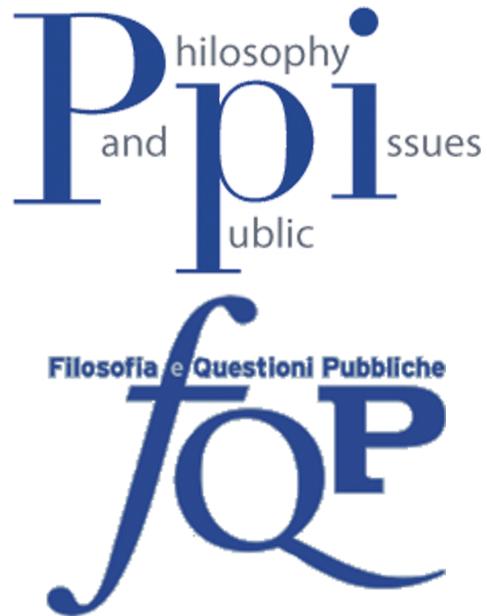


SYMPOSIUM  
THE CHURCH AND THE STATE



TOLERANCE: TOO LITTLE OR TOO MUCH?  
ON ROBERT AUDI'S *DEMOCRATIC  
AUTHORITY AND THE SEPARATION OF  
CHURCH AND STATE*

BY MARIO DE CARO

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# Tolerance: Too Little or Too Much?

On Robert Audi's

*Democratic Authority and the Separation  
of Church and State*

Mario De Caro

## I

### Two Objections Regarding Tolerance

**A**lmost a century has passed since D.W. Griffith wrote and directed *Intolerance* (1916), generally considered the second great masterpiece in the history of cinema. Using daring montage techniques and spectacular settings with the intent of showing how terrible the consequences of intolerance can be, Griffith intercut four parallel storylines that represented emblematic episodes, some historical, some imaginary. Thus—following the tragic happenings connected with the fall of Babylon to the Persians, Jesus's passion, St. Bartholomew's Day massacre, and a contemporary story of poverty, abuse and redemption—the audience could not help but get the message that Griffith intended to send: the world would be a much better place if only tolerance replaced hatred and intolerance. Today this claim may sound rather trite, but one should consider that it was expressed in a time of

bigotry, racism, and war (World War One was already being fought around the world). Praise to Griffith, then.

Too bad that only one year earlier, Griffith had written and directed another movie, *The Birth of a Nation*, that notwithstanding its undeniable cinematic merits (it is generally reputed the first great masterpiece in the history of cinema) has always been considered a prototype of narrow-mindedness and intolerance. In that movie, Griffith described the Civil War as the fight engaged by the heroic Southerners against the risk of moral anarchy and civic dissolution that would result from the cynical Northerners' abolition of slavery. In this spirit, the African-Americans were represented as violent, ferocious, immoral, and generally drunk—with the exception of those who acknowledged the alleged intellectual and ethical superiority of the whites, and behaved accordingly. *The Birth of a Nation* suggested that the docile former slaves could be tolerated as free beings, but the undisciplined ones had to be fought as very dangerous criminals (actual or potential). Moreover, to make things clearer, Griffith represented the Ku Klux Klan as a noble association of valiant men fighting for justice and peace. Unsurprisingly, immediately after the première of *The Birth of a Nation* took place at the Liberty Theater in New York, severe criticisms arose. At that point, Griffith appealed to the right to freely express his beliefs. That is, he asked for tolerance.

Two interesting and seemingly opposite questions can be discussed in regard to Griffith's views on tolerance, and both are relevant for Robert Audi's valuable new volume, *Democratic Authority and the Separation of Church and State*. The first question is very general: Is tolerance an adequate tool for dealing with deep moral and political disagreements in a

democratic society? Or, to put it differently, is the request that “in a respectable democracy one should, within limits, tolerate conduct that one finds objectionable” sufficient for guaranteeing a fair treatment of cultural and religious differences?

