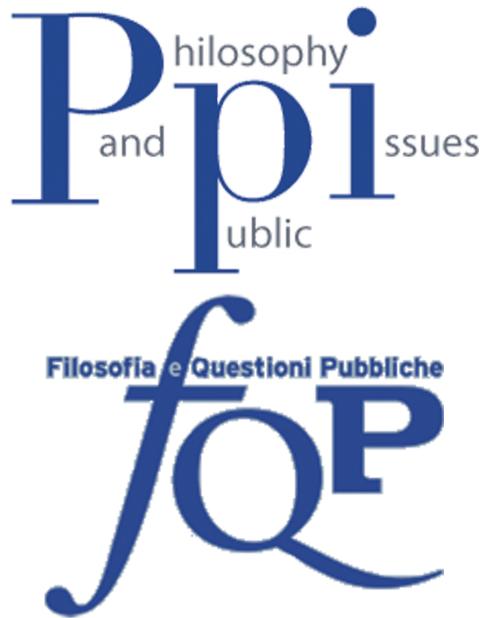


SYMPOSIUM
THE CHURCH AND THE STATE



DEMOCRACY, SECULARITY, AND
TOLERATION

BY ROBERT AUDI

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Democracy, Secularity, and Toleration

Robert Audi

It is an honor to be the subject of the five provocative and valuable commentary papers to which I am here replying, and I must say immediately that I will not have space to attempt a truly comprehensive response. My purpose is instead to combine meeting objections with clarifying and extending my position, in the hope of stimulating more exchanges of ideas and drawing other readers into further reflection on the enduringly important topic of democratic authority in relation to religion and the ethics of citizenship.

I

Principles and Rights as Elements in the Theory of Democracy: A Response to Michael Perry

Michael Perry asks me the difficult questions, “What is the difference, if any, between your liberty principle and the right—the internationally recognized human right—to religious and moral freedom? If different, are the principle and the right complementary or competitive?” (pp. 11-12 in this issue). My principle in question is “that government

should protect religious liberty to the highest degree possible within a reasonable interpretation of the harm principle” (p. 41), where the latter principle is Mill’s famous one in his *On Liberty*. In Mill’s core formulation, this latter principle is “that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection [...] to prevent harm to others.” Let me reply to Perry by first making some general points about rights and principles and then proceeding to some more specific responses.

I leave aside the difficult question whether principles are normatively more basic than rights. There is no need to pursue that here, since nothing I say will depend on the matter.¹ Moreover, even if a principle, say one calling for religious freedom, is normatively more basic than the *corresponding right*—in this case the right to freedom of religion, the two can be equivalent in practice, say for policy-making: they may call for the same acts and rule out the same acts. Whatever the grounds for the equivalence between, on the one hand, satisfying the principle and, on the other, respecting the corresponding right, the principle can be true and important. Given what Perry says about the human right to religious freedom, I believe there is adequate reason to think that the importance of the principle is undiminished. To be sure, he refers to ‘religious and moral freedom’ and I take that to imply *two* rights, whereas I am focusing just on the right to religious freedom. For me, the term ‘moral freedom’ is far from

¹ I discuss the nature and relations among rights, principles, and obligations in “Wrongs within Rights,” *Philosophical Perspectives* 15, 2005, 121-139.

clear, and the same holds for ‘freedom of conscience’, which I will return to in responding to Domenico Melidoro below.

In my view, then, my liberty principle might well be in practice equivalent to what Perry has in mind in describing *one* of the rights he compares with it: the right to religious freedom. There is, however, a conceptual difference between the principle and that right. This makes room for a kind of complementarity between them—which I believe exists at the conceptual level even if they are equivalent in their practical guidance. The relevant conceptual difference, however, also makes room for certain advantages on each side.

Take rights first. On the rights side, at least for *moral* rights, one advantage in debates is what might be called their *aura of righteousness*: rights are by their nature *claimable* by their possessors, *assertible* by them or by proxy, and *presumptively overriding*. Perry’s discussion shows, however, that, realistically, when their content is properly spelled out, rights are conditional. Still, it is characteristic of *appeals* to rights that, in the context of restricting or producing action, they are taken to override any counter-considerations. If you assert your right to speak in a meeting, you normally imply that there is no overriding counter-consideration and you tend to expect compliance.

