of. Here, there are two levels of deliberation. On the first level, the reasons for interference “override” or “outweigh” the opposing reasons; hence the state’s right (moral permission) for interference. On the second level, an exclusionary reason defeats the overriding reason for interference. However, the defeat is induced not by the superiority of an exclusionary reason in weight and strength, but as a result of the first level of deliberation being excluded all together.

So far, I have argued that political toleration, insofar as the relation between reasons for and against interference is concerned, must be framed in terms of the exclusionary model of deliberation. This may suffice to lay the irrationality charge to rest. However, an exclusionary model of deliberation does not offer a solution to the claim that political toleration is unjust. In fact, it somehow reiterates such claim. The exclusionary reasons motivate the state to disregard the justice-based reasons for action (interfering with the prohibited).

The moral question caused by the paradox of political toleration is the following: Why should the state refrain from doing something that it has reasons to do, especially when those reasons are generated by the rules of justice? How and under what conditions may it be assumed that the state can refrain from acting according to the rules of justice? If political toleration requires the state not to act according to the requirements of justice, how can it complete justice-based non-interference? Surely, if political toleration requires non-compliance with justice, it cannot be thought of as the sort of action that completes what justice requires. After all, why should the state opt for political toleration when the conflict can be resolved by a rather virtuous way, namely, by appealing to justice and rights?

As I argued in the previous section, the complementarity thesis cannot be defended, unless the claim that political toleration is unjust is rejected. It is only then that one could claim that the paradox of political toleration is fully removed, and hence the complementarity thesis is vindicated.

A brief rebuttal would be to say the moral dilemma with regard to political toleration is completely misplaced. Political toleration appears to present a moral dilemma only when the nature of exclusionary reasoning is misunderstood. The moral dilemma arises only if we take an exclusionary reason for non-interference to be a reason in favour of the disapproved-of practice. That is, when we take an exclusionary reason to be a reason that assert a practice which otherwise is condemned. The kind of assertion that cancels out/revokes the negative judgement against the practice. However, an exclusionary reason, within the reasoning behind political toleration, is not at all directed at the practice itself. It is not a reason in favour or against any practice per se. That is, an exclusionary reason does not morally assert, or for that matter, negate any particular course of action. It is rather a reason for excluding/suspending the first level of reasoning with respect to the moral permissibility of a practice. In other words, an exclusionary reason does not determine whether a practice is moral or immoral; it only determines whether the moral quality of a practice should be assessed so as to determine whether or not interference is allowed. Therefore, it can be argued that political toleration is not tantamount to condoning an unjust practice, which otherwise should be subjected to interference.

However illuminating this response may be as to how exclusionary reasons work, it does not provide a solution to a claim that political toleration is unjust. As one may argue that it is true that an exclusionary reason for non-interference does not validate an unjust practice, it is nonetheless a reason that ultimately facilitates the exercise of an unjust practice. In political toleration, according to the exclusionary model of reasoning the state, by suspending the reasoning with respect to moral permissibility of a practice, simply allows the exercise of the respective practice, despite the fact that on the balance of reasons it may prove unjust and worthy of interference.

This is a credible objection that cannot be simply confronted by an appeal to the nature of exclusionary reasons. The strength of this objection lies in the fact that an exclusionary reason, regardless of being directed at a particular action or the first level of reasoning about the moral quality of that action, is a reason that may lead to the exercise of the respective action. That is to say, political toleration requires the state to suspend the reasoning as to whether or not to interfere with a practice, which may turn out to be unjust and worthy of state’s interference, had not the first level of reasoning about its permissibility been excluded. Unless, it is shown that there are occasions where the state, without breaching justice, may be allowed to exclude the reasoning about the moral permissibility of action, political toleration cannot be fully defended.

The claim that political toleration, by suspending the first level of reasoning, breaches justice is based on the following argument. It is argued that, within the authority’s jurisdiction, when a practice is deemed to be in violation of what justice requires, the state should do whatever necessary to repress the unjust practice. Therefore, when a practice is prohibited by the rules of justice the question of non-interference does not even arise. Or, to put it differently, when the rules of justice mandate interference, there is no way to think of a virtuous non-interference which does not necessarily contradict justice.

In what follows, I intend to question the above assertion. I contest that, contrary to what is assumed above, there can be occasions for which the requirements of justice can be disregarded. That is to say, there are occasions within which the state is allowed to disregard the justice-based reasons for interference. To this effect, I will argue that often the state’s right to interference with the disapproved-of is generated when the rules of justice do not enjoy the kind of certainty that precludes any possibility of them being suspended by exclusionary reasoning.

In order to defend my claim, I will first turn to the nature of politics and the role justice has in settling political disagreement and conflicts. I will appeal to what I call “the extraordinary politics,” inspired by a “realist” understanding of political theorising.

## Realism, Justice and Political Toleration

In the previous section, I put forward a fundamental moral dilemma for an account of political toleration that relies on the two-level model of deliberation.

If the putative exclusionary reasons are to motivate the state to disregard the justice-based reasons for action, how can one morally justify the state’s disregard for the requirement of justice? The state, at least in the liberal order, is there to ensure that the prerequisites of justice are fully respected. A state that is not motivated by justice and, in fact, acts contrary to what justice mandates cannot deliver the ultimate goal of a liberal order, namely, fair coexistence of different conceptions of the good. Moreover, it is hard to see how a state’s non-interference that contradicts the requirements of justice can be thought of as a practice that would complete the state’s justice-based non-interferences. The latter is what the complementarity thesis primarily claims, and its assertion entails finding a solution to the above problem. In this section, I will demonstrate that a “realist” understanding of politics will can overcome this problem and hence vindicate complementarity thesis.

Politics, generally speaking, is primarily about ending conflicts over the questions of how a society should be administered and how its resources should be distributed among all its members. This aim is assumed to be fulfilled by authoritative orders and the coercive exercise of the state’s power in conditions of conflict. How the state is to deliver this task is obviously an open question which has motivated various theoretical endeavours. The nature of moral, ethical, and political principles that determine what political authorities ought to do so as to settle conflicts, has been the subject of much heated debates. While I do not wish to get entangled in this debate, what still interests me is a dividing dispute with respect to political normativity. The way scholars have understood political normativity constitutes this divide. There are two general approaches to politics: the moralist and realist views.[[228]](#footnote-228) In the former, it is assumed that the conflicts and power relations can be circumvented by applications of some fundamental norms and principles which ultimately constitute political practices and institutions. From the moralist standpoint, ethics come first, and politics is understood to be nothing more than a branch of applied ethics.[[229]](#footnote-229) In order to settle a political conflict, we should turn our attention to the pre-political ethical ideals such as justice, rights and autonomy, and consider what ethics has to offer as to what political prescriptions should be implemented. The ethical values are pre-political in two senses: they are taken to be independent of the forces of politics and they belong to a higher order of normativity insofar as they determine or exhaust the appropriate ends and limits of politics.

Contrary to the moralist view of politics, realists emphasise that any attempt to settle the political conflicts should begin with an understanding of the practice of politics itself, rather than the explication of the ethical ideals and principles. From the realist perspective, the relation between ethics and politics is not a simple one-way relationship which starts from ethics and ends in politics. The source of normativity in politics should not solely be sought in ethics; rather complexity of the causal and normative relation between ethics and politics should be taken into consideration. Realists tend to prefer contextualised approaches to political normativity.[[230]](#footnote-230) The contextualist approach rejects the ambitious attempts to establish grand ethical principles in order to reach prescriptions for any possible political scenario. The excessive abstraction from real-world politics has made moralists forget that the ultimate goal is to guide political actions in a particular historical moment.[[231]](#footnote-231) Within the realist framework there is instead an emphasis on a political normativity that is appropriately sensitive to the specific historical circumstances in which the political conflicts arise.[[232]](#footnote-232)

The worry that political toleration contradicts the rules of justice is grounded in the moralist understanding of politics. The moralists assume that politics entails exclusively the applications of the rules of justice. From the moralist point of view, politics is an endeavour in deciding, forming and applying what justice requires. Once the requirements of justice are decided and are consequently implicated in political practices and institutions, the observance of what justice mandates will be the ultimate goal that a political order should pursue. Of course, in a just political order, where the ethical ideals such as justice are implemented, there will not be a place for political toleration, understood as forgoing what justice requires, namely, the interference with the disapproved-of. Since the moralists assume that the application of the rules of justice will sufficiently contain political contestations, the need for any settlement which falls below the threshold of justice will be unjustified. What the state is to do is to carefully consider where the threshold of justice lies on each particular occasion and accordingly executes either interference or non-interference, depending on what justice requires. Having the threshold of justice determined, the boundaries between what justice allows and what justice prohibits will be clear. Within the moralist framework, the threshold of justice can be established by implementing a fair process of deliberation which aims at consensus-making among all parties involved in political contestation. Rawls’ political liberalism, for instance, aims to secure this stability by forging a consensus on the basic design of society between different conflicting moral outlooks. The consensus is meant to establish the fundamental principles of justice, and hence appeals to it, can overcome our political disagreements. The ulterior aim is to provide a basis for stability, which Rawls thought necessary for realizing a fair system of cooperation between citizens. It is however an open question whether Rawlsian political theory can efficiently capture the nature of politics. Rawls’ ideas seem to leave no scope for political conflicts, which fall outside the framework designed by his deliberative politics. The existence of a sphere in which the deliberative solution cannot do the entire job is seemingly ruled out by Rawlsian political construction which is based on agreement and consensus reaching. Such a possibility however is actually taken rather seriously by the realists.