D.W. Griffith was disposed to tolerate the African-Americans as long as they behaved according to his racist standards; but of course that form of tolerance was not enough. One could immediately respond that Griffith’s appeal to tolerance was extremely biased and unfair. Still, this example can give us an idea of what Johann Wolfgang Goethe had in mind when he wrote that “Tolerance should be a temporary attitude only: it must lead to recognition. To tolerate means to insult.”<sup>1</sup> Today some thinkers follow Goethe’s train of reasoning and argue that mere tolerance is not enough: recognition and respect should be the ideals of a genuine democratic society.<sup>2</sup> This is because, in fact, tolerance has very often an asymmetric structure: while the

<sup>1</sup> J. W. Goethe *Maximen und Reflexionen*, *Werke* 6, 507, 1829, quoted in R. Forst, “Toleration”, *The Stanford Encyclopedia of Philosophy* (Summer 2012 Edition), Edward N. Zalta (ed.), available on line at <http://plato.stanford.edu/archives/sum2012/entries/toleration/>

<sup>2</sup> Cf. E. Galeotti, “Citizenship and Equality: The Place for Toleration”, *Political Theory* 21 (1993), 585–605; T. Scanlon, “The Difficulty of Tolerance,” in D. Heyd (ed.), *Toleration. An Elusive Virtue* (Princeton: Princeton University Press, 1996), 226–239; R. Forst, *Contexts of Justice* (Berkeley and Los Angeles: University of California Press, 2002) and R. Forst, “The Limits of Toleration”, *Constellations* 11 (2004), 312–325. An interesting criticism of the views centered on the notion of recognition, with a particular reference to the religious cultural conflicts, is in S. Mendus, *The changing face of toleration* (forthcoming); but see the reply by R. Sala, *Discussione di Susan Mendus’ The changing face of toleration*, (forthcoming). At any rate, below I will argue that full respect and recognition cannot be described as forms of tolerance at all.

most powerful members of society (who generally, but not always, coincide with the majority) can decide whether to tolerate the presence of the weakest members of society, generally the reverse is not true. In this light, the practice of tolerance can only be a very partial achievement, and what democracy really needs is *recognition* and *respect* of the weakest members of society. Therefore, in the light of Goethe's objection, one should conclude that tolerance is too modest an ideal for an advanced democracy.

The second question I want to raise may appear to contradict the first. It concerns the very frequent cases in which tolerance seems inappropriate altogether—which, by the way, tend to be the most relevant examples of moral disagreement. D.W. Griffith, with his request of tolerance for his racist beliefs, can help us again in understanding why these cases are philosophically problematic. The cinematic expression of those beliefs (or, as a matter of fact, any expression of them) amounts to nothing less than hate speech. However, it is reasonable to think that we should not tolerate hate speech. An analogous example in this sense is the discriminatory attitude toward homosexuals, which is still very common in many cultures and religions, including the West. Most well-educated people would argue that tolerance of extremely homophobic views and conduct are morally wrong. The question then raises whether we can develop a conception of tolerance that makes it possible to discriminate adequately the cases in which tolerance is morally required from the cases in which it is morally illicit—that is, the cases in which tolerance would be too much of a concession to somebody who does not deserve it at all. We could call this the “Unjustified tolerance objection.”

Below I will discuss Goethe's objection and the Unjustified tolerance objection by considering the treatment of tolerance offered in the last chapter of Audi's *Democratic Authority and the Separation of Church and State*.<sup>3</sup>

## II

### **Audi's on Religion and Democratic Society**

Many important philosophers (including Jürgen Habermas, Hilary Putnam, Ronald Dworkin, Philip Kitcher, Thomas Nagel, Daniel Dennett, and Brian Leiter) have recently written about the relevance, or lack of, that religion has for our political and ethical lives.<sup>4</sup> However, Robert Audi's *Democratic Authority and the Separation of Church and State* is deepest reflection published in the two decades following John Rawls's *Political Liberalism* on how a liberal democracy should balance the two essential but seemingly conflicting needs of cultivating secularization and

<sup>3</sup> Robert Audi, *Democratic Authority and the Separation of Church and State* (New York: Oxford University Press, 2011). Unless otherwise specified, parenthetical references refer to this text.

