

# Tolerance or Toleration? How to Deal with Religious Conflicts in Europe

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## 1 Introduction

Europe is once again beset by religious conflicts. There are several examples of unrestrained opposition against, and by, religious minorities and majorities alike. Think of the ban on minarets in Switzerland which is spreading like a wildfire in Germany, Italy and beyond. Think also of the veil saga that has occupied French politicians and their society in the last two decades. The target of opposition can be religious majorities as well; one example is the litigation on the crucifix in the classroom.<sup>1</sup> Needless to say, opposition calls for an equal reply, and so religious minorities and majorities respond with individual actions or campaigns against secular societies and their states. Religious conflicts are not new in Europe. Religious wars in the XVII century were the bloodiest and most violent confrontation on the continent. The treaty of Westphalia of 1648 put an end to them, and organized Europe in such a way that states could rule

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<sup>1</sup> *Case of Lautsi v Italy*, (application no 30814/06), 3<sup>rd</sup> November 2009. The Grand Chamber of the ECHR has accepted to review this case. It will be heard by the court on 30<sup>th</sup> of June 2010.

over religiously homogenous communities.<sup>2</sup> There were catholic and protestant states; religious pluralism within each state was limited as much as possible.

Religious conflicts in the XVII century were about belief, more precisely about the best Christian faith. Their starting point was theological disagreement.<sup>3</sup> Religious conflicts today are about political disagreement. They are conflicts about whether or not a faithful can bring to bear her religion in the public sphere in order to regulate her own behaviour (in a classroom, in parliament, in courts in the streets). Religious pluralism has not been a characteristic trait of European nation states after Westphalia. In the Council of Europe, there are still many states with an established church and fairly homogeneous societies.<sup>4</sup> This is markedly different from the USA, for example, where non-establishment is constitutionally protected and religious pluralism is at the foundation of the state.<sup>5</sup> But European societies are changing at a fast pace and are becoming increasingly more pluralist. This makes conflicts more, rather than less, visible.

Toleration emerged in the XVII century and was portrayed as the best response to religious conflicts. It was recognized as a key political virtue, which the state imposed as a legal obligation. A famous example of such a legal implementation is the so-called Act of Toleration

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<sup>2</sup> According to the principle devised in the Treaty of Westphalia: *Ejus Regio, Cujus Religio*.

<sup>3</sup> Joseph Ratzinger would like to see more theological arguments in the public sphere, see his *Truth and Tolerance. Christian Belief and World Religions*, San Francisco: Ignatius Press, 2004. The Archbishop of Canterbury would also welcome more theology in public debates, see the conclusion to his lecture, Archbishop's Lecture: Civil and Religious Laws in England: A Religious perspective,' available at <http://www.archbishopofcanterbury.org/1575>, accessed 04<sup>th</sup> October 2010.

<sup>4</sup> Andorra, Armenia, Denmark, UK Church of England (since Toleration Act 1689, c.13) & Church of Scotland ( CoS Act 1921), Finland, Georgia, Greece, Iceland, Liechtenstein, Malta, Monaco, Norway.

<sup>5</sup> Martha Nussbaum, *Liberty of Conscience- In Defense of America's Tradition of Religious Equality*, New York: Basic Books, 2008.

1689.<sup>6</sup> Liberal thinkers also promoted toleration. Locke for example argued that: “the toleration of those that differ from others in matters of religion is so agreeable to the Gospel of Jesus Christ, and to the genuine reason of mankind, that it seems monstrous for men to be so blind as not to perceive the necessity and advantage of it in so clear a light.”<sup>7</sup> Locke regarded Toleration as an imposition of reason and the lack thereof is explained in terms of being carried away by “irregular passions.”

Both the Act of Toleration and Locke’s Letter of Toleration are examples of a moralizing attitude of the political and intellectual elite towards the masses. Toleration is regarded as one chief virtue of morally enlightened people who are capable to regard wrong beliefs as conditionally acceptable. Most liberal theories that promote toleration follow this path of imposition of reason from an ideal moral viewpoint. These theories are normative through and through and rely on heavy assumptions about the wrongness of some religious beliefs and the rightness of some liberal values. The question is whether toleration as a moralizing attitude provides a good enough way of coping with conflicts that involve religion. The short answer is that toleration might have dealt with XVII century conflicts, but does not seem to provide a sound basis to deal with present day conflicts.

Recent historical accounts show that the master narrative of toleration as the virtue coming from the elite and spreading through the masses as a solution to religious conflicts is not so accurate as a narrative and not so promising in today’s context. Those historical accounts show that tolerance was practiced on the ground long before the elite’s appeals to toleration. By this, I

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<sup>6</sup> The subtitle says: “An Act for Exempting their Majestyes Protestant Subjects dissenting from the Church of England from the Penalties of certaine Lawes.”

<sup>7</sup> John Locke, “A Letter on Toleration;” and John Locke, *An Essay concerning Toleration And Other Writings on Law and Politics*, 1667-1683 Edited by J. R. Milton and Philip Milton, OUP: 2010.

mean that as a biological, physiological and psychological matter every individual has a disposition to cope with a certain amount of diversity —tolerance of a non-moralizing kind—that does not depend on sophisticated moral reasons.<sup>8</sup> The practice of tolerance does not depend on a prior decision to refrain from opposing some categories of beliefs or people.