There is a lesson to be learned from the realists. Realists find what is depicted by moralists to be a far more idealistic picture than what is actually involved in the practice of politics, even in the most liberal political order. The fundamental pillar of the realist view is that the settlement of political contestation is an unfeasible and perhaps undesirable outcome. The moralists are too sanguine in their thinking about the nature of political contestations that they simply turn a blind eye on the fact that very often the political circumstances do not allow the unequivocal determination of the rules of justice. Politics is not only about applying the rules of justice when they are well-established; rather it is often about deciding what should be done, and what the political authority should implement when opacity with respect to the question of justice remains. In fact, justice is not always accompanied by certainty. The hard cases of political contestation present themselves when justice is surrounded by doubt and uncertainty. There is always a deliberative remainder that cannot be settled by a mere appeal to what justice requires.[[233]](#footnote-233) The nature of diversity in a liberal democratic order, which has been accelerated by the magnitude of social transformations, suggests that the ideal of rational consensus as to how to best administer a polity has more and more become a remote possibility. The existence of the deliberative remainder can be explained by reference to two phenomena. On the one hand, the intensity of political conflicts and the insurmountable role of power relations make it rather impossible to overcome political conflicts and settle political contestation once and for all.[[234]](#footnote-234) On the other hand, the relentless increase in social transformations which results in the rise of new challenges to the established rules of justice has rendered impossible the stability of the rules of justice. For example, mass migration, new communication technologies and continued cultural experimentation, have engendered diversity and its concomitant conflicts – hence disagreements have increasingly intensified. These viewed as interdependent factors, have undermined the moralist dream that peaceful coexistence can solely be achieved by the implementation of the rules of justice.

Consider the issue of rights which is a pivotal component of the moralist vision of a just society. It is widely accepted that there are some rights that all liberal orders must meet if they are to be considered as just and legitimate. Yet, making a list of such rights and settling the conflict over what should be included is not a demand easily met. However conceived, rights make conflicting demands and their conflict can be reconciled in different ways. Rights are not immutable truths, namely, free-standing moral absolutes whose contents are self-evident. They are conventional with contents as varied as circumstances and human interests.[[235]](#footnote-235) A quick survey of the various political and legal debates regarding citizens’ rights, that is, what citizens are allowed to do without being interfered with by political authority, will demonstrate my point. Recall the controversial cases of homosexuality and abortion. Our understanding of individuals’ interests with regards to sexuality and body integrity has undergone a remarkable transformation. As a result of this transformation, the legitimacy of the legal ban on homosexual conduct and abortion, which had for long persisted unquestioned, was undermined.

It is not only changes in what people value that can warrant the establishment of new rights, but also changes in circumstances. The rise of significant global threats to human interest caused by phenomena such as terrorism, food security, mass migration and most importantly climate change, has fundamentally changed the way we think about rights. Hence, it is firstly a rather difficult thing to determine what interests all individuals who share a political order have in common. And, secondly, even if there can be an agreement regarding common interests, such an agreement would constantly be threatened by social transformations. That is why it makes sense to revise or phase out some rights, and to create new rights. Since rights are judgements about human interests whose contents shift over time as threats to human interests vary, there can be no once-and-for-all list of rights. This indicates that there is always a period of uncertainty where the content and list of rights are open to contestation. In such circumstances we must face the condition of “extraordinary politics.”[[236]](#footnote-236) When political contestation concerns, not the application, but establishment of the rules of justice, extraordinary politics begins. This is where the state’s actions cannot be simply defined and evaluated by appealing to the rules of justice. Needless to say, I am not claiming that the rules of justice can never be reached or that normative political judgements should be derived from political values alone, as some realist may claim.[[237]](#footnote-237) I am advocating a more humble claim that political contestation cannot be reduced to ordinary politics, where the rules of justice are established and what is pursued is merely the implementation of what is mandated by justice. Within the scope of ordinary politics, where the rules of justice are present and there is a clear line between what is right and what is wrong, conflicts and disputes can eventually be settled. What is required to be done is the application of what justice demands.[[238]](#footnote-238) To the contrary, where the rules of justice are not present or are not efficiently applied, the disagreement requires resolution by appeal to some further measure. Facing the emerging forms of conflict and disagreement, a political order cannot immediately implement the rules of justice to ease conflict. Once a political order faces an emerging issue which cannot be resolved within the current framework of justice, a period of transmission begins. The system begins to figure out what is the fairest way to deal with a rising problem. The process of adaptation by which the conflict is adequately addressed however takes time. Meanwhile the political regime needs to find a way to minimize the cost of the rising disagreement. [[239]](#footnote-239) One possible action could be toleration. Justice uncertainty, which is the characteristic of extraordinary politics, provides the state with a reason not to act on the previous balance of reasons, which requires the state to interfere with a course of action in the name of justice. Drawing on an analogy between Anne’s story, discussed in Chapter 2, and the state’s uncertainty regarding the rules of justice can be helpful. When justice uncertainty regarding a particular issue *X* occurs due to the social transformations that challenge the current state of affairs, the circumstances in which the state should decide as what to be done regarding *X* is similar to the circumstances in which Anne should make her mind up about the business proposal offered to her. Anne, despite the existence of strong reasons in favour of the offer, is right to disregard the balance of reasons and not accept the proposal, due to the state of uncertainty she is facing caused by a stressful day and consumption of alcohol. Similarly, the state seems to be right to disregard the balance of reasons in favour of interference because of the rising uncertainty with respect to the current rules of justice. As Anne has an exclusionary reason to suspend the first-level of reasoning, the state also has an exclusionary reason to disregard the first level of reasoning where the reasons in favour of interference tip the balance. The analogy between Anne’s circumstances and the circumstances in which there is uncertainty regarding the rules of justice shows that there can be an exclusionary reason for the state not to act upon the balance of reasons and refrain from interfering. The state’s putative non-interference could well meet the necessary conditions of political toleration.

The extraordinary politics marks a particular domain in which disagreements with regards to permissibility of disputed actions cannot be simply settled by an appeal to the robust rules of justice. This domain opens up space for political toleration. Only within the confines of the extraordinary politics, can the state disregard its right to interference with the disapproved-of practices, without committing injustice. The extraordinary politics represents a transitory period in which social and political conflicts are settled by measures which feature an exclusionary reason that allows the state not to act according to its right to interference with an action deemed objectionable, before the rise of the extraordinary politics,

One may object that all this suggests is that the state, facing a disapproved-of practice, is permitted not to act upon a justice-based reason established in the first-level of reasoning. This permission however is not necessarily tantamount to a mandate for non-interference. The exclusionary reasoning only provides the state with a reason to suspend the first level of reasoning that requires interference; it does not compel the state not to interfere with the disapproved-of. One can subsequently wonder why the state should opt for non-interference rather than interference.

There are two reasons that when working in tandem can compel the state to refrain from interfering. Firstly, the exclusion or suspension of the first-level of reasoning would deprive the state of justice-based reasons that ground the state’s interference. Prior to the exercise of the second-level of reasoning, the state’s non-interference is motivated and justified by what justice requires (established by the first-level of reasoning). Once the requirements of justice are suspended due to the exercise of the exclusionary reasons, the state can no longer be motivated to interfere with what was previously deemed unjust. Not only would there not be any justice-based reason for interference, there would be some prudential (political) reasons in favour of non-interference. Very often it is not possible to simply repress and contain the rise of ideas and practices that challenge the current state of affairs. Or, if it is possible, it may simply require the state to commit to measures which are inherently in opposition to what is the ultimate aim of a liberal order, namely, stability. The exclusion of justice-based reasons for interference working in tandem with the existence of prudential reasons in favour of non-interference, will ground the state’s preference for non-interference.

Three points should be noted. Firstly, within the confines of the extraordinary politics, the reasons that allow the state to forgo its right to interference are in nature political. That is, only reasons generated by the ultimate aims of a political order, namely, peace and stability, can be appealed to in order to exclude the first level of reasoning. In a political order, when peace and stability is threatened by a conflict which cannot be simply resolved by an appeal to the certain rules of justice, the state has an exclusionary reason to suspend a balance of reason as to whether the practice should be prohibited. Secondly, political toleration only arises when the state’s right to interference is not established by robust and strict rules of justice. The latter is indicated by the condition of justice uncertainty in the extraordinary politics. For example, often, disagreements are simply settled by an appeal to a democratic vote. That is to say, on many occasions the decision as to whether a course of action should be prohibited is concluded by a majority who is in favour of prohibition rather than permission. As a result of a democratic vote, say a referendum, the state is given a right to interfere with what the majority believes to be intolerable. On such occasion, a right to interference is established by a public consensus which may be simply based on the majorities’ dominant norms rather than any robust rules of justice. Thirdly, political toleration is allowed in so far as the state’s forgoing of its right to interference does not bring about a blatant violation of citizens’ rights. The latter qualification is of significant importance. In fact, this qualification distinguishes political toleration articulated here from the traditional understandings of political toleration as prudential restrain on the exercise of the state power. In the latter understanding, represented in the permission account of toleration discussed in Chapter 3, the state refrains from exercising its power on the ground that doing otherwise would disturb peace and stability and would ultimately undermine the status quo. Whereas in the permission account there is no moral limitation on the extent to which the state is allowed to give priority to peace and stability, in the exclusionary account of political toleration the exclusionary reasons rooted in considerations of peace and stability are allowed only to the extent that their application will not result in violation of citizens’ rights.