<sup>4</sup> J. Habermas, *An Awareness of What is Missing: Faith and Reason in a Post-secular Age* (Cambridge: Polity Press, 2010); H. Putnam, *Jewish Philosophy as a Guide to Life: Rosenzweig, Buber, Lévinas, Wittgenstein* (Bloomington: Indiana University Press, 2008); R. Dworkin, *Religion Without God* (Cambridge (MA): Harvard University Press, 2013); P. Kitcher, "Ethics without Religion", <http://www.berfrois.com/2012/01/philip-kitcher-ethics-without-religion/>, (2012); T. Nagel, *Secular Philosophy and the Religious Temperament: Essays 2002-2008* (New York: Oxford University Press, 2010); D. Dennett, *Breaking the Spell: Religion as a Natural Phenomenon* (London: Penguin, 2006); B. Leiter, *Why Tolerate Religion?* (Princeton: Princeton University Press, 2012).

guaranteeing religious freedom.<sup>5</sup> It is easy to predict that this book will be read still many decades from now. One of its assets is that, while many authors who write on these issues defend partisan views—by insisting either that religion does not add any special ingredient to democratic societies or that it is indispensable to them –, Audi holds a very balanced view. According to him, in a decent society religion is not imperative but still it holds an ethical authority of its own. In this light, Audi convincingly recommends a clear-cut Church-State separation and the government’s maintenance of religious neutrality.

Another asset of the book is that—differently from the vast majority of contemporary philosophers, whose expertise is restricted to just a few topics –, Audi dominates many different areas, including philosophy of religion, action theory, epistemology, political philosophy, and ethics, which are in different measure relevant for the subject of this book. Unsurprisingly, then, in this book he draws with great competence, and very helpfully, from many of these fields.

Besides the mentioned issue of the separation between Church and State (in regard to which Audi advances an innovative theoretical proposal based on the “principle of secular rationale”), *Democratic Authority and the Separation of Church and State* develops original and deep proposals on topics such as the relationship between religion and ethics, the meaning of contemporary secularization, and the role that religions should play in the political arena.

<sup>5</sup> J. Rawls, *Political Liberalism* (New York: Columbia University Press, 1993).

Since, of course, there is not much point in stressing how much I agree with this book, I will instead discuss the original proposal that Audi develops in the last chapter, which is dedicated to the hotly discussed question of tolerance. In this regard, I will raise two doubts connected with the objections mentioned at the beginning of this article.

### III

#### The Limits of Tolerance

Tolerance is an attitude that tends to produce non-harmful behavior; still, as Audi notices, it implies “disapproval or at least a kind of dislike” (p. 106). Also, it is not a moral virtue, since “a wholly amoral person could be tolerant ... [and] even people who are not amoral can be tolerant for the wrong kinds of reasons” (p. 108). However, tolerance is an “adjunctive virtue [since] it assists the person in realizing moral virtue but it is not itself a moral virtue, such as justice, fidelity, or veracity” (p. 109). Being an adjunctive virtue, tolerance is a *normative* virtue—which means that it can be applied correctly or incorrectly.<sup>6</sup>

Tolerance may [...] be justified both behaviorally and attitudinally, but expressed in ethically inappropriate ways. It may be too vocal, too intrusive, too patronizing. It must achieve a mean between the excess of officious zeal and the deficiency of indifference toward the positive changes that would make it unnecessary [...]. [For example] passive disapproval of unequal treatment is criticizably lax;

<sup>6</sup> On the idea of adjunctive virtues and their normative character, cf. R. Audi, R. and P.E. Murphy, “The Many Faces of Integrity”, *Business Ethics Quarterly*, 16 (2006), 3-21.

overzealous criticism may infringe both liberty and privacy rights and also be counterproductive (p. 108).

Therefore, one “cannot determine what counts as due tolerance apart from moral principles and associated rights” (p. 112)—and that implies that, in some cases, an act of tolerance can be immoral and an act of intolerance can be moral. It is morality, then, that determines when tolerance is correctly applied and when it is not.