Now consider principles. Since principles are truth-valued, they can be derived by ordinary reasoning from other propositions, ideally others that are more plausible or more basic or both. Thus, if one could assume that human flourishing ought to be optimized, and that harm detracts from it, one could proceed (somewhat as Mill did) toward a deduction of the liberty principle. Rights claims can be

supported in various ways, but perhaps the only straightforward principle for deriving them from anything potentially supportive employs the idea that if there is a right to x , and x requires y , then there is a right to y . Thus, if we have a right to a safe environment and this requires governmental limitations on carbon emissions, we have a right to that. This strategy entails presupposing one right in deriving another and, typically, an empirical premise as well. There are other strategies, but proponents of rights as normatively essential tend to consider it self-evident that there are the rights they posit or, in any case, to consider this to be sufficiently intuitive not to need derivational support. No parallel, comparably general assumption holds for moral principles.

Perry is aware that the affirmation of a right is not clear until certain things are specified, notably including addressees—those who must accord or avoid violating the right—and conditions for inapplicability or defeasibility. By contrast, my liberty principle does have a clear addressee: it is addressed to government. Moreover, the *kind* of defeater for it is indicated by a “reasonable interpretation” of the harm principle. This twofold difference need not (as Perry realizes) be crucial once each position is spelled out. Indeed, he notes three conditions under which alone governments may limit religious freedom without violating the (conditional) right to it: the act in question must “serve a legitimate government objective,” do so “better than would any less burdensome” alternative, and do this in the service of a “sufficiently weighty” good. I consider these conditions plausible as limiting the right to religious freedom, but they are no less applicable to clarifying the liberty and harm principles.

In the context of democratic theory, however, there is a difference between the liberty principle and the right to religious freedom. Affirmation of the right tells government roughly where not to tread; it is largely negative in thrust. The liberty principle does that too, but (in the contexts in which it is pertinent) affirming it also presents religious liberty as a *value* to be protected. This conceptual difference is associated with a difference in practice. Guided by the liberty principle, governments seek arrangements that presuppose religious expression and foster its freedom; guided by the right to religious freedom, government avoids clearly restrictive legislation affecting religion but, not improperly, may depend on assertions of the right to religious liberty to frame laws and policies that foster that liberty.

Again, I believe that principles and rights are often in a territory of complementarity, and I cannot see in Perry's paper any reason to think that we should give up either line of normative guidance of democratic government. If Perry and I differ on any normative issue in the domain of religion and politics, I doubt that it is owing to our differential emphasis on principles as opposed to rights.

II

The Place of Religion in Democracy: A Response to Domenico Melidoro

Many have questioned whether religion is special in any but an historically contingent way. Domenico Melidoro cites Cécile Laborde as maintaining that (in his words)

“religious freedom does not deserve a distinct treatment because of its status. It is only a subcategory of more fundamental and general entitlements such as freedom of association, privacy, and free speech” (p. 29 in this issue). He supports this with the claim (not explicitly ascribed to Laborde) that conscience—understood as the human faculty for distinguishing the good from the bad or as the source of moral agency—“is the supreme object of concern and respect” (Ibid.). Opposing the view that religion is not special, Michael McConnell and John Finnis are cited. Melidoro offers little argument against their “uniqueness thesis” regarding religion in relation to government, but he does take me to support it inadequately by my noting “the enormous power that religions—and sometimes clergy as individuals—have had over the faithful” (p. 42); and he notes that I myself have said that my Protection of Identity Principle—the principle that “the deeper a set of commitments is in a person, and the closer it comes to determining that person’s sense of identity, the stronger the case for protecting the expression of those commitments tends to be” (p. 42)—does not require a government that accepts it to abandon neutrality toward religion.

The first thing to note by way of clarification is that my point about the power of religion as a sociopolitical force is meant not to explain (though it is meant to suggest) what is special about religion from the point of view of the theory of democracy but only to cite “historical reasons for the special attention to religion in political philosophy” (p 42). These reasons are important but (as will shortly be explained) are not my main concern in treating religion as in a certain way special.

Freedom of conscience as a concern of government

The second point I would stress is that we should not accept the view of conscience quoted above (at least not without what would be a detailed and partly stipulative account of what conscience is). I doubt that Melidoro would on reflection hold (or that Laborde holds) that conscience is “*the* supreme object of respect and concern” (italics added), though it is of course one important object of governmental concern. Nor is it “*the* faculty for distinguishing the good from the bad” (italics added); but if it is one such faculty, it is fallible. Plainly, an evil person, such as a committed Nazi, can have a conscience—one geared to corrupt values.