To illustrate the distinction, on the one hand, between political toleration and justice based non-interferences and, on the other hand, between political toleration and the unjust occasions of non-interference, I will consider an example which has evoked heated debates in many western (European) countries: Muslims’ religious and cultural claims. In the last couple of decades, there has been a debate with regards to the permissibility of some Islamic practices in Western (predominantly Christian) countries. The question is whether or not Muslims’ claim to have the right to conduct Islamic practices, deemed by western morality and sensibility to be controversial, should be permitted and sanctified by laws. As the public debate in recent years has proved, drawing the line between what should be prohibited and what should be permitted is not an easy job. An appeal to the rules of justice at best can settle the dispute with regards to practices that a strong case can be made for their prohibition or allowance. However, there are always cases that cannot be simply resolved by making a strong case in favour of their outright prohibition or allowance. These are cases which are to be dealt with within the confines of the extraordinary politics. So it can be argued that Muslims’ practices fall in three categories and accordingly there are three ways in which the relevant conflicts should be resolved. Some Islamic claims could be simply granted by an appeal to Muslim’s right to freedom of religion. For example, Muslims are allowed to have places of worship and their own religious associations. On such occasions, the state’s non-interference does not establish an occasion of political toleration. The state is simply under an obligation not to interfere with Muslims’ practices, in so far as these practices are justified by reference to their constitutionally entrenched rights.

Not all the disputed practices can be justified by rights. Quite to the contrary, the respect for citizens’ rights requires the state to repress some practices which are adhered to by some Muslims, such as female genital mutilation or forced marriage. These cases are deemed to establish an outright breach of justice as these practices violate women’s rights. In these cases, the dispute as to whether these practices should be allowed is settled by imposition of a ban. Since non-interference is morally wrong there would be no space for political toleration.

The third category comprises of various practices which can be neither allowed nor prohibited by an appeal to the rules of justice. The uncertainty is generated by the fact that it is not easy to determine whether these practices, or for that matter, the prohibition of these practices, violates citizens’ rights. Various controversies over issues such as wearing hijab or building minarets in many European societies present cases which fall in this category. Since in such cases, there is not a conclusive moral argument in favour of prohibition, the state’s right to interference is established by a mere plebeian vote or giving priority to culturally dominant norms and practices.

The constitutional ban against building minarets in Switzerland is illuminating. On 29 November 2009, a referendum was held to settle a public disagreement about building Muslim minarets in Switzerland. As a result, and by a majoritarian vote, a single sentence added to article 72 of the federal constitution: ‘The construction of minarets is prohibited’. The right of the population to vote upon a proposal to amend the Swiss federal constitution is enshrined in article 139. So long as a minimum of 100000 registered voters signs a petition to hold a referendum to vote on a proposal then the Federal government is under an obligation to facilitate the vote. Of course, the approval of a proposal in favour of a prohibition by the majority will give the state a right to interfere with the disapproved-of. The basis for the legitimacy of interference is merely the majoritarian vote. That is to say, a right to interference is not justified by reference to citizens’ deontic rights. It is not the case that the construction of minarets necessarily violates citizen’s deontic rights. In other words, nothing is unjust and immoral about minarets. The only reason that the state has a right to interfere with the practice of minaret building is the fact that majority is decided that such practice should be banned. A comparison between this practice and another religiously rooted practice, female genital mutilation, is helpful. The ban against this practice is fundamentally based on an argument that genital mutilation is harmful and violates women’s rights. Non-interference with construction minarets does not necessarily result in injustice, whereas non-interference with female genital mutilation does. In the former, the state’s right to interference is simply established by a majoritarian vote, but in the latter case, there is a strong moral argument, backed by a strong moral consensus in society that if the practice is allowed women will be harmed.

In cases where the state’s right to interference is established by a majority vote there is potential for political toleration. As I argued above, within the confines of the extraordinary politics, for the question of political toleration to arise, three conditions must be obtained. First, there must be a right to interference with the disapproved-of practice. Second, there must be an exclusionary reason to allow the state not to act according to its right to interference. Third, non-interference with the disapproved of must not cause or facilitate a blatant violation of citizens’ rights.

Where the state’s right to interference is established merely by a majority vote or consensus, as is the case in some of the disputes with regards to the construction of minarets, not implementing this right does not necessarily violates a citizen’s deontic rights. Once, there is an exclusionary reason, generated by consideration of peace and stability, the state can be said to justifiably refrain from interference without committing injustice. For example, if the state has good reasons to believe that enforcing a ban on Minarets or hijab may, in a particular context, cultivate Islamophobia or jeopardize peace and stability, it could forgo its right to interfere with Muslims who perform such practices. On such occasions, all three necessary conditions for political toleration are obtained. The state has a right to interference (1) which is excluded by an exclusionary reason (2) without citizens’ right being violated (3).

The above discussion enables me to conclude that when the aforementioned conditions are obtained the state can forgo its right to interference without committing injustice. This conclusion in tandem with the conclusion reached in the previous section (the exclusionary model of political toleration avoids the irrationality charge) fully settle the concerns generated by the paradox of political toleration. This effectively paves the way for the success of the complementarity thesis. The latter is tantamount to the rejection of the redundancy charge against political toleration.

1. Conclusion

The fact that the idea of neutrality and the entrenched constitutional rights seem to accommodate a wide range for the state’s non-interferences, which were previously thought to be occasions for political toleration, by no means suggest that justice exhausts the whole range of non-interferences which are required to secure the peaceful coexistence of all citizens. The ideal of a fair and peaceful coexistence for all citizens, sustained over succeeding generations against the backdrop of political stability, is far too ambitious an aim to expect its realization only by means of neutrality and the provision of fundamental constitutional rights. The scope of politics is wider than what is usually assumed in liberal thought, which tends to address the political question by appealing to constitutional measures including the principle of neutrality and basic rights. Neutrality, in other words, does not do all the work when it comes to political life. The extra work which neutrality and rights fail to deliver could be achieved by political toleration.

Political toleration and justice-based non-interference should be seen as accompanying practices that represent two aspects of one project. The project is to avoid unfair and unnecessary forms of interference which may put in jeopardy a flourishing and fulfilling political life. In fact, political toleration and justice-based duties of non-interference, rather than being mutually exclusive, stand in a complimentary relation. Hence, I call the thesis that tries to bring together toleration and Justice the complementarity thesis. Complementarity thesis relieson the assumption that political toleration and neutrality (justice) are not co-extensive, and that political toleration is a form of non-interference which addresses the issues which fall beyond the scope of Justice. The complementarity thesis, I claim, can be defended by identifying two different occasions of the state’s non-interference, where one conforms to the demands of neutrality (justice) and the other to the demands of toleration. Given the nature of issues at hand, the operative assumption in my argument for political toleration is that the state’s non-interference comes in two forms. Seen as complementary practices, not only is political toleration not redundant in the liberal democratic order, it is a prerequisite for the commitment to the ideal of a stable and just society.

# Conclusion

This thesis’ primary goal was to demonstrate that, contrary to the critic’s claim, toleration is as relevant to our life in the contemporary world as it was in the early modern period. In other words, I aimed to show that both in our personal interactions with other individuals and in our political life, that is, our relation to the state, toleration still has a significant role to play. To put it differently: I argue that, in the liberal constitutional orders, there is a distinctive space within the range of possible ways of responding to diversity that should be occupied by toleration. Accordingly, I explored a range of questions about the concept of toleration, in general, and political toleration, in particular. My primarily task was to prove (i) that toleration is not necessarily inconsistent with equality (avoiding the inegalitarian charge) and (ii) that toleration is not reducible to the rights-based duties of non-interference (avoiding the redundancy charge). In order to deliver these tasks, I revisited, first of all, one of the conceptual components of toleration, namely, the objection component (Chapter 1). As a result of this revision, I concluded that the question of toleration will not rise unless the agent’s objection against a practice either constitutes or is accompanied with *a right to interference*. The postulation of a right to interference is to ensure that the unjustified (illegitimate) power asymmetries between the tolerator and the tolerated will be excluded from the scope of a tolerating relation. This will in turn keep toleration in line with the principle of equality.

Second, I reformulated the reasoning behind toleration, namely, tolerating deliberation (Chapter 2). I argued that tolerating deliberation must be understood in terms of the exclusionary reasons (a two-level model of reasoning). This enabled me to distinguish toleration from other forms of (rights-based) non-interference that come about as a result of a weighing process, where the conflicts of reasons as to whether or not the agent should interfere with the disapproved-of, is settled in a one-level model of reasoning.

Bringing the above conclusions together, I subsequently defined toleration as: the agent's act of non-interference with a disapproved-of practice, where an exclusionary reason defeats a balance of reasons that would otherwise justify interference with the respective practice. Political toleration, that is, a tolerating relation where the state is the agent of toleration, defined accordingly: the state’s act of non-interference with a disapproved-of practice, where an exclusionary reason defeats a balance of reasons that would otherwise justify interference with the respective practice.