It is interesting to compare Audi’s idea that tolerance, if not a moral virtue, is still an adjunctive normative virtue with the view defended by Forst. According to Forst, “[i]n itself, [...] toleration is not a virtue or value; it can only be a value if backed by the right normative reasons.”<sup>7</sup> It is unclear to me, why Forst assumes that a virtue *always* has to be backed by right normative reasons. Let’s consider attitudes such as courage, patience and benevolence. Generally, they are beneficial, but in particular situations they are not: sometimes courage is not the best attitude to take; in certain circumstances, remaining calm is just wrong; some people simply do not deserve benevolence. Still, everyone would agree that courage, patience and benevolence *are* virtues (even if not moral virtues, but adjunctive virtues, as Audi notices), and so they have always been considered—and this is because they respond to ethical and rational standards that in principle determine whether and when their particular manifestations are correct. The crucial point here is not that virtues have always to be backed by right normative notions, as Forst claims, but that they *could*. Audi is therefore right in saying that, even if it is not a moral virtue, tolerance is still a

<sup>7</sup> R. Forst, “Toleration”, *The Stanford Encyclopedia of Philosophy* .

virtue, a normative virtue, since one can always be wrong in instantiating it.

A related open issue concerns the criteria that should be used for establishing when its applications are morally appropriate. In this regard, Audi proposes the following, very interesting principle that is applicable to both individuals and governments.

*The principle of toleration.* If it is not reasonable for proponents of coercion in a given matter to consider themselves epistemically superior in that matter to supporters of the corresponding liberty, then in that matter the former have a *prima facie* obligation to tolerate rather than coerce (pp. 119-120).

This principle, in turn, assumes an idea that could be called “epistemic parity.” In Audi’s words,

[e]pistemic peers are (rational) persons who are, in the matter in question, equally rational, possessed of the same relevant evidence, and equally conscientious in assessing that evidence. Rational disagreement between epistemic peers can occur not just inter-religiously—between people who differ in religion (or one or more of whom is not religious at all)—but also intra-religiously (p. 117).

Three remarks are relevant here. First, the main reason why the principle of toleration is so interesting is that it offers an epistemic criterion to decide whether some conduct should be tolerated. This is important because, when the possibility to tolerate something is controversial, this happens because some very difficult ethical issues are implied; thus, shifting from the ethical to the epistemological level is a very promising move. Second, the principle of toleration only gives *prima facie* obligations to tolerate rather than coerce; and this means that there can always be superior reasons that can supersede its results.

Third, this principle can give prima facie *sufficient* reasons for tolerating a conduct; but, in my opinion at least, it need not give prima facie *necessary* conditions. It may in fact happen that one has good ethical reasons for tolerating the conduct of someone who is not one's epistemic peer. Think, for example, of a bizarre animistic ceremony celebrated by the members of a community who believe that, in this way, their ancestors will contact them. The epistemic justification of such ceremony would of course be very unsatisfactory, so we would not consider the members of that community to be our epistemic peers; however, we could still have independent moral reasons to tolerate their ceremony.

Given the ingenious and deep conception of tolerance developed in *Democratic Authority and the Separation of Church and State*, it may be interesting to see how it could respond to the two objections raised at the beginning of this article, i.e. the Goethe's objection ("Is tolerance enough of a goal for a democratic society?") and the Unjustified tolerance objection ("How can we establish those cases in which toleration would be morally wrong?"). I will do this in the next two sections of this article.

## IV

### Goethe's Objection

According to the first objection, tolerance is a provisional instrument for dealing with cultural and religious differences in the democracies we actually live in (which are uncontroversially far from being ideal).

Certainly, tolerance is extremely important when it replaces open cultural and religious tensions conflicts, thereby preventing injustice and violence. One may think that in a society in which power was equally distributed but differences in beliefs and conduct still existed, tolerance could be enough of an ideal to allow for reinforcing peaceful coexistence. However, in the real world tolerance is very often the attitude that a dominant group assumes towards an individual or a minority or a less influential group whose ideas regarding some important ethical or political issues diverge from those of the dominant group. Therefore, very frequently the logic of tolerance is based on the distinction between a “tolerant entity” and a “tolerated one”, and such roles are not interchangeable. Thus the tolerated is always in a state of social and cultural subordination. Let’s for example consider, for example, the opinion expressed nowadays in the democratic societies regarding openly gay relationships. Without considering the foolish view that homosexuality should be banned altogether, different forms of tolerance toward the gay community are advocated in contemporary public discussion. More specifically, in an ascending order of inclusiveness, some people (including those conservative politicians who give voice to groups still numerically relevant in Western societies) claim that, while gays may be tolerated, it is clearly due to a moral and mental disorder;<sup>8</sup>