Surely history shows that conscience often operates under standards given to it, often earlier in life than the stage at which critical thinking is possible; if, as on most conceptions of conscience, it is distinct from reason, it has at best limited moral authority. If it is guided by reason, then what we learn from it about normative principles depends on our rational justification for those principles and other moral standards. It is not in general a first-order route to moral discovery, but a second-order “faculty” for monitoring our adherence to standards we have acquired from elsewhere.

There is of course a right to “freedom of conscience,” as Perry notes; and the phrase is prominent in many declarations of human rights. But freedom of conscience is not a right to do *whatever* one’s conscience dictates; it is more nearly the right not to have one’s conscience manipulated or prevented from leading one to do what is permissible under such standards as the liberty principle. My book provides for this right, but I prefer not to take the

term ‘freedom of conscience’ to be clear enough to bear substantial weight on its own.

Religion and the sense of identity

This brings us to the main challenge Melidoro states: to indicate why religion is special in a way of concern to political philosophy. Here it should be useful to cite nine criteria for a religion that my book lists:

- (1) appropriately internalized belief in one or more supernatural beings (gods); (2) observance of a distinction between sacred and profane objects; (3) ritual acts focused on those objects; (4) a moral code believed to be sanctioned by the god(s); (5) religious feelings (awe, mystery, etc.) that tend to be aroused by the sacred objects and during rituals; (6) prayer and other communicative forms concerning the god(s); (7) a worldview according the individual a significant place in the universe; (8) a more or less comprehensive organization of life based on the worldview; and (9) a social organization bound together by (1)–(8) (p. 72).

I stressed that these are all conceptually relevant to something’s being a religion but none individually necessary or sufficient for that. I also noted that religions such as Christianity, Judaism, and Islam—likely the most important group for our purposes—satisfy them all. For some denominations among these three with millions of adherents, the criteria are indeed robustly satisfied. Now there is no doubt that someone can feel as deep pangs of conscience about violating, say, an aesthetic principle as about violating a religious one. But pangs of conscience are only quite roughly correlated with the sense of identity.

Moreover, for reasons already indicated (one being the corruptibility of conscience), this alone need imply nothing

about what government should or should not protect. Secondly, insofar as something not called a religion but, say, a “philosophy of life,” approaches satisfaction of all these criteria (some of which are more important than others), it becomes plausible to call it a religion. I have explicitly left room for the possibility that a non-religion plays a key role in someone’s sense of identity (e.g., p. 71). As a matter of contingent fact, however, it seems rare that the sense of identity is as closely tied to a non-religious life-orientation as to a religious one, with its characteristically wide and deep reach into the conduct of human life. Where this occurs, the principle of protection of identity applies equally to such a secular person.

If Melidoro would settle for the point that religion is only contingently special in the ways I have indicated—and, given the criteria for it I have noted—in creating a *vulnerability* among many religious people to both harms and liabilities to limitations of their freedom, we might largely agree. In any case, I believe that a strong contingent uniqueness—which may indeed be undergirded by psychological laws of a certain kind—suffices for the Protection of Identity Principle to bear on how democratic governance should be normatively guided; but it does not suffice, nor have I claimed it suffices, for preferential treatment of the religious simply *as such* in making laws or framing public policies.²

² There is a different and more extensive discussion of what is special about religion in my *Rationality and Religious Commitment* (Cambridge: Cambridge University Press, 2000), esp. 100-103.

III

Political Secularism and the Accommodation of Religious Liberty: A Response to Jocelyn Maclure

Jocelyn Maclure takes me to see “the separation of church and state as the core principle of the secular state” (p. 39 in this issue). He questions whether it is such and also whether my neutrality principle is needed in addition to my other separationist principles. He apparently agrees, however, with my view that in a certain way religion is special, but he takes it to share with other orientations the element of “meaning-giving beliefs and commitments” (p. 41 in this issue) and asks why a vegetarian Hindu should “be accommodated in prison or in the army and not an utilitarian” (p. 42 in this issue). His positive view seems to be that “religious freedom ought to be seen, for normative purposes, as a subcategory of a broader class, i.e. freedom of conscience” (Ibid.).

In his concluding section he suggests that “political secularism requires that public norms and institutions be grounded upon public reasons” (p. 46 in this issue); but, like Jürgen Habermas and Charles Taylor, he does not go so far as to accept Rawls’s famous proviso allowing that comprehensive views such as a religious perspective “may be introduced in public reason at any time provided that in due course public reasons, given by a reasonable political conception, are presented sufficient to support whatever the comprehensive doctrines are introduced to support” (see my pp. 63-4 for the citation and discussion of this proviso). I have several comments that indicate both that his view is apparently close to mine overall but also different in some significant details.