The above definition proved that the critics’ concerns regarding the redundancy of toleration in constitutional liberal democracies are rather misplaced. I argued that the critics fail to recognize that political toleration is a form of the state’s non-interference that should not be conflated with the state’s justice (rights)-based duties of non-interference. Political toleration and justice-based duties of non-interference are not mutually exclusive: either political toleration or justice-based non-interference. These two distinct forms of non-interference in fact complete each other, working in tandem to deliver the liberal project, namely, the fair and peaceful coexistence of all citizens. This is a too ambitious project to be achieved by mere application of the constitutional measures, including the state’s justice-based duty of non-interference. Indeed, since the demands of rights cannot all be fully honoured even in principle, no conceivable regime can deliver the job only by appealing to the rigid requirements of justice and rights. I finally argued that the extraordinary politics, in which political toleration plays a role, emerges not as outworking of the established rules of justice, but as the persistent residue of ordinary politics. When an appeal to the rules of justice fails, that is, when the rules of justice are not available or their application is not feasible, political toleration is the best we can hope to secure stability and avoid further injustices which may arise from unsettled political conflicts. It functions as an interim value in periods of justice uncertainty that moderates the eruption of social forces in concrete situation of conflict.

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7. Joseph Raz, *The Morality of Freedom* (Oxford Oxford University Press, 1986); 'Autonomy, Toleration and the Harm Principle', in *Justifying Toleration: Conceptual and Historical Perspectives,* ed. by Susan Mendus (Cambridge: Cambridge Universoty Press, 1988). [↑](#footnote-ref-7)
8. Anna E. Galeotti, *Toleration as Recognition* (Cambridge, UK ; New York: Cambridge University Press, 2002). [↑](#footnote-ref-8)
9. Forst, *Toleration in Conflict : Past and Present*. [↑](#footnote-ref-9)
10. Jeremy Waldron, 'Toleration: Is There a Paradox?', in *Toleration, Supererogation and Moral Duties: Conference in Honor of David Heyd,* (NYU School of Law, 2012). [↑](#footnote-ref-10)
11. Joseph Raz, *Practical Reason and Norms* (Princeton, N.J: Princeton University Press, 1990). [↑](#footnote-ref-11)
12. ; *The Morality of Freedom*. [↑](#footnote-ref-12)
13. Galeotti, *Toleration as recognition*. [↑](#footnote-ref-13)
14. See: Bernard Williams, 'Realism and Moralism in Political Theory', in *In The Begginig Was The Deed,* ed. by Geoffrey Hawthorn (Princeton: Princeton University Press, 2005); Raymond Geuss, *Philosophy and Real Politics* (Oxford: Princeton University Press, 2008). [↑](#footnote-ref-14)
15. John Rawls, *Political Liberalism*, (New York: Columbia University Press, 2005), p. 4; Raz, *The Morality of Freedom*, pp. 400-4231; John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), pp. 214-20. [↑](#footnote-ref-15)
16. Ole Peter. Grell and Robert W. Scribner, *Tolerance and Intolerance In the European Reformation* (New York: Cambridge University Press, 1996); Benjamin J. Kaplan, *Divided by Faith : Religious Conflict and the Practice of Toleration in Early Modern Europe* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2007). [↑](#footnote-ref-16)
17. Rainer Forst, '"To Tolerate Means To Insult":Toleration, Recognition, and Emancipation', in *Recognition and Power,* ed. by Bert van den Brik and David Owen (Cambridge: Cambridge University Press, 2007); R. Forst, 'Two Stories about Toleration', *Law, State and Religion in the New Europe: Debates and Dilemmas,*  (2012), 49-64. [↑](#footnote-ref-17)
18. Herbert Marcuse, 'Repressive Tolerance', in *A Critique of Pure Tolerance* (London: Jonathan Cape, 1969). [↑](#footnote-ref-18)
19. Brown, *Regulating Aversion : Tolerance In the Age of Identity and Empire*. Also see: Slavoj   Žižek, 'Tolerance as an Ideological Category', *Critical Inquiry,* 34 (2008), 660-82; Steven D. Smith, 'Toleration and Liberal Commitments', in *Toleration and Its Limits,* ed. by Mellisa. S. Williams and Jeremy Waldron (New York: New York University Press, 2008). [↑](#footnote-ref-19)
20. Phillips. Anne, 'The Politicisation of Difference: Does This Make for a More Intolerant Society?', in *Toleration, Identity and Diference,* ed. by John Hoerton and Susan Mendus (London: Palgrave Macmillan, 1999) (pp. 128-29); Carter, 195-208; Daniel Augenstein, 'Tolerance and Liberal Justice', *Ratio Juris,* 23 (2010), 437-59. [↑](#footnote-ref-20)
21. I use the term “practice” generically to refer to any act, behaviour, institution and way of life, and of course a belief or a system of beliefs that motivate them. [↑](#footnote-ref-21)
22. For an extensive conceptual analysis of toleration, see: Andrew Jason Cohen, 'What Toleration Is', *Ethics,* 115 (2004), 68-95. Cohen enumerates 7 qualifications for the core idea of toleration, since not all of which are pertinent to the question at hand here I only focus on some of them. [↑](#footnote-ref-22)
23. Preston T. King, *Toleration* (New York: St. Martin's Press, 1976), pp. 44-51. [↑](#footnote-ref-23)
24. Robert Paul Churchill, 'On the Difference Between Non-moral and Moral Conceptions of Toleration: the Case for Toleration as Individual Virtue', in *Philosophy, Religeon and the Question of Intolerance,* ed. by Mehdi Amin Razavi and David Ambuel (Albany: State Univesrsity of New York Press, 1997) (p. 193); David Heyd, 'Introduction', in *Toleration: An Elusive Virtue* (Princeton, N.J: Princeton University Press, 1996), pp. 3-17 (p. 4). [↑](#footnote-ref-24)
25. Frank Füredi, *On Tolerance : a Defence of Moral Independence* (London ; New York: Continuum, 2011), pp. 5-23; Heyd, *Toleration : an Elusive Virtue*, pp. 4-5. [↑](#footnote-ref-25)
26. Some scholars define toleration too broadly to include indifference and affirmation, see Michael Walzer, *On Toleration* (New Haven: Yale University Press, 1997), pp. 10-11. Ingrid Creppell, *Toleration and Identity : Foundations in Early Modern Thought* (New York: Routledge, 2003). [↑](#footnote-ref-26)
27. Heyd, p. 4; Walzer, *On Toleration*, p. 10; Leslie Green, 'On Being Tolerated', in *The Legacy of H.L.A Hart,* ed. by Clare Grant and others (Oxford: Oxford University Press, 2008) (p. 283). [↑](#footnote-ref-27)
28. Marcuse. [↑](#footnote-ref-28)
29. Brown, *Regulating Aversion : Tolerance In the Age of Identity and Empire*, p. 25. [↑](#footnote-ref-29)
30. Jacques Derrida, *Autoimmunity: Real and Symbolic Suicides* (Chicago: University of Chicago Press, 2003), pp. 127-28. Similar point can be found here: Jürgen Habermas, 'Religious Tolerance—the Pacemaker for Cultural Rights', *Philosophy,* 79 (2004), 5-18; Žižek, 660-82. [↑](#footnote-ref-30)
31. For a discussion on the criticisms levelled against toleration by prominent figures in modern history, see: Forst. [↑](#footnote-ref-31)
32. Brown and Forst, *The Power of Tolerance : a Debate*, p. 9. [↑](#footnote-ref-32)
33. Brown, *Regulating Aversion : Tolerance In the Age of Identity and Empire*, p. 26. [↑](#footnote-ref-33)
34. Ibid. [↑](#footnote-ref-34)
35. Ibid. [↑](#footnote-ref-35)
36. David Heyd, 'Is Toleration a Political Virtue?', in *Toleration and Its Limits,* ed. by Mellisa. S. Williams and Jeremy Waldron (NewYork: NewYork University Press, 2008) (pp. 174-75). [↑](#footnote-ref-36)
37. Ronald Dworkin, 'Liberalism', in *a Matter of Principle* (Harward University Press, 1985) (p. 190). [↑](#footnote-ref-37)
38. Carl Wellman, *The Proliferation of Rights : Moral Progress or Empty Rhetoric?* (Boulder, Colo.: Westview Press, 1999). [↑](#footnote-ref-38)