<sup>8</sup> In 2004, for example, during an interview to confirm the post of Vice President at the European Parliament for which he had been designated, the Italian politician (and professor of philosophy) Rocco Buttiglione declared that he viewed homosexuality not as a crime but as a sin. On other occasions he has claimed that homosexuality is objectively wrong, in the same sense in which not paying taxes is objectively wrong, and that it is a moral disorder that derives from a mental disorder (the “*Egodistonic* sexual orientation”) (cf.

others maintain that informal unions should be tolerated but not formalized; still others hold that some rights should be granted to gays but other rights, including marriage, should not; finally, some claim that all civil rights should be granted to gays, including marriage. It should be noticed that the first three views ask for different levels of tolerance for gays, while in the last case the request of tolerance has been overcome by the request of unqualified respect and recognition. However, the latter result has been reached in very few places, and even there it does not seem completely stable. Thus, in most if not in all places, the discussions still tend to focus on how tolerant the straight majority should be toward gays.<sup>9</sup> This kind of relationship has the form of “*us versus them*” (the tolerant straight majority versus the tolerated gay minority). Never does it take the opposite form. Therefore, in this and many similar cases (even if not always), tolerance is an asymmetric relationship, in which one side has the power to decide what kind of, and to what extent, tolerance should be granted to the other side, which is thereby left in a condition of subordination.

This common phenomenon gives us an idea of what Goethe had in mind when, as mentioned above, he wrote that “Tolerance should be a temporary attitude only: it

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[http://www.adnkronos.com/archivio/adnagenzia/2009/03/17/politica/gay-buttiglione-oms-riconosce-il-disturbo-di-disadattamento-sessuale\\_201630.php](http://www.adnkronos.com/archivio/adnagenzia/2009/03/17/politica/gay-buttiglione-oms-riconosce-il-disturbo-di-disadattamento-sessuale_201630.php) and <http://www.lettera43.it/politica/1581/per-buttiglione-essere-gay-e-sbagliato.htm>). At any rate, in Buttiglione’s case, for the first time in its history the European Parliament denied the post to a candidate who had been designed to the Vicepresidency.

<sup>9</sup> The last group (that asking for full recognition of gays) is increasingly successful: more and more states and nations accept gay marriage. However we are still far from being able to say that even in Western democracies gays receive equal treatment.

must lead to recognition.” In the Goethian perspective, tolerance—by conceptually implying that the tolerated persons are wrong—cannot be enough and should be conceived of only as a preliminary goal. Actually, when there is no perception that a person’s conduct is wrong there is no need (and actually neither is there the possibility) to tolerate her and her conduct.

It can be argued, then, that democracies should seek full and equal recognition, in which nobody *tolerates* anybody else, but differences are accepted without asymmetry and without attributing to them any particular political or ethical relevance. This result has been obtained, for example, by Catholics and Protestants, after five centuries of often atrocious wars and persecutions. The historical development of this relationship is enlightening. After Luther started the Reformation (in 1517), in West Europe each Christian denomination saw the others as committing the worst of all possible errors, i.e., embracing the wrong religion—an error that would have given them nothing less than eternal damnation. Very often, then, the religious groups that comprised the majority in a particular city or state tended to persecute, often very brutally, the members of the competing religious groups. Given this intolerant attitude, it is unsurprising that massacres and wars followed, decimating the European population. Afterwards, an era of toleration slowly took place, starting with the Nancy edict and the theorizations of philosophers such as Bodin, Locke, Spinoza, Bayle, and Voltaire. In this new perspective, the various Christian denominations started to tolerate each other, even if each kept thinking the others were dramatically mistaken—and therefore, in some precise sense, constitutively inferior and worthy of suspicion or disdain. Finally, among the different Christian traditions,

also the age of tolerance has ended, and each side has begun to see the others as fully legitimate and worthy of respect.<sup>10</sup> Indeed, nowadays, no side sees the others as dramatically wrong. Consequently, tolerance is no longer needed—or even possible—because society has moved beyond it.