I shall argue that non-moralizing tolerance should be distinguished from moralizing toleration and should be understood as the human disposition to cope with diversity in a changing environment. Tolerance thus defined is the basis for an alternative approach to deal with religious conflicts. Such an approach is less dependent on normative assumptions and more responsive to empirical data, including psychological insights as to the human ability to deal with difference. In what follows, I will first present toleration as a moralizing attitude. Then I will show the limits of liberal theories based on such an understanding of toleration. I will suggest instead that we should pay more attention to tolerance understood as the natural disposition of every individual to cope with difference as the best basis for dealing with religious conflicts.

## **2 Toleration as a moralizing attitude**

I will start with one definition of religious toleration given by the OED: “Allowance (with or without limitations), by the ruling power, of the exercise of religion otherwise than in the form officially established or recognized.”<sup>9</sup> One of the striking elements of this definition is the

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<sup>8</sup> Kaplan, *Divided by Faith- Religious Conflict and the Practice of Toleration in Early Modern Europe*, Cambridge, Mass., Harvard University Press 2007.

<sup>9</sup> OED Online, definition 4a, accessed 30<sup>th</sup> September 2010:

[http://dictionary.oed.com/cgi/entry/50253991?single=1&query\\_type=word&queryword=toleration&first=1&max\\_to\\_show=10](http://dictionary.oed.com/cgi/entry/50253991?single=1&query_type=word&queryword=toleration&first=1&max_to_show=10)

suggestion that there is an established religion to start with. According to this definition, toleration implies an act of establishment of a religion. Albeit striking, this is not inconsistent with the present existence of an established church of England and with many others *de jure* established churches in Europe, not to speak of *de facto* established churches. The second, closely connected, element of the definition is that there is an asymmetry between the majority and the minorities. The religion of the majority is free by definition, while minority religions are permitted by political fiat. Here lies the third element of the definition: The allowance is given out by the ruling power; it is a top down concession that can be revoked whenever the ruling power decides so. And the ruling power can decide as well (fourth element) whether or not to impose limits to the allowance graciously granted.

There may be disagreement about the scope of toleration, but there is agreement as to its point. Toleration carves out a space between right and wrong beliefs. It is the space of tolerable wrong beliefs. In the Act of Toleration 1689 Anglican beliefs are held to be the right ones. Protestant beliefs are tolerable wrong beliefs; Catholic beliefs are plainly wrong and therefore unacceptable. In many European states, including the UK, this implied that one religious faith is recognized as official truth and the other faiths as wrong. Toleration thus defined is an act of establishment of right beliefs, and as such it is deeply problematic. The wrongness of religious (or secular) beliefs is only postulated but not argued for. Any imposition flowing from such a postulate is likely to be regarded as irrational and unfair.

Toleration is a political *ideal* allegedly imposed by natural reason that requires people to put up with a certain amount of wrong beliefs.<sup>10</sup> Not all wrong beliefs are tolerated though, some

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<sup>10</sup> Here an important caveat is 'a certain amount.' Not all wrong beliefs can be tolerated according to this version of toleration. There are beliefs that are considered to be intolerably

are considered intolerably wrong. In this context, it is certainly better to be tolerated than not, but it does not mean that being tolerated should be regarded as a privilege.<sup>11</sup> The key of toleration is that the state singles out morally right beliefs which become official truth. Other beliefs, despite being officially wrong, can be tolerated either out of principled respect or out of prudential calculation.

Liberals of different stripes disagree about toleration. More generally, they disagree as to how to create and maintain a cohesive society given the fact of pluralism. Two main strategies appear to characterize liberal attitudes towards religion: one is instrumental and the other is principled. The instrumental approach starts from the inevitability of conflicts amongst religious people or between religious and secular people. It is rooted in XVII century Europe and its experience with religious conflicts. The instrumental approach can take two forms. The first calls for peaceful coexistence for the sake of a more secure and conflict free society and despite major disagreement on issues of belief for. If someone does not comply, then the sovereign authority is entitled to punish someone for intolerance. We can call it coexistence conception of toleration (Hobbes). The second relies on the fact that the state cannot coerce people to revise their beliefs and that is why one has to accept them, however grudgingly. We can call it permission conception of toleration. I have already mentioned that both the Act of Toleration 1689 and Locke's Letter of Toleration are paradigmatic examples of the permission conception of toleration, which involves a moralizing attitude that divides beliefs and behaviours into right, wrong and tolerated.

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wrong. The state differentiates between right beliefs, wrong beliefs and intolerably wrong beliefs.

<sup>11</sup> A very promising criticism of toleration is offered by Leslie Green, 'On Being Tolerated,' in Kramer et alii, *The Legacy of HLA HART*, OUP: 2009.

An illustration of the coexistence conception of toleration is the so-called ideal of *modus vivendi*.<sup>12</sup> This ideal can be met when competing groups in a society are roughly equal otherwise instability between the two is likely. *Modus Vivendi* theories start from the conviction that it is impossible to reach consensus about few selected values, since disagreement about basic values penetrates decisions at every level. Given the fact of persistent disagreement, the only possible moral attitude to avoid violent conflict is to call for a duty of co-existence. People live in the same space, but pass each other like ships in the night. They are requested to disregard each other's behaviour in order to guarantee peace and security within a society. This approach relies on the possibility of devising common institutions that exercise power fairly while maintaining pluralism of values and beliefs. The problem with this moralising attitude is that it is bound to be very unstable: what happens, for example, when political elites themselves call for unrestrained opposition towards religious minorities in order to ride and spread negative feelings *vis-a-vis* muslim immigrants? In these cases, political institutions find themselves in a dilemma: either they uphold their commitment to free expression as a paramount value of democracy, accepting that this is likely to foment more social conflicts and fears. Or they curtail some forms of expression on the basis that is not respectful of minorities, thereby opening the debate of the real value and limitations of free expression. European societies face the double threat of extreme right wing parties banking on fears and extreme religious groups becoming more popular and emboldened in the face of adversity.<sup>13</sup> A mere moral attitude of coexistence can hardly bridge the gap between those two constituencies.