39. William A. Edmundson, *An Introduction to Rights*, Cambridge Introductions to Philosophy and Law (Cambridge, UK ; New York: Cambridge University Press, 2004); L. Wenar, 'The Nature of Rights', *Philosophy & Public Affairs,* 33 (2005), 223-52. [↑](#footnote-ref-39)
40. The claim that toleration is politically redundant because the state’s justice (rights)-based non-interferences are more appropriate way of dealing with disagreement and conflict in the liberal constitutional orders will be discussed in Chapter 3. The relation between political toleration and other values such as autonomy and recognition will be explored in Chapters 4 and 5. [↑](#footnote-ref-40)
41. Brown and Forst, *The Power of Tolerance : a Debate*. Also see, Lars Tonder, *Tolerance: a Sensorial Orientation to Politics* (Oxford: Oxford University Press, 2013). [↑](#footnote-ref-41)
42. Michael Walzer for instance describes the objections in this manner: “to tolerate someone else is an act of power; to be tolerated is an acceptance of weakness. We should aim at something better than this combination, something beyond toleration, something like mutual respect.” Walzer, *On Toleration*, p. 52. Amy Gutmann and Dennis Thompson, 'Reply', in *Deliberative Politics: Essays on Democracy and Disagreement,* ed. by Stephen Macedo (Oxford: Oxford University Press, 1991). [↑](#footnote-ref-42)
43. The vindication of toleration is not merely motivated by theoretical ambition and curiosity. The ultimate goal would be to show that toleration should not be reduced to other forms of non-interference motivated by rights, recognition and respect. A full-fledged defence of the latter cannot be offered here, I will nonetheless show briefly how toleration is distinct from right-based duties of non-interference. [↑](#footnote-ref-43)
44. Forst, *Toleration in Conflict : Past and Present*, p. 5. Forst in developing this distinction is inspired by John Rawls’ distinction between the concept and conceptions of justice. See: Rawls, *A Theory of Justice*. [↑](#footnote-ref-44)
45. For an elaborate discussion on different conceptions of toleration, see Forst, *Toleration in Conflict : Past and Present*, pp. 17-32. [↑](#footnote-ref-45)
46. D. D Raphael, 'The Intolerable', in *Justifying Toleration: Conceptual and Historical Perspectives,* ed. by Susan Mendus (Cambridge: Cambridge University Press, 1988) (p. 139). Similar point is raised by Steven Lukes: 'if I tolerate something or someone, I am claiming that my disapproval is legitimate, that I have a *right* not only to feel it but to express it in action'. Steven Lukes, 'Social and Moral Tolerance', *Government and Opposition,* 6 (1971), 224-28 (p. 224). [↑](#footnote-ref-46)
47. Horton; Newey, *Virtue, Reason and Toleration: the Place of Toleration in Ethical and Political Philosophy*, p. 22. [↑](#footnote-ref-47)
48. E. M. Forster, *Two Cheers for Democracy*, The Abinger edition of E M Forster,, 11 (London,: Edward Arnold, 1972), pp. 45-46. [↑](#footnote-ref-48)
49. For an analysis of the paradox, see: Horton, 7-20; Magali Bessone, 'Will the Real Tolerant Racist Please Stand Up?', *Journal of Applied Philosophy,* 30 (2013), 209-23. [↑](#footnote-ref-49)
50. Thomas Paine, *Rights of Man ; Common Sense ; and other Political Writings*, The World's classics (Oxford: Oxford University Press, 1995), pp. 135-37. [↑](#footnote-ref-50)
51. Peter Nicholson, 'Toleration as Moral Ideal', in *Aspects of Toleration,* ed. by Susan Mendus and John Horton (NewYork: Methuen Co., 1985); Robert Paul Churchill, 'On the Difference Between Non-Moral and Moral Conceptions of Toleration: The Case for Toleration as an Individual Virtue', in *Philosophy, Religion, and the Question of Intolerance,* ed. by Mehdi Amin Razavi and David Ambuel (Albany: State University of New York Press, 1997). [↑](#footnote-ref-51)
52. Waldron; 'A Right to Do Wrong', *Ethics,* 92 (1981), 21-39. [↑](#footnote-ref-52)
53. An account of such common ground can be found in Rawlsian constructivism or Millian Harm Principle. For a constructivist account of toleration, see Forst, *Toleration in Conflict : Past and Present*. A shorter version of Forst’s account is available in , 65-75. For a comprehensive discussion on the relation between Harm Principle and toleration, see A. J. Cohen, *Toleration* (Cambridge: Polity, 2014). John Horton, 'Toleration, Morality and Harm', in *Aspects of Toleration: Philosophical Studies,* ed. by John Horton and Susan Mendus (London: Methuen & Co., 1985); Peter Jones, 'Toleration, Harm and Moral Effect', in *Aspects of Toleration: Philosophical Studies,* ed. by John Horton and Susan Mendus (London: Methuen. Co., 1985). [↑](#footnote-ref-53)
54. D. D Raphael, 'The Intolerable', in *Justifying Toleration: Conceptual and Historical Perspective,* ed. by Susan Mendus (Cambridge: Cambrdge University Press, 1988). [↑](#footnote-ref-54)
55. Horton, p. 31; McKinnon, *Toleration : a Critical Introduction*, pp. 27-32. [↑](#footnote-ref-55)
56. Wesley Hohfeld, *Fundamental Legal Conceptions as Applierd in Judicial Reasoning* (New Haven: Yale University Press., 1919). For an analysis of rights, see: Tom Campbel, *Rights: a Critical Introduction* (London: Routledge, 2006); Edmundson, *An Introduction to Rights*; Peter Jones, *Rights* (New York: St. Martin's Press, 1994). [↑](#footnote-ref-56)
57. Hohfeld, *Fundamental Legal Conceptions as Applierd in Judicial Reasoning*. For an analysis of rights, see: Campbel, *Rights: a Critical Introduction*; Edmundson, *An Introduction to Rights*; Jones, *Rights*. [↑](#footnote-ref-57)
58. Forst, *Toleration in Conflict : Past and Present*; 'Toleration, Justice and Reason', in *The Culture of Toleration in Diverse Societies,* ed. by Catriona McKinnon and D Castiglione (Manchester: Manchester University Press, 2003). [↑](#footnote-ref-58)
59. Mendus, *Toleration and the Limits of Liberalism*. [↑](#footnote-ref-59)
60. McKinnon, *Toleration : a Critical Introduction*. [↑](#footnote-ref-60)
61. Forst, *Toleration in Conflict : Past and Present*, p. 20; , p. 72. Similar point raised here: Habermas, 5-18. [↑](#footnote-ref-61)
62. Forst, *Toleration in Conflict : Past and Present*, p. 20. [↑](#footnote-ref-62)
63. Mendus, *Toleration and the Limits of Liberalism*, pp. 16-17. For a similar view that restricts the object of toleration to non-ascriptive characteristics, see: Andrew Shorten, 'Toleration and Cultural Controversies', *Res Publica,* 11 (2005), 275-99; Richard Bellamy, 'Toleration, Liberalism and Democracy: A comment on Leader and Valdas', *Ratio Juris* 10 (1997), 177-86; Churchill. [↑](#footnote-ref-63)
64. Mendus, *Toleration and the Limits of Liberalism*, p. 17. [↑](#footnote-ref-64)
65. Ibid. [↑](#footnote-ref-65)
66. McKinnon, *Toleration : a Critical Introduction*, p. 28. [↑](#footnote-ref-66)
67. Samuel Scheffler, 'The Good of Toleration', in *Equality and Tradition: Questions of Value in Moral and Political Theory* (Oxford: Oxford University Press, 2010) (p. 334). [↑](#footnote-ref-67)
68. Forst, *Toleration in Conflict : Past and Present*, pp. 17-26; Mendus, *Toleration and the Limits of Liberalism*, pp. 18-19; Horton, 7-20. [↑](#footnote-ref-68)
69. Raphael, p. 139; Horton, pp. 29-40; King, *Toleration*, p. 22. [↑](#footnote-ref-69)
70. Since in this chapter I am primarily concerned with the structure of reasoning behind toleration, that is, the way that reasons in favour and against interference relate to each other, I have restricted my definition of toleration to those conceptual components that closely pertain to this aim. It is almost a commonplace among scholars that for the question of toleration to arise the agents must have the power, ability and disposition to interfere. For an extensive conceptual analysis of toleration, see: Cohen, 68-95. [↑](#footnote-ref-70)