A three-stage process is clearly visible here that can be identified also in other cases. What happens in these cases is that, first, a marginal group is ostracized and sometimes persecuted because some of its beliefs and conduct are perceived as immoral and socially disruptive by the dominant members of society; next, the group is progressively accepted; and finally (in the most fortunate cases) it achieves full recognition and respect. Therefore the scheme is the following: after a first phase of intolerance and sometimes hate toward a marginal group,<sup>11</sup> a phase of tolerance follows, eventually followed by full recognition and respect in which even the appearance of relevant errors

<sup>10</sup> The civil war in the former Yugoslavia, in the 1990s, can seem like a partial exception to this rule, since part of the conflict was between Orthodox and Catholic Christian. But in that case, of course, the problem was much more a clash of identitarian nationalisms than of different religions.

<sup>11</sup> Very frequently, when a group is denied tolerance part of the reason is that that group is represented as intolerant and consequently unworthy of tolerance (according to the line defended by Popper [*The Open Society and Its Enemies* (London: Kegan Paul, 1945)] and others). However, as noted by Forst (R. Forst, “Toleration,” *The Stanford Encyclopedia of Philosophy* (Summer 2012 Edition), Edward N. Zalta (ed.), URL = <<http://plato.stanford.edu/archives/sum2012/entries/toleration/>>), “the slogan ‘no toleration of the intolerant’ is not just vacuous but potentially dangerous, for the characterization of certain groups as intolerant is all too often itself a result of one-sidedness and intolerance” (see also R. Forst, “The Limits of Toleration”).

by that group has evaporated. So the same need of tolerance, in any of its forms (since of all of them require the perception that the tolerated part is in some kind of relevant error), has disappeared.

A few remarks are useful here.

(i) Tolerance is an important achievement, but should not be considered the final goal in dealing with cultural, ethical, and religious differences. The implementation of full recognition and respect should be a higher, if more difficult to obtain, aspiration for truly democratic societies;

(ii) There may be conduct that will never pass from the level of toleration to that of full recognition and respect, but we are not in the epistemic condition to know for which specific conduct this will be the case;

(iii) History proves that, in many cases, conduct that was originally seen as intolerable by the strongest social groups, was later tolerated, and finally attained full recognition and respect.<sup>12</sup> At this last stage, the same belief that a particular conduct was wrong has disappeared and, correspondingly, too has the need and possibility of tolerating them (since toleration requires a perceived wrong conduct as its object);

(iv) The achievement of full recognition and respect is desirable for at least three reasons. First, it opens a much better way to fairness and equality than mere tolerance;

<sup>12</sup> Of course, this is an ideal characterization. It may happen that a phase of intolerance follows one in which a group had been tolerated. What is important, however, is that there is some kind of historical teleology going from intolerance to tolerance to full respect and recognition.

second, it produces a much stronger feeling of integration in the groups whose conduct was initially fought and then only tolerated; third, it strongly reduces the possibility of identitarian and cultural clashes in a society;

(v) Reaching the level of being tolerated is a necessary condition for a kind of conduct that is disapproved of to later be respected and recognized as fully legitimate. That is, the conduct that never reaches the threshold of tolerability—i.e., which always remain intolerable—a *fortiori* cannot reach full respect and recognition.

As I said, this three-stage process has actually been very common in history. Let me give some examples. In the 1960s many Southerner Italians migrated in search for jobs to the Northern Italian regions, where they encountered open hostility by many of the natives (explicitly, many landlords refused to rent to people from the South). A few years later, the immigrants began to be tolerated, even if they were still looked upon with some suspicion; today, finally, they are almost completely recognized and respected (the “almost” caveat is due to the persistence of small, but noisy xenophobic minorities). In the USA the same process has happened with the immigration of many non-Wasp nationalities, who were first disrespected, then tolerated, and then finally got fully integrated. Analogously, in Europe and in the US atheists were first persecuted (many of them were burned in the early modern age and even according to Locke they could not be tolerated), then reached the stage of toleration, and now are fully accepted and recognized in most Western states.