Principled approaches attempt to show that there are some moral reasons that require us to take into account religious beliefs in terms of respect or even esteem. According to some

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<sup>12</sup> John Gray, *Two Faces of Liberalism*, London: Polity, 135.

<sup>13</sup> See for example, *Le Pen v. France* (application no. 18788/09).

authors, the American tradition of religious liberty relies on a principled attitude of respect towards religion, though there is disagreement as to what respect really means.<sup>14</sup> In any case, it is possible to suggest that one major strand of the American tradition of religious liberty relies on *rational consensus* theories, which argue that it is possible to devise well crafted procedures with a view to obtaining agreement on a selected number of values that will constitute constitutional bedrock for everyone.<sup>15</sup> This theory relies on the hope that there will be convergence on few universal moral truths.

Rational consensus theories often promote the moral attitude of respect rather than toleration. In Europe, Republican France promotes respect towards individuals independently from their religious beliefs. This can be deemed formal respect and contrasted with substantive respect that seems to characterize the American experience.<sup>16</sup> *La Republique* represents the union of all the people within the territory. There is no mediation between the individual and the *Republique*: the values of one must correspond to the values of the other. There is no space for intermediate communities to represent individuals. Given this outlook, every citizen is regarded as strictly equal in a formal way. Here lies the difference with the American conception of

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<sup>14</sup> See the exchange between Martha Nussbaum and Brian Leiter. See Martha Nussbaum, *Liberty of Conscience: In Defense of America's Tradition of Religious Equality*, New York: Basic Books, 2008. Brian Leiter argues with that view in, 'Foundations of Religious Liberty: Toleration or Respect?', forthcoming San Diego Law Review. This debate is quintessentially American. All the authors define toleration and respect as mutually exclusive. By taking this position, one narrows down toleration to a notion of co-existence at best. Here I suggest that there are at least four conceptions of toleration following from Rainer Forst, 'Toleration,' Stanford Encyclopedia of Philosophy, available at <http://plato.stanford.edu/entries/toleration/>. Forst distinguishes between four types of toleration: permission, co-existence, respect and esteem.

<sup>15</sup> See John Rawls, *Political Liberalism*, New York: Columbia University Press, 1999. Even if it was possible to come up with such a list, it would still be unclear whether that agreement at the abstract level prevents disagreement at the level of implementation of those values.

<sup>16</sup> Martha Nussbaum, *op. cit.*, defends the idea of thick respect which requires a positive attitude of esteem towards religion: not only we recognize each other as equal member of the community, but we regard each other's position as likely to bring something to all of us.

respect which postulates that everyone enjoys equal citizenship and freedom *of* religion. In France, everyone enjoys equal citizenship and freedom *from* religion. In France one has to accept *legal laicite'* as the pre-condition for participation in public life.<sup>17</sup> The *republique* does not recognize cultural differences within its own territory. In public institutions everyone is formally equal and must be seen to be formally equal. Hence, for example, no conspicuous religious symbols are allowed in public schools.<sup>18</sup>

In other parts of Europe, coexistence is still the preferred basis for the moral attitude of toleration and informs multicultural practices in the north of Europe. British and Dutch multiculturalism are partial illustrations of such theories. The society is constituted by plural communities that do not overlap and live separately in the same territory. Each community has a limited power to regulate some aspects of the life in common within that smaller unit. Each community regards itself as culturally independent, while recognizing the moral and political need of toleration in order for everyone to keep his own life-style. Conflicts within communities are in principle settled internally, but they may be dealt with by ordinary institutions if the community is incapable to find a compromise. This poses various problems as the standard applied by ordinary institutions will invariably be different from the standards applied within a community. All these models appear to face serious problems in practice. French republicanism is not able to solve a major tension between its commitment to formal equality and the lack of substantive equality. Muslim pupils in French schools often come from under-privileged background. If you exclude them on the basis that they breach formal equality, you will reinstate their economically disadvantaged status thereby creating a vicious circle. Accepting them under

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<sup>17</sup> On this point see Cecile Laborde, *Critical Republicanism—The Hijab Controversy and Political Philosophy*, Oxford: OUP, 2007. See also Olivier Roy, *Secularism meets Islam*, New York: Columbia UP.

<sup>18</sup> Cecile Laborde, *op. cit.*

the conditions that they remove their religious symbols is not a solution as this simply reinforces their belief that they are not equal to other people.<sup>19</sup> The central problem with this position is that the moralizing attitude of respect of all is paid at the very high price of giving up one's beliefs in the public sphere.

Dutch and UK multiculturalism appear to be too thin and presently very strained.<sup>20</sup> Religious minorities may enjoy greater freedom, but they do not enjoy the same access to opportunities provided by the society. Moreover, their voices are not sufficiently represented and are often mis-portrayed. To live in a community bruised and battered is a good recipe for creating antagonist feelings that can only grow when left un-addressed. The existence of separate-but-equal communities push them far apart one from another and create less than optimal conditions for future coexistence.<sup>21</sup> It may be that these examples do not represent the full gamut of constitutional frameworks that aspire to maintain a cohesive society. Nevertheless, the weakness of these major models is demonstrated by a general trend in Europe where the relationship between religious and non-religious people is strained. These approaches require varying moral attitudes towards religion: permission, coexistence, respect, or esteem. Instead of opting for one or the other option, I argue that it is necessary to change fundamentally the viewpoint from which the issue is looked at. A fresh start involves a better understanding of the psychology of tolerance and promotes a different role for the state in promoting tolerant

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<sup>19</sup> Cecile Laborde, *Critical Republicanism. The hijab controversy and Political Philosophy*, Oxford: OUP, 2007.