71. In the literature this paradox has mostly been formulated in moral terms: the agent is morally required to tolerate something that the agent has good moral reasons to supress. Since what is ultimately at stake here is the structure of reasoning behind toleration and that there is no consensus among scholars as to whether or not question of toleration only arises when there is a moral objection against a practice or belief, I will address the paradox in its general form. For a discussion on the moral formulation of paradox, see Scheffler, p. 316; Forst, *Toleration in Conflict : Past and Present*; Horton, 7-20; Raphael; Churchill; jeff Jordan, 'Concerning Moral Toleration', in *Philosophy, Religion and the Question of Intolerance,* ed. by Mehdi Amin Razavi and David Ambuel (Albany: State University of New York, 1997). [↑](#footnote-ref-71)
72. Waldron objects to the formulation of the problem in terms of a paradox and prefers to call it a pragmatic contradiction. Waldron nevertheless concurs that the alleged problem incurs a serious problem upon any theory of toleration Waldron, p. 1. [↑](#footnote-ref-72)
73. Ibid. pp. 2-3. Also see: , 21-39; Smith, p. 248. [↑](#footnote-ref-73)
74. Waldron, pp. 11-16. [↑](#footnote-ref-74)
75. Ibid. [↑](#footnote-ref-75)
76. Ibid. p. 12. For Waldron’s interpretation of Locke’s theory of toleration, see 'Locke: Toleration and the rationality of persecution', in *Justifying Toleration: Conceptual and historical perspectives,* ed. by Susan Mendus (Cambridge: Cambridge University Press, 1988), pp. 61-86. For Locke’s discussion on toleration, see John Locke, *Locke on Toleration*, Cambridge Texts in the History of Philosophy (Cambridge ; New York: Cambridge University Press, 2010). [↑](#footnote-ref-76)
77. For a comprehensive discussion on toleration in Forst’s works, see Forst, *Toleration in Conflict : Past and Present*; ; 'Tolerance as a virtue of justice', *Philosophical Explorations,* 4 (2001), 193 – 206; ; 'A Critical Theory of Multicultural Toleration', in *Multiculturalism and Political Theory,* ed. by A.S laden and D. Owen (Cambridge: Cambridge University Press, 2007); 'The Limits of Toleration', *Constellations,* 11 (2004), 312-25. [↑](#footnote-ref-77)
78. , 193 – 206. [↑](#footnote-ref-78)
79. For a detailed analysis of the distinction between ethics and morality, see 'Ethics and Morality', in *The Right to Justification* (NewYork: Colombia University Press, 2012); *Context of Justice: Political Philosophy beyond Liberalism and Communitarianism* (Berkely/Los Angeles: University of California Press, 2002). The distinction has also been discussed in Jürgen Habermas, *Between Facts and Norms : Contributions to a Discourse Theory of Law and Democracy*, Studies in Contemporary German Social Thought (Cambridge, Mass.: MIT Press, 1996); *Moral Consciousness and Communicative Action*, (Cambridge, Mass.: MIT Press, 1990); *Justification and Application : Remarks on Discourse Ethics*, (Cambridge, Mass.: MIT Press, 1993); Charles E. Larmore, *The Autonomy of Morality* (Cambridge ; New York: Cambridge University Press, 2008). [↑](#footnote-ref-79)
80. Rainer Forst, *The Right to Justification: Elements of a Constructivist Theory of Justice*, (New York: Columbia University Press, 2012), p. 15. [↑](#footnote-ref-80)
81. , p. 74; , p. 230. [↑](#footnote-ref-81)
82. , p. 146. [↑](#footnote-ref-82)
83. , p. 76. [↑](#footnote-ref-83)
84. Ibid. p. 77. [↑](#footnote-ref-84)
85. *The Right to Justification : Elements of a Constructivist Theory of Justice*, p. 148. [↑](#footnote-ref-85)
86. , p. 78. A similar definition of the tolerant citizens could be found here: , 193 – 206. [↑](#footnote-ref-86)
87. Thomas Nagel similarly draws on two kinds of value and to forms of justification when, defending liberal toleration, writes “liberalism purports to be a view that justifies religious toleration not only to religious sceptics but to the devout, and sexual toleration not only to libertines but to those who believe extramarital sex is sinful. It distinguishes between the values a person can appeal to in conducting his own life and those he can appeal to in justifying the exercise of political power.” Thomas Nagel, *Equality and Impartiality* (Oxford: Oxford University Press, 1991). [↑](#footnote-ref-87)
88. Forst, p. 78; *The Right to Justification : Elements of a Constructivist Theory of Justice*, p. 148. [↑](#footnote-ref-88)
89. For a critical analysis of Forst’s distinction between moral and ethical believes, see: Sune Lægaard, 'Toleration Out of Respect?', *Critical Review of International Social and Political Philosophy,* 16 (2013), 520-36. [↑](#footnote-ref-89)
90. To use the common terminology in the literature on reasons and reasoning, these strategies conceive the reasons for interference as *pro tanto* reasons, and the relation between opposing reasons in terms of what John Broom refers to as “weighing explanation.” “A pro tanto reason for you to Φ is a fact that plays the for- Φ role in a weighing explanation of why you out to Φ, or in a weighing explanation of why you ought not to Φ, or in a weighing explanation of why it is not the case that you ought to Φ and not the case that you ought not to Φ”. John Broome, 'Reasons', in *Reason and Value: Essays on the Moral Philosophy of Joseph Raz,* ed. by R. Jay Wallace, Michael Smith, and Samuel Scheffler (Oxford: Oxford University Press, 2004). For an account of toleration which clearly frames the tolerating deliberation in terms of *pro tanto* reasons and weighing explanation, see Newey, *Virtue, Reason and Toleration: the Place of Toleration in Ethical and Political Philosophy*, pp. 18-38. [↑](#footnote-ref-90)
91. Similar depiction of the relation between reasons for interference with reasons for non-interference can be found in what Newey calls *overriding-reason* theory of toleration. *Virtue, Reason and Toleration: the Place of Toleration in Ethical and Political Philosophy*, pp. 35-6. [↑](#footnote-ref-91)
92. A similar understanding of the reasons for interference can be found in what Newey call *overridden-reason* theory of toleration. “A possible example would be one generated by reasons of public nuisance. While it might be the case that certain practices were disapproved of because they were a public nuisance, it might also be the case that these reasons were not regarded as being of sufficient strength to justify coercive intervention.” Ibid. p. 36. [↑](#footnote-ref-92)
93. This claim will be discussed in detail in the following chapters. [↑](#footnote-ref-93)
94. Walzer, *On Toleration*, p. 25. [↑](#footnote-ref-94)
95. Bessone, 209-23. [↑](#footnote-ref-95)
96. Waldron, p. 12. [↑](#footnote-ref-96)
97. Ibid. p. 13. [↑](#footnote-ref-97)
98. Ibid. p. 16. [↑](#footnote-ref-98)
99. Ibid. [↑](#footnote-ref-99)
100. This point will be explicated in Chapter 6. [↑](#footnote-ref-100)
101. Raz, *Practical Reason and Norms*, p. 34. [↑](#footnote-ref-101)
102. For the formal analysis of conflicting reasons, see: ibid. pp. 25-28. [↑](#footnote-ref-102)
103. Ibid. pp. 35-40. [↑](#footnote-ref-103)
104. Ibid. p. 39. [↑](#footnote-ref-104)
105. Ibid. pp. 35-48. [↑](#footnote-ref-105)
106. Forst, *Toleration in Conflict : Past and Present*, p. 459. [↑](#footnote-ref-106)
107. Ibid. pp. 21-451-507. [↑](#footnote-ref-107)
108. John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993). [↑](#footnote-ref-108)
109. Hilal Elver, *The Headscarf Controversy: Secularism and Freedom of Religion* (Oxford: Oxford University Press, 2012). [↑](#footnote-ref-109)
110. *The Swiss Minaret Ban: Islam In Question*, ed. by Patrick Haenni and Stephane Lathion (Fribourg: Religiscope, 2011); Douglas Pratt, 'Swiss Shock: Minaret Rejection, European Values, and the Challenge of Tolerant Neutrality', *Politics, Religion & Ideology,* 14 (2013), 193-207. [↑](#footnote-ref-110)