First, in suggesting that I take “the separation of church and state as the core principle of the secular state,” I can agree only if this means ‘the secular state *qua* secular’ and applies to religion conceived non-institutionally. A democratic state (at least one that is morally sound) will be secular; but it will have other commitments, for instance to liberty, and it may regard those as more important. Indeed, since the liberty principle does not entail, even though it supports, the equality principle prohibiting an established church, I would think that any democratic state should also have the liberty principle as part of its normative core. A minor point I should add concerns his doubt that my neutrality principle is needed in *addition* to the liberty principle and the equality principle as requiring of government equal treatment of different religions. I believe that he has simply assumed that a secular state will have an equality principle applying to *both* different religions and the religious as opposed to the secular. This double-barrelled principle would indeed entail the neutrality principle, but I have thought it best to treat neutrality as a further question beyond equal treatment of different religions. My neutrality principle will follow from my equality principle only with added premises, such as the premise that secularity is a kind of religion itself and hence cannot be “less preferred.” Some think that this is true of *secularism*, but it is not true of mere secularity with no associated ideology.

What, then, of the vegetarian Hindu and the utilitarian? The example is a good one to illustrate the Protection of Identity Principle. We can adopt or abandon utilitarianism in a single sitting, and most of the ethical views constituting serious alternatives to it are close enough in existential implications to enable this to be considered mainly an intellectual change. But consider the change from Islam to

Christianity or from being seriously religious to being secular. These have wide existential implications often going beyond one's political orientation.

Maclure himself mentions “meaning-making beliefs and commitments.” This strikes me as another way into the same point I put in terms of the sense of identity. It may have advantages well worth more reflection, but I suspect this is a case of complementarity rather than conflict. I do not see, however, that it will help to consider either view a “subcategory” of “freedom of conscience.” For reasons I have already brought out, that term is ambiguous; and any of the notions it may plausibly be taken to express will depend, for any moral guidance that can provide on prior normative notions and possibly on such ideas as that undermining a person's sense of identity constitutes a kind of harm.

Regarding the idea that public norms and institutions should “be grounded upon public reasons,” I think it will help to note that this must be taken to imply some kind of epistemic grounding—such as justifiability—rather than, as its wording suggests, grounding on actual convictions determining the adoption of the norms or the formation of the institutions. The first kind of grounding is historical and involves actual persons and their reasons for instituting certain practices. The second kind is normative and potentially hypothetical. An institution *founded for religious reasons* may still be *justifiable by secular reasons*, whether anyone does the justifying or not.

I assume he would grant this distinction and that ‘groundability upon public reasons’ would do better justice to his thinking. There is, however, a subtle point that he may have in mind as well: that civic virtue calls for

depending on reasons to determine policy only if one is sufficiently *motivated* by those reasons. If one is, the reasons are not just rationalizations, say considerations (which one may or may not privately endorse) offered to reduce opposition. These points are captured by my principle of secular motivation (p. 143), which I take to be plausible in itself and beneficial if internalized in the political life of a pluralistic democracy.

My last point here concerns Rawls's proviso. I agree with Maclure that we should not adopt it, and I offer a number of reasons why not (pp. 63-4). I see no reason why Maclure cannot take those reasons as supporting his own view. But I would add here something else (which I imagine he can also accept): that, in using the phrase 'introduced into public reason', the proviso is worded to give the impression that liberal restrictions on "advocacy and support of coercive laws and public politics" (my main focus in the part of the book in question) were restrictions of freedom of expression in general. They are not, as I have often emphasized. We can indeed use free speech to express ourselves religiously even while determined to coerce only if secular (natural) reasons justify coercion.

IV

Rational Disagreement and the Justification of Governmental Coercion: A Response to Paul Weithman

Paul Weithman's fine-grained and provocative critical comments are both challenging and (to me at least)

surprising. I find them surprising because, although he has himself produced substantial work on religion and politics that is quite different from mine—and contrasted with mine at one point in my book³—he focuses not mainly on how and why his own views on the ethic of citizenship differ from mine but mainly on an element in my view that I only recently developed and that is only sketched in the book. I refer to my proposed “Principle of Rational Disagreement” and the related discussion of epistemic parity. Let me begin by responding to his critique and then proceed to some overall comments that may help to advance discussion of the ethics of citizenship.

