THE DIFFICULTY OF TOLERANCE

Essays in Political Philosophy

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is "objective." For one thing, there is the question of the objectivity of the judgment that a particular system of values of this kind represents a standard which it is reasonable to employ, given the existing diversity of individual points of view. Second, the process I have described, through which such a system is arrived at and defended, can be expected to yield different outcomes in different social settings, since the activities and pursuits which are important to individual lives will vary from society to society. Even the relative importance of various physical and mental capacities will vary depending on the kind of life that people have the opportunity to live. Whether these considerations undermine the "objectivity" of a system of moral goods and bads, and how, if at all, that matters, are difficult questions which it seems best to leave aside for the present.

For the purposes of argument about which principles it is reasonable to reject, a system of moral goods and bads does not need to provide a very complete ordering of levels of well-being. It is enough to distinguish between those "very severe" losses which count as grounds for reasonable rejection and those gains and losses which are not of comparable severity. If we were to accept a principle requiring the equalization of well-being (as defined by such a system of moral goods and bads) then the level of completeness demanded would be much stronger. My own view is that such a global principle of equality is not very plausible: the ideas of equality which are most significant and morally compelling deal with a narrower range of goods. But that is a larger issue which I will leave for another occasion.

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The difficulty of tolerance

1. WHAT IS TOLERANCE?

Tolerance requires us to accept people and permit their practices even when we strongly disapprove of them. Tolerance thus involves an attitude that is intermediate between wholehearted acceptance and unrestrained opposition.[1] This intermediate status makes tolerance a puzzling attitude. There are certain things, such as murder, that ought not be tolerated. There are limits to what we are able to do to prevent these things from happening, but we need not restrain ourselves out of tolerance for these actions as expressions of the perpetrators' values. In other cases, where our feelings of opposition or disapproval should properly be reined in, it would be better if we were to get rid of these feelings altogether. If we are moved by racial or ethnic prejudice, for example, the preferred remedy is not merely to tolerate those whom we abhor but to stop abhorring people just because they look different or come from a different background.

Perhaps everything would, ideally, fall into one or the other of these two classes. Except where wholehearted disapproval and opposition are appropriate, as in the case of murder, it would be best if the feelings that generate conflict and disagreement could be eliminated altogether. Tolerance, as an attitude that requires us to hold in check certain feelings of opposition and disapproval, would then be just a second best – a way of dealing with attitudes that we would be better off without but that are, unfortunately, ineliminable. To say this would not be to condemn tolerance. Even if it is, in this sense, a second best, the widespread adoption of tolerant attitudes would be a vast improvement over the sectarian blood-shed that we hear of every day, in many parts of the globe. Stemming this violence would be no mean feat.

I am grateful to Joshua Cohen and Will Kymlicka for their helpful comments on earlier drafts of this paper.

[1] As John Horton points out in "Toleration as a Virtue" in David Heyd, ed., *Toleration: An Elusive Virtue* (Princeton: Princeton University Press, 1996), pp. 28–43.

Still, it seems to me that there are pure cases of tolerance, in which it is not merely an expedient for dealing with the imperfections of human nature. These would be cases in which persisting conflict and disagreement are to be expected and are, unlike racial prejudice, quite compatible with full respect for those with whom we disagree. But while respect for each other does not require us to abandon our disagreement, it does place limits on how this conflict can be pursued. In this essay, I want to investigate the possibility of pure tolerance of this kind, with the aim of better understanding our idea of tolerance and the difficulty of achieving it. Because I particularly want to see more clearly why it is a difficult attitude and practice to sustain, I will try to concentrate on cases in which I myself find tolerance difficult. I begin with the familiar example of religious toleration, which provides the model for most of our thinking about toleration of other kinds.

Widespread acceptance of the idea of religious toleration is, at least in North America and Europe, a historical legacy of the European Wars of Religion. Today, religious toleration is widely acknowledged as an ideal, even though there are many places in the world where, even as we speak, blood is being spilled over what are at least partly religious divisions.

As a person for whom religion is a matter of no personal importance whatever, it seems easy for me, at least at the outset, to endorse religious toleration. At least this is so when toleration is understood in terms of the twin principles of the First Amendment to the Constitution of the United States: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Accepting these principles seems to be all benefit and no cost from my point of view. Why should I want to interfere with other people's religious practice, provided that they are not able to impose that practice on me? If religious toleration has costs, I am inclined to say, they are borne by others, not by me.

So it seems at first (although I will later argue that this is a mistake) that for me religious toleration lacks the tension I just described: I do not feel the opposition it tells me to hold in check. Why should I want to tell others what religion to practice, or to have one established as our official creed? On the other hand, for those who do want these things, religious toleration seems to demand a great deal: if I thought it terribly important that everyone worship in the correct way, how could I accept toleration except as an uneasy truce, acceptable as an alternative to perpetual bloodshed, but even so a necessity that is to be regretted? Pure toleration seems to have escaped us.

I want to argue that this view of things is mistaken. Tolerance involves costs and dangers for all of us, but it is nonetheless an attitude that we all have reason to value.

II. WHAT DOES TOLERATION REQUIRE?

This is a difficult question to answer, in part because there is more than one equally good answer, in part because any good answer will be vague in important respects. Part of any answer is legal and political. Tolerance requires that people who fall on the "wrong" side of the differences I have mentioned should not, for that reason, be denied legal and political rights: the right to vote, to hold office, to benefit from the central public goods that are otherwise open to all, such as education, public safety, the protections of the legal system, health care, and access to "public accommodations." In addition, it requires that the state not give preference to one group over another in the distribution of privileges and benefits.