<sup>20</sup> Ian Buruma, *Murder in Amsterdam. The Death of Theo Van Gogh and the Limits of Tolerance*, London: Penguin Press, 2006.

<sup>21</sup> Behavioural economics shows that radicalization of individuals happen when they are segregated. Separate groups tend to think more radically rather than more moderately. See Cass Sunstein, *Going to Extremes. How like Minds Unite and Divide*, New York: OUP, 2009.

behaviour that is not informed by moral requirements.<sup>22</sup> Before moving to that point, let me illustrate with an example how different approaches of toleration fall short of coping with religious conflicts.

### **3 The Limits of Moralizing Attitudes: Lautsi as an illustration**

A recent landmark case of the European Court of Human Rights can serve as an illustration of the limits of moralizing attitudes towards religion. The case is *Lautsi* and it is already amply known and discussed and does not require a lengthy presentation. The basic issue concerns the presence of crucifixes in Italian school classrooms. Mrs Lautsi argued that the presence of the crucifix infringed her secular conviction, whereas the Italian State claims that the crucifix stands for the values of secularism. Put it this way, the disagreement is between two forms of secularism, but in reality the question is whether religious symbols and traditions have a place within the secular public sphere.

So far we have distinguished two main moralizing attitudes towards religion: toleration as a basis for *modus vivendi*, and toleration as a principled position that is sometimes re-interpreted as respect. Regarded from the viewpoint of respect, the issue is not simple: Does the moral attitude of respect help to tip the balance in one way or another? The plaintiff is pointing out that the right to education includes the respect of parent's religious and philosophical convictions. But of course, the court must also respect the existence of social and cultural traditions. The issue of respect from a moralizing perspective is problematic because it is highly individualistic and insists only on the respect of individual convictions. But the whole society has an interest in

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<sup>22</sup> Spinoza's *Tractatus Theologico-Politicus* provides a great inspiration for this endeavour. See in particular chapter XX.

having their cultural and social traditions respected as well. The reasoning of the court does not take this into account but simply leans towards an individualistic morality of rights: principled approaches regard rights as individual entitlements to use against the state. The problem is that there is something missing from the picture, which cannot be accounted in terms of rights: it is the power of any nation state to define its symbols of cultural and political allegiance.

From the viewpoint of instrumental toleration the issue is slightly different and focuses on the role of the symbol itself. Is the display of such a symbol conducive to an environment where all the pupils can coexist without feeling emotionally disturbed by an exclusive environment? Instrumental approaches regard rights as side constraints on the power of the state, but also on the rights of other people. From this viewpoint, they are more inclined to accept that there may be conflicts between two rights in given circumstances. Interests protected by rights can reasonably clash one against another. It is easier to see that the state can have interests at odds with those of the individual claimant. However, instrumental approaches do not offer a viable alternative to the vacuum they create. They may be powerful arguments against displaying one given symbol, but does that mean that no symbol can promote co-existence? Instrumental approaches of the multiculturalist stripe end up promoting the existence of various institutions which promote their own values separately. This is the system of multi-faith schools that pays lip service to diversity but does not do much to promote convergence.

Both toleration and respect involve the evaluation of the costs of having a plural society. The justification of such solutions differs. For principled approaches, equal citizenship means that each individual should divest herself of any social or cultural attachment other than the republican one when living in a public space. It is not pleasant, but this is the cost to pay for having a plural society in which everyone has equal voice. Instrumental approaches stress the

difference between people rather than one identity. Minority groups have different needs compared to the majority. They therefore have to be accommodated so that their rights protect their needs even if this waters down important values in some instances.

Neither approach, however, is capable to fully cope with the conflict between secular and religious people. Either solution entails more polarization rather than less. The republican position leaves no room for diversity, while the multicultural position leaves no room for convergence. Both approaches over-rely on rights as encapsulating liberal values that can potentially be accommodated either through ranking or through definitional balancing. Neither approach captures the day-to-day practice of living together (as opposed to the moralizing attitudes of co-existence or respect) which is a much more reliable basis for an approach that attempts to cope with the existence of religious conflicts.

#### **4 A Fresh Start: Tolerance distinguished from toleration**

English is the only European language to draw a distinction between Tolerance and Toleration. In German (Toleranz), French (Tolerance), Italian (Tolleranza) and Spanish (Tolerancia) there is only one name for those concepts. Not that the distinction in English is clear and easily applicable. Tolerance and Toleration are used as synonyms in the literature; often one finds the two used interchangeably. But I do believe that it is possible to draw a distinction between toleration-as-a-moralizing attitude and tolerance-as-a-natural-disposition. The former is a normative concept, while the latter is descriptive. A similar distinction is drawn by historian Benjamin Kaplan: “[This book] begins from the crucial premise that tolerance was an issue not just for intellectuals and ruling elites, but for all people who lived in religiously mixed

communities. For them tolerance had a very concrete, mundane dimension. It was not just a concept or policy but a form of behaviour.”<sup>23</sup>

Here, I propose a *stipulative* definition of tolerance distinguished from toleration. I am not suggesting that the distinction mirrors ordinary language closely, although it has a link to it. However, I argue that this distinction illuminates both theory and practice. It puts the latter in a better light by showing how people behave when confronted with difference; it improves the former by pointing out what should be the role for the state and for individuals in light of the practice. As we saw, conventional understandings of toleration as a general approach start from a political ideal of a peaceful society and draw from that ideal some conclusions as to the appropriate moral attitude towards religion. The alternative approach based on tolerance-as-a-disposition starts from the emotional reaction towards diversity in order to build up some correctives where the practice shows weaknesses.