The harm principle and the justification of coercion

Weithman’s point of departure is my statement of “sympathy with the idea [of John Stuart Mill] [...] that justification of restrictions of liberty must come from adequate evidence that non-restriction will be significantly harmful to persons—though I would add that harm to animals, the environment or even property should also be taken to be a *potentially* adequate ground for restricting liberty” (my pp. 41-42, italics added). He takes this—which he calls *Audi’s harm principle*—to imply an

Adequate evidence principle: that “Restrictions of liberty are justified only if there is ‘adequate evidence that non-restriction will be significantly harmful to persons, animals, the environment or property’” (p. 49 in this issue).

He then combines this implication with my

³ See p. 65, where his *Religion and the Obligations of Citizenship* (Cambridge: Cambridge University Press, 2001) is cited.

Principle of rational disagreement: “The justification of coercion in a given instance is (other things equal) inversely proportional to the strength of the evidence for epistemic parity among disputants who disagree on whether the conditions of justified coercion are met in that instance” (p. 50 in this issue).

Next he supposes that, for citizens in pluralistic democracies who accept my harm principle, “at least part of what they may disagree about when they disagree about public policy is whether the condition expressed in ... [my harm principle] is satisfied. That latter supposition, together with (3’) [my Principle of Rational Disagreement], implies his wide harm principle:

(4) The justification of coercion in a given instance is (other things equal) inversely proportional to the strength of the evidence for epistemic parity among disputants who disagree on whether there is adequate evidence that non-coercion will be significantly harmful to persons, animals, the environment or property (p 2).

The reasoning here depends on substituting, for ‘the conditions for justified coercion are met’—call it C (for coercion justification)—the supposed equivalent ‘there is adequate evidence that *non*-coercion will be significantly harmful to persons, animals, the environment or property’—call it AE (for adequate evidence of the specified kind). This is crucial for the case to show that my principle of rational disagreement commits me to (4)—call it *the presumptive harm principle*. Whatever the case for the truth of this principle (which, though plausible, does not take account of my qualifier ‘potentially adequate’), it does not follow from the premises stated. This is because an inadmissible substitution has been made in an intentional context. Consider an analogy. Two students disagree about whether their teacher asked them to draw a circle. Suppose

a circle is necessarily equivalent to a closed plane figure whose circumference is its diameter multiplied by pi. It does not follow that they disagree about whether the teacher asked them to draw a closed plane figure whose circumference is its diameter times pi. They may both fail to have any belief at all about this (they may have no notion of the equivalence). Weithman is apparently assuming that since C and AE are (necessarily?) equivalent, we may substitute AE for C in specifying a disagreement on whether something is the case. I have no commitment to a necessary equivalence here, but the substitution would still be inadmissible.⁴

Another inference Weithman thinks I must draw also involves intentionality. After supposing that he has shown that my view commits me to his

(9) Statutory restrictions on carbon emissions are unjustified in the US,

he says, “If Audi also thinks, as I assume he does, that government should not impose restrictions which are unjustified, then he *must* also think that

(10) The US government should not enact statutory restrictions on carbon emissions” (p. 57 in this issue, italics mine).

⁴ It is arguable that if the equivalence represents *synonymy*, the substitution is permissible. That is plausible, but I doubt, and think Weithman would doubt, that C and AE are synonymous. I should add that if ‘about’ is used *de re*, a where two people disagree about the size of the circle on a poster they are viewing, the substitution is permissible; but the kind of disagreement in question in our discussion is mainly on propositions.

The first point here is that I do not believe (9) and, indeed, have some difficulty seeing how Weithman can consider me committed to it. I believe he thinks I am committed to the claim that, as he puts it, “[t]here is conclusive evidence for epistemic parity among disputants in the US who disagree on whether there is adequate evidence that non-restriction of carbon emissions will be significantly harmful to persons, animals, the environment or property” (p. 60 in this issue). Since he quotes my point that a conclusive case for epistemic parity “is at best rare” (p. 53)—which suggests that I would not grant this conclusive evidence claim—we should look for some rationale in his paper for this mistaken attribution to me. One relevant thing he says about parity is that “with respect to questions of political philosophy, a commitment to citizens’ political equality requires a rebuttable presumption of their epistemic parity despite marked differences in philosophical sophistication” (p. 63 in this issue). This is a very interesting view and might be arguable, depending on what counts as a rebuttable presumption and just where it should be made. But what is important here is that the passage shows that Weithman is thinking of epistemic parity as something like rationality, which can characterize persons in an *overall* way; he is not thinking of it as *relativized* to a specific matter that is or may be under dispute, whereas I have been working with a relativized notion that is very different from the one he apparently has in mind. I characterize epistemic parity as relative to a specific matter on which there is disagreement; thus, two people could be epistemically “on a par” in some overall way, as they could be equally rational overall, yet fall short of epistemic parity *on a specific matter of dispute*, such as emissions.