Of course, tolerance is still necessary in many cases and in some cases is not even realized yet, even in mature

democracies. This is true, for example, in the case of immigrants from Africa and East Europe to Western Europe, who are very frequently subject to adverse propaganda and sometimes suffer violent attacks. In these cases, full recognition and respect are clearly still desirable goals, and widespread tolerance would already be a satisfactory result. Similarly, in most democracies tolerance is still a reasonable goal for most non-Christian religions, since the achievement of full recognition and respect is still far in time. Nevertheless, Goethe may have had a point in claiming that one should take tolerance as a temporary attitude only since, ideally, we should accept the others, even when they are very different from us, without assuming that they err against morality or reason.

To this objection one could perhaps try to respond that actually many views (including Audi's) do imply the possibility of a form of tolerance that implies full recognition and respect. Perhaps so. Still, it should be noticed that in that case the meaning of the word "tolerance" has changed deeply. In fact, full recognition and respect imply that all appearance of being in moral error (which, as Audi and many others correctly remark, is a necessary trait of toleration) has disappeared, as shown by the example of the Catholic and Protestant versions of Christianity.

What I have said in this paragraph does not imply that Audi's account of tolerance is wrong. What I have rather been arguing is only that the ideal of tolerance should be considered as intrinsically provisional, since in the long run one should ideally look for the full recognition and respect of the systems of conduct that are today only tolerated, insofar as they are perceived as morally wrong.

## V

### **The Unjustified Tolerance Objection.**

Let's now consider the Unjustified tolerance objection. As said, this objection concerns the situations (whose existence, of course, Audi is perfectly aware) in which tolerance would evidently be too much—i.e., its application would actually be ethically unjustified. Arguably, these situations include hate speech, homophobia, and some religious conduct, such as strong discrimination against women. It is very reasonable to think that this conduct should not be tolerated and that we should simply try to stop them (even if, as Audi convincingly argues, in trying to stop them it would be morally preferable to try to use persuasion rather than coercion).

What is problematic, however, is why exactly, while some problematic conduct should be tolerated, those just mentioned are instead below the threshold of tolerability. An account of toleration should be able to show that conducts such as cases of hate speech, differently from other problematic cases, are not acceptable at all and should not be tolerated.

As we have seen, Audi's view appeals to the principle of toleration, which states that it is "not reasonable for proponents of coercion in a given matter to consider themselves epistemically superior in that matter to supporters of the corresponding liberty, then in that matter the former have a *prima facie* obligation to tolerate rather than coerce." This, in turn, presupposes the notion of "epistemic parity", according to which "Epistemic peers are (rational) persons who are, in the matter in question, equally rational, possessed of the same relevant evidence,

and equally conscientious in assessing that evidence.” The question we should ask then is: is the principle of toleration adequate for discriminating the cases in which tolerance is acceptable, or even required, from the cases in which it is not required or would even be immoral?

Let’s consider a situation in which, in a democratic society, a religious group discriminates against women by compelling them to wear the burka (so that all parts of their bodies are perfectly covered all the time) at any public occasion from her adolescence to her death. And let’s assume that, within that religious group, some not illegal by very harsh repercussions invariably follows if a woman contradicts the burka tradition (for example, with her public humiliation and social ostracization). Now let’s imagine a well-intentioned philosopher who sees this conduct as deeply discriminatory and, consequently, as intolerable. According to Audi’s account, preliminarily the philosopher has to evaluate if the leaders of that religion, who impose the use of burka to the women of his religion, are epistemic peers of hers. For the sake of the argument, let’s imagine that those religious leaders are very well read and sensible, know the relevant evidence as much as the philosopher, understand perfectly why the philosopher thinks that the imposition of the burka is unfair, and have no problem with the fact that women outside their religious community do not wear the burka. In this situation, the philosopher should conclude that these religious leaders are epistemic peers of hers. So their opinion matters for deciding whether this is a case in which, at least *prima facie*, tolerance should be applied. However, the religious leaders also sincerely believe that respect of traditions is more important than the fairness in treatment. Consequently, they believe that women of their religion should never