Tolerance as I see it focuses on the *disposition* of an individual or a group of individuals to put up with an external agent of disturbance. This notion is much more biological and psychological and does not depend on prior moral judgement although it forms a more solid basis for further moral deliberation. To illustrate the notion of tolerance I have in mind I will take few examples from the OED: “The action or practice of enduring or sustaining pain or hardship; the power or capacity of enduring; endurance. More widely in *Biol.*, the ability of any organism to withstand some particular environmental condition. *Biol.* The ability of an organism to *survive* or to flourish despite infection with a parasite or an otherwise pathogenic organism.”<sup>24</sup>

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<sup>23</sup> Ibid., 8

<sup>24</sup> OED Online, definitions 1 a,b,c,d, accessed on 30<sup>th</sup> September 2010: [http://dictionary.oed.com/cgi/entry/50253982?query\\_type=word&queryword=tolerance&first=1&max\\_to\\_show=10&sort\\_type=alpha&result\\_place=1&search\\_id=SXRt-jMaiTJ-7777&hilite=50253982](http://dictionary.oed.com/cgi/entry/50253982?query_type=word&queryword=tolerance&first=1&max_to_show=10&sort_type=alpha&result_place=1&search_id=SXRt-jMaiTJ-7777&hilite=50253982)

Tolerance is the *disposition* of putting up with external agents of disturbance; it involves a psychological attitude that strikes a middle ground between wholehearted acceptance and unrestrained opposition.<sup>25</sup> In a fairly stable society, most people lean towards that attitude; tolerance as a disposition carves out a space for every individual to flourish according to one's own beliefs alone and relatively unencumbered by the multifarious emotional inputs that derives from other people's beliefs and behaviours. If one did respond to each external stimulus, then the ability to flourish independently would be seriously hampered. Life would boil down to an emotional roller-coaster whereby our beliefs and behaviour are always defined in opposition to, or in emulation of, other people beliefs and behaviours. Needless to say, this already is the case in many circumstances but it cannot possibly be the norm of our life otherwise we would be unable to develop and flourish autonomously. Tolerance thus defined is not about drawing a priori moral lines and impose them on issues of conflicting beliefs, but it is about the ability to cope with them in a way that does not divert individuals from flourishing. Of course, tolerance is a matter of degree. It can only work when someone or a society is in a condition of mental and physical stability, rather than being embroiled in unproductive conflicts. The healthier the individual or the society, the greater its ability to cope with external agents of disturbance and vice-versa.

## **5 Tolerance as a non-moralizing approach**

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<sup>25</sup> T.M. Scanlon, "The Difficulty of Tolerance," in T.M. Scanlon, *The Difficulty of Tolerance*, Cambridge: CUP, 2003, 201. Scanlon also calls it a middle way between wholehearted acceptance and unrestrained opposition.

My approach starts from tolerance-as-a-disposition rather than moralizing toleration. It is different and can be distinguished from both principled and instrumental approaches that promote toleration as a moralizing attitude. There are three main differences between a moralizing and a non-moralizing approach.

Firstly, tolerance is not a principle to be imposed by legislation or a virtue to be preached by elites, but a human disposition that needs to be understood. Tolerance thus conceived depends on bodily rather than mental processes. Tolerance is not a behaviour that is *imposed* either by a moral or political doctrine, but it is a behaviour that *emerges* as a natural human response to difference. It is not the moral or political means through which religious conflicts are solved and dispelled, but the innate response to the fact that each one of us experiences conflicting emotions when faced with diversity. When a society is stable and healthy, there is little talk of the practice of tolerance. It is when things go wrong that intolerance is on everyone's mouth.

Secondly, tolerance as a disposition can only flourish in an environment where freedom of thought is protected above everything else. No thought is to be considered as right or wrong from the outset, as it is the case from a moralizing viewpoint. Every person, be them secular or religious, should be free to advance their own ideas and beliefs and argue for them. Disagreement between people can only help to sharpen thought and allow truth to emerge. This is only possible, though, if no assumption or presupposition is considered to be dogma. A healthy polity will devise ways to cope with disagreement, but will never find a way to solve an issue once and for ever.

Thirdly, a non-moralizing approach insists that negative emotions towards diversity are the result of lack of appropriate thinking. How can one possibly hate something or someone just because he or she is different? Negative emotions are more likely in the case of a moralizing

approach that states a-priori which beliefs are right and which are wrong. Wrong beliefs can sometimes be tolerated, but others they are firmly opposed as a matter of stipulation. For example, polygamy is considered morally wrong and unacceptable in our societies, but I would argue that it is not necessarily the case. Why would it be unacceptable to have a relationship between several people when this is the result of open and rational deliberation? The only reason why polygamy is perceived as intolerably wrong is because the institution of marriage as defined by Christian norms does not accept any other form of union beyond of monogamy.<sup>26</sup>

Now that the three main differences have been set out, it is possible to elaborate a more articulated approach to cope with conflicts between religious and secular people. The starting point is the acknowledgement of clashes within each one of us: We all oscillate between wholehearted acceptance and unrestrained opposition when we are first exposed to people whose behaviour and symbols markedly differ from ours. If each individual simply followed those emotions unreflectively, we would constantly go through a rollercoaster that leaves no time for flourishing. Tolerance as a disposition is a naturally devised disposition that helps us to mediate between strong emotional reactions. As a matter of practice, each one of us is prepared to put up with a great deal of behaviour that may appear to be inconsistent with societal values or individually held beliefs. This is explainable in terms of the drive to survival that characterizes our self-development.<sup>27</sup> We would not be able to concentrate on our own flourishing if we were constantly pulled in one or another direction.