A second important point here can be seen by reflecting on the fact that one need not believe all of the logical consequences of what one believes. I am sure Weithman would agree and, if so, his meaning should presumably be taken to be that if I believe the two premises in question—including (9), which I reject—I must *accept* (10), in a sense implying commitment to it. But it is simply not true that one should accept all the logical consequences of what one believes (even all those one considers and sees to be consequences): sometimes applying modus tollens and giving up a “premise belief” is more reasonable than applying modus ponens and adding a “conclusion belief.”⁵

The complexity of the notion of epistemic parity

It should help readers if I say more here about epistemic parity, especially if other readers understand my notion of it as Weithman apparently has. The following passage suggests that Weithman has departed from my notion of epistemic parity, and the passage should help to explain how he can take me to be committed to an epistemic parity claim. I have said that epistemic peers relative to a matter at issue “are (rational) persons who are, in the matter in question, equally rational, possessed of the same relevant

⁵ This not to deny that at any given time one should avoid believing anything of the form of ‘P; P entails Q; and not-Q’. But given that, at time t, one believes, say, P and Q, it does not follow that, at t or the earliest possible time thereafter, one should infer or accept Q. One might believe one may burn as much trash as one likes in one’s backyard; realize that, if so, then everyone similarly positioned can, and, instead of accepting that general view, quite rationally give up the first belief. Among the detailed discussions of this commonly overlooked point about belief, acceptance, and inference is ch. 8 of my *Practical Reasoning and Ethical Decision* (London and New York: Routledge, 2006).

evidence, and equally conscientious in assessing the evidence” (p. 117). Immediately after quoting this Weithman says, “[t]he problem is that whether citizens are epistemic peers [...] is typically revealed by how they argue for their positions” (p. 57 in this issue). This view about epistemic parity is not implied in anything I have said, and I reject it even on the assumption that Weithman’s intention is to imply that determining the epistemic parity of two people is typically revealed in their arguing *equally* well. There is something to be said for taking this *argumental parity*, as we might call it, as *one* probabilistic indication of epistemic parity on a matter in dispute. But the notion of arguing well (and certainly that of “how” a person argues) is unclear. It leaves indeterminate, for instance, whether persuasiveness is crucial and whether good evidence is needed throughout, as well as how nearly cogent the argument must be epistemically.

In any case, on no plausible conception of two people’s arguing equally well on a disputed matter would there be an entailment of either of two things my description of epistemic parity explicitly demands: (a) having the “same relevant evidence” on the matter and (b) “considering it equally conscientiously.” When these two notions are taken seriously, one can appreciate why it is often so difficult to acquire even strong justification for someone’s being one’s epistemic peer in a dispute. To be sure, if we think we have relevant evidence our disputant lacks, this is significant. But this point does not undermine the value of the Principle of Rational Disagreement for certain important cases, including some involving agreement on what the relevant evidence is—as may occur in special cases where two people have been discussing a matter intensively over time (though that agreement is fallible). It should also be noted

that the principle can be extended to hypothetical disputants (in a way I partially explained on p. 120).

Since I am not committed to (10) and indeed reject it, I do not accept what Weithman's calls the worrisome "fact that one of Audi's central commitments in this book leads to a self-undermining argument" (p. 58 in this issue), by which he means the argument concluding with (10), which I have indicated seems invalidated by an inappropriate substitution in an intentional context. A more general point is that I do not see the short section of the book that introduces the rational disagreement principle as central in the book, nor did I represent it as such, though it is by no means minor. Important though the section is, none of the church-state separation principles or my principles of the ethics of citizenship depends on it. Indeed, he says himself that "the weaker condition," namely "Coercion is justified only if the claim that non-coercion will be significantly harmful to persons, animals, the environment or property can be supported by adequate accessible reasons" (p. 64 in this issue) is "all Audi really needs to get conclusions he wants" (p. 65 in this issue).

I do not mean to imply that the short section under discussion said all it should have about epistemic parity. I have written on that notion elsewhere and perhaps should not have expected readers pursuing the notion in detail to consult the article cited in note 8 in the section under discussion. Weithman is quite right to raise the important good questions he does about the notion and the principle in which it figures (pp. 2-3), but this is not the place to answer his concerns in that passage (some of which are dealt with in the paper cited in note 8). I should add, however, that the Principle of Rational Disagreement has

an ‘other things equal’ clause, and this may be taken to anticipate some of the complexities Weithman’s discussion brings to our attention.