show any part of their body in public and that legal but harsh punishment should always be imposed on their female coreligionists who have violated the burka norm. At this point, if I interpret correctly the principle of toleration, from it should follow that the philosopher has a *prima facie* obligation *not* to try to coerce the religious leaders that the burka is an obsolete, unfair tradition and that it should, at the very least, be made optional for the women of that religion. That is, *prima facie* the philosopher should tolerate the burka tradition even if she sees it as deeply unjust towards women. More examples of this kind could be presented, but I believe my point is clear: some conduct appears intolerable to us even if we should happen to be confronted with epistemic peers of ours who advocate it.

(In this respect, it is perhaps worth mentioning that these kinds of cases do not affect the view I presented early, according to which tolerance should ideally be supplanted by full recognition and respect. Since conduct like the imposition of the burka should not be tolerated in the first place, one can be confident that it will not reach the next stage of full recognition and respect. Actually, I do know of any concrete case in which some conduct has gone directly from not being tolerated to being fully recognized and respected, without passing through an intermediate phase of tolerance).

At this point, we should look at the role that the term “*prima facie*” plays in Audi’s principle of toleration. As seen, this principle states that, in a matter in which one does not have epistemic primacy, one has “a *prima facie* obligation to tolerate rather than coerce.” I suspect that in this context the term “*prima facie*” is used in order to protect the principle of toleration against objections like the

one just raised. If so, however, a question can be asked: What are the kinds of reasons or principles that can supersede the principle of toleration and dictate to us not to tolerate a conduct even when this is advocated by an epistemic peer of ours?

The most plausible candidates for playing the role of the superseding reasons in this context are of course ethical in character. They could then be of the kind, ‘Do not tolerate anything that would violate a fundamental human right’ or (as proposed by Rawls), “While an intolerant sect does not itself have title to complain of intolerance, its freedom should be restricted only when the tolerant sincerely and with reason believe that their own security and that of the institutions of liberty are in danger.”<sup>13</sup> In this way, however, the risk is that these superseding ethical principles do in fact all the important work—substantially trumping the principle of toleration, with its elegant epistemological component.

Here is a possible reply to this objection: ‘the principle of toleration only establishes when toleration should be applied in case one can draw from it the same conclusions that one could derive from the superseding ethical principle; but this fact does *not* prove that the principle of toleration cannot play an important role, since it can still give us *prima facie* reasons to be tolerant.’

Unfortunately this reply does not solve the problem. In the most sophisticated philosophical jargon (which is that

<sup>13</sup> J. Rawls, *A Theory of Justice* (Cambridge (MA): Harvard University Press, 1971), 220. Rawls’s principle, which allows security to be a basis for denying tolerance, is particularly for the burka issue, since it is obviously particularly difficult to identify a person who wears a burka. Indeed, it has actually been used in their regard in France and in Italy.

intended by Audi), the term “prima facie” is used in regard to reasons that suffice unless defeated by considerations at least equally strong. However, in considering the practice of imposing the burka on women (and in similar cases, which are the most problematic from the moral point of view), the ethical defeating reasons, which suggest not to tolerate, appear to be immediately evident and immediate. That is, in thinking about that practice, its ethical intolerability strikes us well before, and much more strongly, than the reasons its advocates may offer in its favor, even when they are our epistemic peers. And if the ethical level is that on which one should take the ultimate decision about whether tolerating or not, what role is left for the principle of toleration? That is, why should one consider the epistemic level at all?

The Unjustified tolerance objection seems to pose a serious problem, then. On the one side, the principle of toleration—which attributes an important role to epistemic reasons in matters of tolerance—looks very promising. On the other side, it is unclear which role it can exactly play in assessing difficult cases such as that concerning the imposition of the burka.

Is there a way out of this predicament?<sup>14</sup>

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