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<sup>26</sup> Divorce may be said to have introduced diachronic polygamy: it is permitted to have more than one wife/husband provided that this is done one at a time.

<sup>27</sup> Spinoza calls it *conatus*---the striving for individual empowerment and development. See Spinoza, *Ethics*, passim.

Of course there are paradigmatic cases of acceptance and opposition. One does not tolerate a beloved one; one simply loves him and as such fully and unconditionally accepts him.<sup>28</sup> Equally one does not tolerate murder. The emotional reaction to that is of unrestrained opposition and there is no space for tolerance of such an action. Most relationships and actions, however, do not fall at the extremes of the spectrum. They provoke mixed reactions which pull in different directions. Through a process of reflection about those reactions individuals come to regard most of them as part of their world without fully accepting or rejecting them.<sup>29</sup> Here begins the practice of tolerance: Human beings *qua* reflective beings are able to form ideas about those emotions and as a result of this reflective process they tend towards a balance between opposite reactions, without which their lives would be an endless and meaningless series of confrontations.<sup>30</sup>

Each individual projects their internal clashes onto the external world and bring them to bear to the life of their groups. His family, his community, his city and his country --as long as they strive to be one-- also experience a number of clashes vis-à-vis other people or actions. The root of any conflict of values is the original clash within understood as an emotional response to someone or something that is not fully well known. A non-moralising approach based on tolerance rejects the idea that conflicts of values can be solved in a way that the clash within is removed from the individual altogether. Those clashes within that attest to an emotional reaction

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<sup>28</sup> Even though it can be said that one tolerates some actions of a beloved one. Overall, when we love someone we accept him or her *in toto*, even if some of his or her action can be wrong. In this case, we either tolerate or oppose those actions, but this does not necessarily constitute a ground for not loving that person (although it may be).

<sup>29</sup> Please note: Tolerance is not the same thing as indifference, which is a state in which there is no emotional reaction. It may be the case however that a protracted state of tolerance turns into a state of indifference.

<sup>30</sup> This what biologists call Homeostasis, that is the natural tendency to regulate one's body so that it adapts to envioning circumstances, see for example A. Damasio, *Looking for Spinoza. Joy, Sorrow and the Feeling Brain*, Boston: Mariner Books, 2003.

towards unknown people or things are inevitable. In fact, those clashes within are necessary for cognitive process as they stimulate the will to know the external world. Only negative feelings, such as fear, can constitute a limit to the knowledge of the external world in so far that they push individuals towards a defensive approach rather than a cognitive one.

A non-moralising approach based on tolerance does not rely on prior judgements as to what can be the object of toleration and what should be firmly opposed. This would assume that one has already made up one's mind about rightness or wrongness often without properly getting to know the object of intolerance. Clashes within are more complicated than that and have various layers. First of all, one responds to the broader issue of a known or unknown phenomenon. If it is known appropriately, then the clash within will not be very hard to deal with. It is when the phenomenon is unknown that things are complicated. Individuals and societies tend to simplify those matters by applying ready-made values to the unknown phenomenon and by filing it away in the right or wrong boxes. A non-moralising approach based on tolerance resists that categorization and pushes for more knowledge before taking a judgement.

Human beings have worked out a great number of collective responses to clashes within. Religion, for example, is a given response to a peculiar clash within. We feel that we are eternal, when we reflect about our soul, and yet we know that we are mortal. Religion assuages this clash by claiming the separation between the life of the soul and the life of the body. By privileging the former over the latter, religion offers consolation to a split individual. The spiritual clash within addresses the damning problem of the meaning of life—what are we doing in this world? This explains why religion is still so fundamental in the life of the great majority of people all over the world. It is because it does give an answer and allows people to get on with their lives in

the meanwhile. Individuals and groups care a great deal about the precise answer they have been given. They care because they believe it is true. And as a consequence, they must believe that any other answer is false. How is it possible to tolerate a false claim on something that is so important to people's lives?

The spiritual clash within --mediated through institutional religion-- is sometimes projected onto the external world. It becomes a social conflict between individuals, groups, and even nations. Europe as a whole was devastated by such a conflict in the XVII century. The political response to it was to carve out religiously homogeneous regions within which people would not be requested to tolerate other religious views. Toleration as a political virtue applied to relationships between nation states following the Treaty of Westphalia 1648. Homogeneity, however, is itself unstable because the natural freedom of thought with which we are endowed pushes us in different directions (as it was the case for Luther, Zwingly and Calvin for example). Moreover, homogeneity has never been truly met amongst the people. Historical accounts of life in Europe show that different religious communities had to live side by side and the important news is that they generally found ways to do so.<sup>31</sup>

Tolerance as defined here supports a non-moralizing attitude towards diversity rather than one that divides the world in right and wrong beliefs a priori. But unfortunately there are instances in which tolerance leaves its place to unrestrained opposition and this entails a spiral of social polarization and ultimately violence. In these cases, I don't believe that it is helpful at all to preach the attitude of toleration as a political ideal that would solve those conflicts. The most important thing to begin with is to reflect about the causes that led to intolerance. Political and economic considerations are obviously important. These undermine self-confidence and hope.