It is also important to bring out that I agree with Weithman’s point that the Principle of Rational Disagreement does not specify “a *threshold* that the evidence for epistemic parity must surpass for coercion to be licitly imposed” (p. 53 in this issue), something I noted myself (p. 119). With this in mind I formulated, in the same section:

The principle of toleration: If it 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).

The threshold that this principle proposes is (as seems appropriate to its subject matter) not quantitative or incontestable (as I acknowledged in the context), but in any case the principle is not open to all the objections one might bring against the Principle of Rational Disagreement, though it covers the same ground concerning justification of coercion in matters of citizenship. Moreover, I am not aware of substantive points in Weithman’s commentary that would require his rejecting it. Would he not think that if—say in the matter of carbon emissions—I do not consider myself epistemically superior, for instance in better assessing credible testimony of experts, to supporters of the corresponding liberty, I have a prima facie obligation not to coerce? Testimonial evidence is not ignored in the book (see, e.g., p. 80) and should be considered an important kind in relation to political discussion.

It is also appropriate to reiterate that the obligations mainly in question in my book need not be *rights-based*: the strong kind of obligations whose non-fulfillment entails violation of some moral right. I have always allowed that citizens may have a right to do something they ought not to do, as with prosperous people's refusing to contribute to any charities. Moreover, it seems possible for democratic governments to have a right, under certain conditions, to pass coercive legislation even when, say in terms of the long-term common good, this is not justified and they ought not to do it. I am not sure Weithman would agree. But that seems open to him. On his view (by contrast with what he called my intuitionism framework) it is "better to identify the justified policy *politically* than to accept the *Principle of Rational Disagreement?*" (p. 59 in this issue). A political justification certainly seems to allow for distinguishing *rights* from *oughts* as I do. In any case, given the clarification of my use of the Principle—which I do not present as *necessary* for identifying justified policy, as opposed to being useful in that and other matters—and given other points of agreement between our positions, I am not sure how much difference in actual democratic practice there would have to be on his view as opposed to mine.

V

Tolerance as an Ideal for Pluralistic Democracies: A Response to Mario De Caro

Mario De Caro's exploration of the normative limits of tolerance as a guide to conduct raises a number of

questions pertinent to political philosophy. He makes more points than I can address here, but let me indicate where I see differences between us or the need for further inquiry or both. I will be especially concerned with whether he is too sympathetic with Goethe's striking claim, "Tolerance should be a temporary attitude only: it must lead to recognition. To tolerate means to insult" (p. 69 in this issue). De Caro maintains that "in the light of Goethe's objection, one should conclude that tolerance is too modest an ideal for an advanced democracy" (p. 70 in this issue).

With this view as background, it is no surprise that De Caro cannot accept my Principle of Toleration unqualifiedly. This is the principle that "[i]f 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). He rightly clarifies the scope of this, noting that "this principle can give *prima facie sufficient* reasons for tolerating a conduct; but... it need not give *prima facie necessary* conditions" (p. 76 in this issue). I can agree on this. There may, for instance, be no disagreement about a kind of act that merits tolerance, even if a diverse group of people observe the act. As I think De Caro realizes, the principle is meant to apply not to all possible cases in which tolerance may be an appropriate response, but where there is actual direct disagreement about whether to coerce, say to outlaw assisted suicide.

Given his understanding of the principle, it is perhaps to be expected that he thinks that "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” (p. 79 in this issue). With this in mind he says that among Christian traditions “the age of tolerance has ended [...] tolerance is no longer needed [...] because society has moved beyond it” (p. 80 in this issue).

What is the ideal with respect to which he believes society should go beyond tolerance? It is “the achievement of full recognition and respect,” and “Reaching the level of being tolerated is a necessary condition for a [kind of] conduct that is disapproved of to be later respected and recognized” (p. 82 in this issue). In supporting this ideal, he asks what kinds of reasons can override the *prima facie* obligation to tolerate that is posited by the toleration principle, and he concludes, “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’” (p. 87 in this issue). This idea is illustrated by his hypothetical philosopher who thinks that imposing the burka on women is unfair and “should conclude” that the “religious leaders [who advocate imposition] are epistemic peers” (p. 86 in this issue). This reasoning leads him to the challenge for my view: “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?” (p. 88 in this issue).