111. For a comprehensive discussion on Rushdie Affair, see chapters 7-12 in: *Liberalism, Multiculturalism and Toleration*, ed. by John Horton (London: Palgrave, 1993). [↑](#footnote-ref-111)
112. Tariq Modood and others, 'The Danish Cartoon Affair: Free Speech, Racism, Islamism, and Integration', *International Migration,* 44 (2006), 3-62; Robert Post, 'Religion and Freedom of Speech: Portraits of Muhammad', *Constellations,* 14 (2007), 72-90. [↑](#footnote-ref-112)
113. Jones, 383-402. [↑](#footnote-ref-113)
114. Jeremy Waldron, 'Toleration and Reasonableness', in *The Culture of Toleration in Diverse Societies: Reasonable Tolerance,* ed. by Catriona McKinnon and Dario Castiglione (Manchester: Manchester University Press, 2003) (pp. 25-6). [↑](#footnote-ref-114)
115. Isaiah Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969), p. 153. [↑](#footnote-ref-115)
116. Rawls, *Political Liberalism*, p. XVII. [↑](#footnote-ref-116)
117. For such an account, see Raz, *The Morality of Freedom*. [↑](#footnote-ref-117)
118. Charles E. Larmore, *The Morals of Modernity* (Cambridge University Press, 1996), pp. 152-8. [↑](#footnote-ref-118)
119. Isaiah Berlin, 'Alleged Relativism in Eightin-Century European Thought', in *The Crooked Timber of Humanity* (London: Pimlico, 2003) (p. 79). [↑](#footnote-ref-119)
120. Forst, *Toleration in Conflict : Past and Present*. [↑](#footnote-ref-120)
121. Rawls, *Political Liberalism*, p. 3. [↑](#footnote-ref-121)
122. Ibid. p. 147. [↑](#footnote-ref-122)
123. For a critical assessment of the liberal rejection of *Modus Vivendi* form of toleration, see: John Horton, 'Why the traditional conception of toleration still matters', *Critical Review of International Social and Political Philosophy,* 14 (2011), 289-305; 'Realism, liberal moralism and a political theory of modus vivendi', *European Journal of Political Theory,* 9 (2010), 431-48. Horton successfully makes a case in favour of the often neglected role of *Modus Vivendi* in settling political conflicts; he nevertheless does not address liberals’ concerns in so far as the morality of toleration is concerned. [↑](#footnote-ref-123)
124. Rawls, *A Theory of Justice*. [↑](#footnote-ref-124)
125. Dworkin, p. 190. [↑](#footnote-ref-125)
126. Jeremy Waldron, 'Theoretical Foundations of Liberalism', *Philosophical Quarterly,* 37 (1987), 127-50 (p. 128). [↑](#footnote-ref-126)
127. Larmore, *The Morals of Modernity*, p. 152. [↑](#footnote-ref-127)
128. Churchill. Meckled-Garcia, 293-313; Jones; Glen Newey, *Toleration in Political Conflict* (Cambridge, U.K.: Cambridge Unitversity Press, 2013), p. ch. 5; Churchill. [↑](#footnote-ref-128)
129. Ronald Dowrkin, for example, argues that neutrality between one way of life and another is something that is required by the principle of equality which demands the equal treatment of all citizens. Dworkin, p. 195. [↑](#footnote-ref-129)
130. Cited in: Martha Craven Nussbaum, *The New Religious Intolerance : Overcoming the Politics of Fear In an Anxious Age* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2012), p. 70. Similarly, James Madison defeated George Manson’s Virginia proposal to protect “the fullest Toleration in the Exercise of Religion,” by arguing that “all men are equally entitled to the full and free exercise of religion.” See John T. Noonan, *The Lust for Our Country: The American Experience of Religous Freedom* (Berkley: Berkley University Press, 1998), pp. 69-70. [↑](#footnote-ref-130)
131. Bernard Williams, 'Tolerating the Intolerable', in *The Politics of Toleration,* ed. by Susan Mendus (Edinburgh: Edinbirgh University Press, 1999). [↑](#footnote-ref-131)
132. John Gray, for example, writes “toleration as a political ideal is offensive to the new liberalism- the liberalism of Rawls, Dworkin, Ackerman and suchlike - because it is decidedly non-neutral in respect of the good. For the new liberals, justice - the shibboleth of revisionist liberalism – demands that government, in its institutions and policies, practise *neutrality,* not toleration, in regard to rival conceptions of the good life.” John Grey, *The Enlightenment's Wake* (London: Routledge, 1995). [↑](#footnote-ref-132)
133. Jones, 383-402. [↑](#footnote-ref-133)
134. Ibid. p. 386. [↑](#footnote-ref-134)
135. Jonathan Wolff, 'Social Ethos and the Dynamics of Toleration', in *The Culture of Toleration in Diverse Societies,* ed. by Catriona McKinnon and Dario Castiglione (Manchester: Manchester University Press, 2003). [↑](#footnote-ref-135)
136. Meckled-Garcia, 293-313. [↑](#footnote-ref-136)
137. For a defence of toleration as individual virtue, see: Churchill. [↑](#footnote-ref-137)
138. For a discussion on the role of the individuals’ virtues in liberal order, see Will Kymlicka and Wayne Norman, 'Return of the Citizen: A Survey of Recent Work on Citizenship Theory', *Ethics,* 104 (1994), 352-81; Lyle A. Downing and Robert B. Thigpen, 'Virtue and the Common Good in Liberal Theory', *The Journal of Politics,* 55 (1993), 1046-59. For a critical assessment of liberal virtues, see Emily McTernan, 'How to Make Citizens Behave: Social Psychology, Liberal Virtues, and Social Norms', *Journal of Political Philosophy,* 22 (2014), 84-104. [↑](#footnote-ref-138)
139. Rawls, *Political Liberalism*, p. 194. [↑](#footnote-ref-139)
140. Ibid. p. 195. [↑](#footnote-ref-140)
141. Ibid. [↑](#footnote-ref-141)
142. Churchill. [↑](#footnote-ref-142)
143. Rawls, *A Theory of Justice*, pp. 186-94. [↑](#footnote-ref-143)
144. *Political Liberalism*, p. 461. [↑](#footnote-ref-144)
145. Ibid. p. 4. [↑](#footnote-ref-145)
146. Bernard Williams similarly makes a distinction between toleration as a practice and toleration as an attitude. The former bears resemblance to what I refer to as descriptive account of toleration. Williams; ; 'Toleration, a Political or Moral Question?', in *In The Begining Was the Deed: Realism and Moralism in Political Argument,* ed. by Geoffrey Hawthorn (Princeton: Princeton University Press, 2005). [↑](#footnote-ref-146)
147. For an account that understands toleration in terms of the rational self-interested motivation, see: Ryan Muldoon, Michael Borgida, and Michael Cuffaro, 'The Conditions of Tolerance', *Politics, Philosophy, Economics,* 11 (2011), 323-44. [↑](#footnote-ref-147)
148. Rawls, *Political Liberalism*, p. 60. [↑](#footnote-ref-148)
149. Peter Balint, 'Acts of Tolerance: A Political and Descriptive Account', *European Journal of Political Theory,* 13 (2014), 264-81 (p. 2). [↑](#footnote-ref-149)
150. Ibid. p. 10. [↑](#footnote-ref-150)
151. Raz, p. 155. [↑](#footnote-ref-151)
152. *The Morality of Freedom*, p. 14. [↑](#footnote-ref-152)
153. Ibid. p. 373. [↑](#footnote-ref-153)
154. Ibid. pp. 372-73. [↑](#footnote-ref-154)
155. For a similar argument, see: Ben Colburn, *Autonomy and Liberalism* (Routledge, 2010). [↑](#footnote-ref-155)
156. Raz, *The Morality of Freedom*, p. 372. [↑](#footnote-ref-156)
157. Ibid. p. 374. [↑](#footnote-ref-157)
158. , p. 165. [↑](#footnote-ref-158)
159. Ibid. p. 161. [↑](#footnote-ref-159)
160. Ibid. p. 158. [↑](#footnote-ref-160)
161. James Griffin, *On Human Rights* (Oxford University Press, 2008); Alan Gewrith, *The Community of Rights* (Chicago: University of Chicago Press, 1996). [↑](#footnote-ref-161)
162. Raz, *The Morality of Freedom*, pp. 412-18. [↑](#footnote-ref-162)
163. Ibid. p. 247. [↑](#footnote-ref-163)
164. Ibid. [↑](#footnote-ref-164)
165. Ibid. [↑](#footnote-ref-165)
166. , p. 165. [↑](#footnote-ref-166)
167. *The Morality of Freedom*, p. 247. [↑](#footnote-ref-167)
168. , p. 166. [↑](#footnote-ref-168)
169. Jeremy Waldron, 'Autonomy and Perfectionism in Raz's Morality of Freedom', *Southern California Law Review,*  (1988-89), 1097-152 (p. 1123). [↑](#footnote-ref-169)
170. Ibid. [↑](#footnote-ref-170)
171. Ibid. [↑](#footnote-ref-171)
172. Joseph Raz, *Ethics in The Public Domain : Essays In the Morality of Law and Politics* (Oxford