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<sup>31</sup> Kaplan, *Divided by Faith- Religious Conflict and the Practice of Toleration in Early Modern Europe*, Cambridge, Mass., Harvard University Press 2007.

When fears enter the scene, it is almost impossible to avoid the consequence that our clash within between acceptance and opposition will be resolved in favour of the former.

## **6 Knowledge of Fear**

Tolerance as a disposition informs the relationship between individuals belonging to different groups in a society. The instinctive mechanism of tolerance, however, can be hampered by the existence of entrenched prejudices and fears flowing from misunderstandings about other people. A racist, for example, is not able to tolerate as his conception of the other will be clouded by a set of prejudices formed a-priori. Mutual knowledge that dispels prejudices is therefore absolutely necessary to promote and encourage a flourishing practice of tolerance. Unfortunately, it is often the case that prejudices are associated with fears; these two together make the possibility of mutual knowledge very difficult.

Knowledge of fear allows every individual to form reflective ideas about emotions; the process of subconscious enquiry is a good tool to keep emotional reactions under control. The smooth working, and development, of tolerance-as-a-disposition depends among other things on the knowledge of one's own fears. But of course this investigation is a matter of individual choice and cannot be imposed on anyone. Individuals who oscillate between competing emotions without being able to find a middle ground are in a difficult position and can hardly flourish under these conditions. If each one of us was able to inspect our subconscious and dig out the root causes of fear, then we would oscillate much less perilously between opposing emotions towards diversity. Of course, on a grand societal scale it is impossible to promote this; so each one of us has to put up with a certain amount of entrenched emotions that cannot be explained

away rationally. Institutions can nevertheless nurture and protect the natural disposition to tolerate in many other ways and in particular through education.

Fear is not only negative. It performs a very valuable role in the life of human beings. It averts the mind to an impending danger and calls for a cautious attitude towards an unknown object or person. Fear warrants against immediate reaction or engagement. It generally nudges the individual towards further examination as to the actual danger faced. It also promotes a cognitive attitude geared towards the knowledge of the external world. When you know the object or person that is feared, you are able to apprehend it in a way that is not dangerous anymore. Perhaps our fear will disappear altogether as knowledge will have shown that there is no danger intrinsic to the external object or person triggering fear. So not only fear protects us from danger, but it may also stimulate our knowledge of the external world which is yet unexplained.

Sometimes, however, fear overwhelms us and temporarily clouds our reason. We are frozen into inaction and we refuse to know the object of our fears. This is the case for example with Muslim minorities in Europe. Many consider them as a threat to Europe and depict them as such in the media. The mass reaction to those minorities is dictated by such fears and entails unrestrained opposition to some or all aspects of the behaviour of the minority. Most of the time, this reaction is not supported by actual knowledge but is simply based on a stereotypical description of the target of hatred. Fear can become phobia when left uncontrolled by reflective attitudes. Phobia is a systematic fear against persons or objects that has become entrenched and cannot be removed by the usual cognitive process that leads our minds to apprehend the external world. It is quite plain to say that today in Europe there is a widespread Islamophobia. That is, a systematic fear towards religious minorities that pits them against the secular western society.

The general reaction toward those minorities is unrestrained opposition and there does not seem to be an easy way out of this deadlock.

How can we break the spell of Islamophobia? Some say by effectively protecting minority rights. I think this is not the correct response. I believe that the state should instead promote mutual knowledge. We can take *sharia law* as an example. The conventional reaction is one of unrestrained opposition. Think of the emotional reaction faced by the Archbishop of Canterbury when he defended the possibility of having Muslim Arbitration Tribunals applying *sharia law* to private disputes.<sup>32</sup> He was then supported by the now President of the UK supreme court, Lord Phillips.<sup>33</sup> Both genuinely hoped that by engaging with *sharia law*, part of the mystery and fear that surrounds it would be dispelled. And when fear lifts its hold and let the place to further knowledge, then we can finally learn that *sharia law* is not that different from legal codes of behaviour that are closer to the western world. Some elements of *sharia law* will remain incompatible with ordinary law; in particular physical punishments will be at odds with our practices. But those punishments are not the core of *sharia law*, they are perfectly detachable elements of a general system of rules that can be regarded as compatible with ordinary laws.

This is not to say that we are under an obligation to wholeheartedly accept *sharia law*. After examination, we may still conclude that we disagree with its fundamental tenets, and we consider it as not fully acceptable. But this is not a ground for unrestrained opposition either. This is a case where tolerance is emotionally possible once the cognitive pre-requisites have been fulfilled. It is important to be clear at this point: in a secular state, it is possible to be tolerant to

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<sup>32</sup> Archbishop's Lecture: Civil and Religious Laws in England: A Religious perspective,' available at <http://www.archbishopofcanterbury.org/1575>, accessed 04<sup>th</sup> October 2010.

<sup>33</sup> Lord Phillips, Lord Chief Justice, 'Equality before the Law,' Speech at the East London Muslim Centre, available at [http://www.matribunal.com/downloads/LCJ\\_speech.pdf](http://www.matribunal.com/downloads/LCJ_speech.pdf), accessed 4<sup>th</sup> October 2010.

people who follow *sharia law* to guide their behaviour in certain domains. It is also possible that a conflict between two religious people be solved by an arbitrator they both accept. But it is not permissible to have rules of behaviour that are incompatible with ordinary laws.