Let me first comment on the ideal—call it the *transcendence ideal*—which calls on us ultimately to rise above tolerance (not intolerance since some things should not be tolerated, though to be sure if no one does these things there is no possibility of an *attitude* of intolerance toward them, as opposed to simple prohibition). This ideal is (as I

think De Caro might grant) utopian relative to human life as we know it. Even people who live or work together in harmony normally disagree on some questions and displease others by some of their actions. In a highly civilized society that is *pluralistic*, even if no one does moral *wrongs*, there will be behavior that some both dislike and disapprove of and have the power to prevent, but tolerate rather than prevent by force. This is *not* to deny that societies should try to accord recognition and a kind of respect to all persons. But we can fully recognize and—at least in relation to moral status—fully respect those we tolerate (a possibility De Caro seems to grant on p. 80 in this issue). Most of us have to tolerate what we consider excessive noise, long-windedness in materials we must read, departures from good manners on social occasions, and, of course, unreasonably rebellious children.

To be sure, tolerance can be quite unpleasant for those who exhibit it: disapproval and dislike are attitudes, or give rise to emotions, that one would prefer to avoid. We also typically dislike being tolerated (though we need not feel, as Goethe's quip suggests we might, an "insult" when we are tolerated, nor does De Caro endorse this part of Goethe's statement). These points are part of what makes De Caro's ideal attractive. It is an interesting question whether we *can* transcend tolerance, an achievement that he is right to see as a possible aspiration, while also giving up the disapproval and dislike we are bound to feel regarding some people's justifiable exercise of their liberties.

These points do not meet De Caro's challenge to justify using my Principle of Toleration (or any similar one) in political philosophy, given the high authority of independent moral standards it depends on. The challenge

is serious, and De Caro is right to issue it. Why not appeal directly to the most basic standards that apply? My use of the Principle in part derives from my commitment to an *ethics of belief*. One of its standards calls for seeking adequate evidence for certain beliefs, including important ones crucial for determining one's votes and, more broadly, one's political and other interpersonal conduct. With this in mind, I consider the Principle of Toleration a broadly moral one; it is not epistemic, though it employs the epistemic concepts of reasonableness and epistemic parity. I see it as belonging to ethics and applicable to both private and public decisions.

We can of course appeal directly to values, principles of obligation, and rights in making such decisions, as much of the exchange of views in this symposium indicates we should. But the Principle of Toleration facilitates such appeals. Even people who agree on these normative standards can disagree on the quality of the evidence there is supporting the view that a kind of behavior satisfies a relevant standard, say promotes human flourishing or is unfair. In these cases as in cases in which there is less background agreement, the following ethical principle is applicable. When we disagree with others in important matters, such as the extent of civil liberties, recognition and respect call for considering whether they have the same relevant evidence we possess, whether they are as rational on the matter at hand—where such rationality requires ability to appraise evidence—and whether they are equally conscientious in considering the evidence. If the answer to any of these questions is negative, that opens up the possibility of settling the disagreement by a kind of *epistemic rectification* or, failing that, of justifiably retaining one's view

against the challenge of disagreement by someone one respects.

To make the point more concrete, take the matter at issue to be whether imposing the burka on women contributes to their chastity and marital fidelity. Here, in suggesting parity between the philosopher and the religious proponent of coercion (p. 86 in this issue), De Caro apparently did not take account of all three dimensions of epistemic parity. I doubt (and think he would also doubt) that there is epistemic parity in this case between proponents of the sartorial liberty and proponents of coercion. I can agree with him, however, that there might anyway be, on moral grounds, a *prima facie* obligation, in special cases, not to coerce the religious participants in this practice to abandon it. Persuasion, for instance, might be possible, and, for a time at least, coercion might deeply impair the sense of identity of the persons in question. Such matters are highly contextual.

With some issues, however, including assisted suicide and capital punishment, there may be a case for epistemic parity at least between some of the disputants. Such parity may not be stable, since people's information and cognitive powers change; and epistemic parity should be understood as relative to time as well as to the matter in dispute. But it seems salutary in such cases for the Principle of Toleration to play a supplementary role in determining whether coercion is justified. I consider it a good principle for colleagues debating policy issues, governmental or in rule-governed organizations of many kinds. I believe, indeed, that some rational persons are guided by the Principle or something close to it even apart from accepting some formulation of it—it has in fact likely not been formulated

in published work earlier than mine. I conclude here that for human life as we know it in pluralistic societies, religion will continue to be both important and controversial, deep in the sense of identity of some citizens, much in need of attention in political philosophy, and best accommodated by secular states using principles approximating those my book defends.⁶

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