     New York: Clarendon Press ;

     Oxford University Press, 1994), p. 136. [↑](#footnote-ref-172)
173. Ibid. [↑](#footnote-ref-173)
174. Ibid. p. 138. [↑](#footnote-ref-174)
175. Nicole Hassoun, 'Raz on the Right to Autonomy', *European Journal of Philosophy,* 22 (2014), 96-109. [↑](#footnote-ref-175)
176. Jeremy Waldron, 'Autonomy and Perfectionism in Raz's Morality of Freedom', *South California Law Review,*  (1989), 1098-152; Leslie Green, 'Un-American Liberalism: Raz's "Morality of Freedom"', *University of Toronto Law Journal,* 28 (1988), 317-32 (p. 323). [↑](#footnote-ref-176)
177. For an overview on the impact of recognition theories on various areas of philosophy, see: *The Philosophy of Recognition: Historical and Contemporary Perspectives*, ed. by Hans-Christoph Schmidt am Busch and Christopher F. Zurn (UK: Lexington Books, 2010). [↑](#footnote-ref-177)
178. Nancy Fraser and Axel Honneth, *Redistribution or Recognition?* (London: Verso, 2003); Thomson. Simon, *The Political Theory of Recognition* (Cambridge: Polity Press, 2006). [↑](#footnote-ref-178)
179. Charles Taylor, 'The Politics of Recognition', in *Multiculturalism,* ed. by Amy Gutmann (Princeton: Princeton University Press, 1994). [↑](#footnote-ref-179)
180. Axel Honneth, *The Struggle for Recognition: The Moral Grammar of Social Conflicts* (Cambridge: Polity Press, 1995). [↑](#footnote-ref-180)
181. See: Karl-Otto Apel, 'Plurality of the Good? The Problem of Affirmative Tolerance in a Multicultural Society from an Ethical Point of View', *Ratio Juris,* 10 (1997), 199-212; Steven Lukes, 'Toleration and Recognition', *Ratio Juris,* 10 (1997), 213-22; Levent Köker, 'Political Toleration or Politics of Recognition: The Headscarves Affair Revisited', *Political Theory,* 24 (1996), 315-20; Galeotti, *Toleration as recognition*; Peter Jones, 'Toleration, recognition and identity', *Journal of Political Philosophy,* 14 (2006), 123–43; 'Toleration, Religion and Accommodation', *European Journal of Philosophy,* 22 (2012); Sune Lægaard, 'Recognition and Toleration: Conflicting approaches to diversity in education?', *Educational Philosophy and Theory,* 42 (2010), 22-37; Monique Deveaux, *Cultural Pluralism and Dilemmas of Justice* (Ithaca, NY: Cornel University Press, 2000). [↑](#footnote-ref-181)
182. For a shorter version of Galeotti’s thesis, see: Anna E. Galeotti, 'Identity, Difference and Toleration', in *The Oxford Handbook of Political Theory,* ed. by Dryzek. J, Honig. B, and A Philips (Oxford: Oxford University Press, 2006), pp. 565-80. [↑](#footnote-ref-182)
183. *Toleration as Recognition*, p. 2; ibid. [↑](#footnote-ref-183)
184. Ibid. p. 86. [↑](#footnote-ref-184)
185. Ibid. p. 4. [↑](#footnote-ref-185)
186. For a similar view, see: Apel, 199-212. [↑](#footnote-ref-186)
187. Galeotti, *Toleration as Recognition*, p. 5. [↑](#footnote-ref-187)
188. Nancy Hirschmann, J., 'Western Feminism, Eastern Veiling, and the Question of Free Agency', *Constellations,* 5 (1998), 345-68. [↑](#footnote-ref-188)
189. Galeotti, *Toleration as Recognition*, p. 10. [↑](#footnote-ref-189)
190. Ibid. p. 86. [↑](#footnote-ref-190)
191. Jones, 123–43; Jonathan Seglow, 'Recognition as Liberalism?', *Res Publica,* 9 (2003), 57-63. [↑](#footnote-ref-191)
192. Taylor, p. 37. [↑](#footnote-ref-192)
193. Nancy Fraser, 'Recognition without Ethics?', *Theory, Culture & Society,* 18 (2001), 21-42; 'Social Justice in the Age of Identity Politics: Redistribution, Recognition and Participation', in *Redistribution or Recognition? a Political-philosophical Exchange,* ed. by Nancy Fraser and Axel Honneth (London: Verso, 2003), pp. 107-20 (pp. 28-33); 'Rethinking Recognition', *New Left Review,* series (2000), 107-20 (pp. 109-10). [↑](#footnote-ref-193)
194. Jones, 123–43; Lukes, 213-22. [↑](#footnote-ref-194)
195. Galeotti, *Toleration as recognition*, pp. 104-05. [↑](#footnote-ref-195)
196. Ibid. p. 193. [↑](#footnote-ref-196)
197. Ibid. [↑](#footnote-ref-197)
198. Amartya Sen, 'Rights and Capabilities', in *Morality and Objectivity: a Tribute to J.L. Mackie,* ed. by Ted Honderich (New York: Routledge, 1985); David Archard and Amartya Sen, 'Inequality Re-examined', *Philosophical Quarterly,* 45 (1995), 553. [↑](#footnote-ref-198)
199. Galeotti, 223-35. [↑](#footnote-ref-199)
200. Taylor, p. 64. Taylor writes: “it makes sense to demand as a matter of right that we approach the study of certain cultures with a presumption of their value [...]. But it can't make sense to demand as a matter of right that we come up with a final concluding judgement that their value is great, or equal to others” (68-69). [↑](#footnote-ref-200)
201. Galeotti, *Toleration as Recognition*, pp. 8-16-101. [↑](#footnote-ref-201)
202. For the conceptual analysis of toleration and the details of its constitutive components see: Susan Mendus (1989), Preston King (1976), Andrew Jason Cohen (2004), Rainer Forst (2012, 2004), Glen Newey (1999), Catriona MacKinnon (2006). [↑](#footnote-ref-202)
203. Galeotti, *Toleration as Recognition*, p. 113. [↑](#footnote-ref-203)
204. Ibid. p. 73. [↑](#footnote-ref-204)
205. Ibid. pp. 89,93. [↑](#footnote-ref-205)
206. Ibid. pp. 91-2, 107, 95. [↑](#footnote-ref-206)
207. Ibid. pp. 98-193. [↑](#footnote-ref-207)
208. For a critical discussion on Galeotti’s understanding of minorities identity, see: Andrea Baumeister, 'Diversity and Equality:"Toleration as Recognition" Reconsidered', in *Democracy, Religious Pluralism and the Liberal Dilemma of Accommodation,* ed. by Monica Mookherjee (London: Springer, 2011), pp. 103-17. [↑](#footnote-ref-208)
209. Taylor, p. 25. [↑](#footnote-ref-209)
210. Kwameh Anthony Appiah, *The Ethics of Identity* (Princton: Princton University Press, 2007), pp. 22-25. [↑](#footnote-ref-210)
211. Galeotti, *Toleration as Recognition*, pp. 99, 103, 05, 12-4. [↑](#footnote-ref-211)
212. Ibid. p. 227. [↑](#footnote-ref-212)
213. Sune Lægaard, 'Galeotti on recognition as inclusion', *Critical Review of International Social and Political Philosophy,* 11 (2008), 291-314. [↑](#footnote-ref-213)
214. Rawls, *A Theory of Justice*, pp. 78-9. [↑](#footnote-ref-214)
215. Ibid. p. 386. [↑](#footnote-ref-215)
216. Iris Marion Young, *Justice and Politics of Difference* (Princeton: Princeton University Press, 1990), pp. 58-9. [↑](#footnote-ref-216)
217. Ibid. p. 59. [↑](#footnote-ref-217)
218. Onora O'Neill, 'The Public Use of Reason', *Political Theory,* 14 (1986), 523-51 (p. 526). [↑](#footnote-ref-218)
219. Philip Pettit, *Republicanism: A Theory of Freedom and Government*, 1 (Oxford University Press, 1997), 109. [↑](#footnote-ref-219)
220. Cécile Laborde, *Critical Republicanism: The Hijab Controversy and Political Philosophy* (Oxford University Press, 2008). Various authors have argued that there is also a causal relation between misrecognition and “epistemic injustices.” See: Miranda Fricker, 'Epistemic justice as a condition of political freedom?', *Synthese,* 190 (2013), 1317-32; Jane McConkey, 'Knowledge and Acknowledgement: ‘Epistemic Injustice’ as a Problem of Recognition1', *Politics,* 24 (2004), 198-205. [↑](#footnote-ref-220)
221. Galeotti, 223-35. [↑](#footnote-ref-221)
222. Galeotti, *Toleration as Recognition*, p. 220. [↑](#footnote-ref-222)
223. Ibid. p. 202. [↑](#footnote-ref-223)
224. Ibid. p. 207. [↑](#footnote-ref-224)
225. Catriona McKinnon, 'Vertical Toleration as a Liberal Idea', *Social Theory and Practice,* 39 (2013), 1-18. [↑](#footnote-ref-225)
226. Ibid. [↑](#footnote-ref-226)
227. Meckled-Garcia also highlights the necessity of the two-level model of reasoning. He is right to propose that for the question of toleration to arise there must be a second-order reason to let the agent not act upon the first-order reasons, he nonetheless fails to give an account of the second-order reasons which can effectively do this job. That is why Meckled-Garcia, contrary to what I contest, appeal to the two-level model of deliberation to prove the incompatibility between neutrality and toleration. In Meckled-Garcia’s picture, what distinguishes the second-order reasons is simply their superior strength and weight that enables them to “override” the first-order reasons. Meckled-Garcia’s two-level of reasoning therefore collapses ultimately into the weighing-up model of reasoning. Meckled-Garcia, 293-313. For the critical analysis of Meckled-Garcia’s two model of reasoning, see: Jones. [↑](#footnote-ref-227)
228. Williams.For a helpful discussion on the contrast between these two views, see: Enzo Rossi and Matt Sleat, 'Realism in Normative Political Theory', *Philosophy Compass,* 9 (2014), 689-701. Mark Philp, 'What Is To Be Done? Political Theory and Political Realism', *European Journal of Political Theory,* 9 (2010), 466-84; William A. Galston, 'Realism in Political Theory', *European Journal of Political Theory,* 9 (2010), 385-411; David Runciman, 'What Is Realistic Political Philosophy?', *Metaphilosophy,* 43 (2012), 58-70. [↑](#footnote-ref-228)
229. Geuss, *Philosophy and Real Politics*. [↑](#footnote-ref-229)
230. For a discussion on contextualism in political philosophy, see: Jonathan Floyd and Marc Stears, *Political Philosophy Versus History: Contextualism and Real Politics in Contemporary Political Thought* (Cambridge University Press, 2011). [↑](#footnote-ref-230)
231. Horton, 431-48. A helpful discussion on the role of abstraction in normative theory can be found in: Laura Valentini, 'On the apparent paradox of ideal theory', *Journal of Political Philosophy,* 17 (2009), 332-55; Lisa H. Schwartzman, 'Abstraction, idealization, and oppression', *Metaphilosophy,* 37 (2006), 565-88. [↑](#footnote-ref-231)
232. Geuss, *Philosophy and Real Politics*, p. 8. Jonathan Floyd, 'Is political philosophy too ahistorical?', *Critical Review of International Social and Political Philosophy,* 12 (2009), 513-33. [↑](#footnote-ref-232)
233. Newey, *Toleration in Political Conflict*, p. Chapters 2 and 3. [↑](#footnote-ref-233)
234. One of the defining features of politics is power relations. Politics is shaped by mechanisms of power as much as it is regulated by requirements of justice. The prevalence of power relations renders politics much more ambiguous an enterprise than what is usually assumed by liberal moralists. See: Chantal Mouffe, *On the Political* (London: Routledge, 2005); *The Democratic Pradox* (London: Verso, 2009). [↑](#footnote-ref-234)
235. For a discussion on the political approach to human rights, see: Pablo Gilabert, 'Humanist and Political Perspectives on Human Rights', *Political Theory,* 39 (2011), 439-67; S. Matthew Liao and Adam Etinson, 'Political and Naturalistic Conceptions of Human Rights: A False Polemic?', *Journal of Moral Philosophy,* 9 (2012), 327-52. [↑](#footnote-ref-235)
236. I have borrowed the term from Andreas Kalyvas’ analysis of the politics of the extraordinary. Andreas Kalyvas, *Democracy and the Politics of the Extraordinary* (Cambridge: Cambridge University Press, 2008). [↑](#footnote-ref-236)
237. This position is attributed to “strong realism.” Whether moral normativity is eliminable from realist political thinking is the subject of contestation. For a helpful discussion on this question, see: Thomas Hurka, 'Review of Raymond Geuss, \_Philosophy and Real Politics\_', *Notre Dame Philosophical Reviews,* 2009 (2009); Robert Jubb and Enzo Rossi, 'Political Norms and Moral Values', *Journal of Philosophical Research,* 2015; Eva Erman and Niklas Möller, 'Political Legitimacy in the Real Normative World: The Priority of Morality and the Autonomy of the Political', *British Journal of Political Science,* 45 (2015), 215-33. [↑](#footnote-ref-237)
238. John Gray, *Two Faces of Liberalism* (Polity Press, 2000). [↑](#footnote-ref-238)
239. Bernard Williams’s defence of toleration as “interim value” supports what I am proposing here. Williams’ position is insightful he nonetheless never attempts to articulate a framework of reasoning in which toleration can be rendered possible. [↑](#footnote-ref-239)