## **7 Law and Tolerance (*Lautsi* again)**

The best way to illustrate the practical difference of my approach is to use the *Lautsi* case again. There are three main aspects to take into account from my perspective: Firstly, the conflict should be regarded as an opportunity for knowledge. Is the crucifix in Italy a symbol of secularism as the state claims? The Italian government, for example, “attributed to the crucifix a neutral and secular meaning with reference to Italian history and tradition, which were closely bound up with Christianity.”<sup>34</sup> One may object that the crucifix is neutral, but it is hard to dismiss the role played by Christianity in Italy in shaping the social and political space in many ways. It is of course possible to suggest that secularism developed in opposition to religious values, but it would be churlish to claim that secular and religious values are mutually exclusive since their history is one of exchange and dialogue rather than competition and denial. The role of reason in promoting knowledge is however limited and it cannot be held that deeper knowledge of conflicting interests leads to a better solution in practice. This leads us to the second element of my approach.

The limits of knowledge through reason give rise to the necessity of imagination as a way to find a new solution for the future. Can we really deal with this issue by applying old standards? Is it possible to solve the conundrum posed by *Lautsi* simply by applying a

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<sup>34</sup> *Case of Lautsi v Italy*, (application no 30814/06), 3<sup>rd</sup> November 2009.

conception of secularism that does not take into account social and cultural traditions of one country? The presence of a symbol can be the starting point of a creative debate. Pupils may be asked whether they want to complement that symbol or whether they want to remove it. In either case, they should be asked to provide an explanation. Those who take the crucifix for granted would have to review their position, while those who oppose it or never even thought about it are encouraged to think about it from a completely free viewpoint. The crucifix could be considered as a starting point for reflection rather than an endpoint. This may truly put the students in a position where they can empathize with other students. This leads to my third point.

Knowledge and imagination must be supported by an ability to put oneself in other people's shoes. This was arguably very difficult some years ago in Italy when the vast majority of the population was Catholic. In such a context, it was difficult to appreciate the viewpoint of a diverse position. Immigration and further secularization today have created a more diverse environment in the classroom and in the society. It is therefore more important than ever to engage in an empathic process that leads people to know their mutual starting points so that negative emotions and passions can be ruled out from the outset.

To sum up, law can promote tolerance and a healthy environment by providing three essential services: it has to stimulate mutual knowledge by providing genuine platforms of cultural exchange, starting with primary education where one can learn about religious differences. Secondly, it has to stimulate freedom of thought through creative and imaginative channels rather than imposing a ready made set of values. Thirdly, it should encourage each and every individual to put themselves in someone else's shoes so that negative emotions towards diversity can be effectively reined in. Solon claimed that each society deserves the laws that it

can bear.<sup>35</sup> Let me explain why this makes sense: a society that is ridden by conflict and hysteria will only be able to bear laws that do not upset the majority. As a consequence the minority will be silenced and suppressed. Vice versa, a society that is strong and stable will bear much more easily internal conflicts without breaking into pieces. Those conflicts will be regarded as opportunities to engage in further knowledge. They will also push us all to re-interpret creatively our traditions so as to fit as many diverging views as possible.

## **8 Conclusions**

Religious conflicts will not be solved or explained away once and for all. They will keep coming back and present difficult decisions for all the European states, as well as for European institutions. The master narrative of toleration is not capable of dispelling all the issues that arise between secular majorities and religious minorities. It may well be that toleration was the right answer to religious conflicts in the XVI century. In a world that was little secularized, the major issue was to create a space for both religious minorities and majorities. Toleration presented a reason against aggression of religious minorities that held wrong beliefs from the viewpoint of the majority.

But the price to pay for toleration was high: the entrenchment of official truth about right beliefs, and the subsequent creation of a trichotomy between right, wrong and tolerable beliefs that is not easy to police by the state without major inconsistencies. Such a trichotomy could only come with a moralizing attitude between majorities and minorities and with an isolation of minorities and a huge limitation on the dissent about majority values. Social homogeneity achieved stability at the prize of freedom of thought on the fundamental issues of the society.

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<sup>35</sup> Montesquieu, *L'Esprit des Lois*, Paris: Flammarion.

Europe remained homogeneous for a long time and enjoyed periods of stability followed by instability until it break down completely on the occasion of WW2. In the last fifty years, Europe has enjoyed great stability but social homogeneity has been replaced by great social and religious pluralism. Religious pluralism poses great challenges for secular authorities.

Europe is today largely secular. Religious beliefs have been banned from the public sphere and cannot constitute a source of an official truth supported by the state. Instead, the state has embraced conceptions of power and truth that do not depend on religious beliefs. The separation between theology and philosophy put reason on a pedestal and religious beliefs were relegated in the private sphere. Power and truth have been secularized, but this does not mean that they now enjoy strong foundations. Secularism no doubt achieved much, but it can itself fall prey of criticism. In particular, secularism can be established as the new official truth of the state and this is not necessarily desirable as it entrenches and imposes a rigid interpretation of what is right and what is wrong, whereby religion is classified as being on the wrong side if it aims to speak its voice in public.

A non-moralizing approach requires from each individual that no official truth be taken as written in stone (including the truth of *laicite'*). It also requires the state to create the pre-conditions for mutual knowledge, which is the most important goal in order to nurture the natural disposition of individuals and groups to cope with difference. Such an approach is sceptical about conceptions of secularism that rule out altogether the possibility of a public role for religion. Not that religion should enjoy an unlimited access to the public sphere or special protection as it speaks up its voice. It nevertheless cannot be excluded from participation to political affairs as a matter of principle because it may capture some important messages that should be taken into account. Secularism should be regarded as a default framework, a

worldview or worldviews, within which disagreement about the best political regime, as well as about the best life are widely protected. This will be the object of a separate paper.