It is this part of the answer that seems to me to admit of more than one version. For example, in the United States, the requirement that each religious group is equally entitled to the protections and benefits conferred by the state is interpreted to mean that the state may not support, financially or otherwise, any religious organization. The main exception, not an insignificant one, is that any religious organization can qualify for tax-exempt status. So even our idea of "nonestablishment" represents a mixed strategy: some forms of support are prohibited for *any* religion, others are allowed provided they are available for *all* religions. This mixture strikes me more as a particular political compromise than as a solution uniquely required by the idea of religious toleration. A society in which there was a religious qualification for holding public office could not be accounted tolerant or just. But I would not say the same about just any form of state support for religious practice. In Great Britain, for example, there is an established church, and the state supports denominational as well as nondenominational schools. In my view, the range of these schools is too narrow to reflect the religious diversity of contemporary Britain, but I do not see that just any system of this kind is to be faulted as lacking in toleration. Even if it would be intolerant to give one religion certain special forms of support, there are many different acceptable mixtures of what is denied to every religion and what is available to all. The particular mixture that is now accepted in the United States is not the only just solution.

This indeterminacy extends even to the area of freedom of expression, which will be particularly important in what follows. Any just and tolerant society must protect freedom of expression. This does not mean merely that censorship is ruled out, but requires as well that individuals and groups have some effective means for bringing their views before the public. There are,

however, many ways of doing this.[2] There are, for example, many ways of defining and regulating a "public forum," and no one of these is specifically required. Permitted and protected modes of expression need not be the same everywhere.

Let me now move from the most clearly institutional aspects of toleration to the less institutional and more attitudinal, thereby moving from the indeterminate to the vague. I have said that toleration involves "accepting as equals" those who differ from us. In what I have said so far, this equality has meant equal possession of fundamental legal and political rights, but the ideal of equality that toleration involves goes beyond these particular rights. It might be stated as follows: all members of society are equally entitled to be taken into account in defining what our society is and equally entitled to participate in determining what it will become in the future. This idea is unavoidably vague and difficult to accept. It is difficult to accept insofar as it applies to those who differ from us or disagree with us, and who would make our society something other than what we want it to be. It is vague because of the difficulty of saying exactly what this "equal entitlement" involves. One mode of participation is, of course, through the formal politics of voting, running for office, and trying to enlist votes for the laws and policies that one favors. But what I now want to stress is the way in which the requirements of toleration go beyond this realm of formal politics into what might be called the informal politics of social life.

The competition among religious groups is a clear example of this informal politics, but it is only one example. Other groups and individuals engage in the same political struggle all the time: we set and follow examples, seek to be recognized or have our standard-bearers recognized in every aspect of cultural and popular life. A tolerant society, I want to say, is one that is democratic in its informal politics. This democracy is a matter of law and institutions (a matter, for example, of the regulation of expression). But it is also, importantly and irreducibly, a matter of attitude. Toleration of this kind is not easy to accept – it is risky and frightening – and it is not easy to achieve, even in one's own attitudes, let alone in society as a whole.

To explain what I have in mind, it is easiest to begin with some familiar controversies over freedom of expression and over "the enforcement of morals." The desire to prevent those with whom one disagrees from

[2] More exactly, there are many ways of trying to do it. I believe that our ideas of freedom of expression must be understood in terms of a commitment both to certain goals and to the idea of certain institutional arrangements as crucial means to those goals. But the means are never fully adequate to the goals, which drive their constant evolution. I discuss this "creative instability" in "Content Regulation Reconsidered" in (1991) this volume, essay 8.

influencing the evolution of one's society has been a main motive for restricting expression – for example, for restricting religious proselytizing and for restricting the sale of publications dealing with sex, even when these are not sold or used in a way that forces others to see them. This motive supports not only censorship but also the kind of regulation of private conduct that raises the issue of "the enforcement of morals." Sexual relations between consenting adults in the privacy of their bedrooms are not "expression," but it is no mistake to see attempts to regulate such conduct and attempts to regulate expression as closely related. In both cases, what the enforcers want is to prevent the spread of certain forms of behavior and attitude both by deterring it and, at least as important, by using the criminal law to make an authoritative statement of social disapproval.

One form of liberal response has been to deny the legitimacy of any interest in "protecting society" from certain forms of change. (The analog of declaring religion to be purely a private matter.) This response seems to me to be mistaken.[3] We all have a profound interest in how prevailing customs and practices evolve. Certainly, I myself have such an interest, and I do not regard it as illegitimate. I do not care whether other people, individually, go swimming in the nude or not, but I do not want my society to become one in which nude bathing becomes so much the norm that I cannot wear a suit without attracting stares and feeling embarrassed. I have no desire to dictate what others, individually, in couples or in groups, do in their bedrooms, but I would much prefer to live in a society in which sexuality and sexual attractiveness, of whatever kind, was given less importance than it is in our society today. I do not care what others read and listen to, but I would like my society to be one in which there are at least a significant number of people who know and admire the same literature and music that I do, so that that music will be generally available, and so that there will be others to share my sense of its value.

Considered in this light, religious toleration has much greater risks for me than I suggested at the beginning of this essay: I am content to leave others to the religious practices of their choice provided that they leave me free to enjoy none. But I will be very unhappy if this leads in time to my society becoming one in which almost everyone is, in one way or another, deeply religious, and in which religion plays a central part in all public discourse. Moreover, I would feel this way even if I would continue to enjoy the firm protection of the First Amendment.

[3] Here I draw on points made in section v of my essay, "Freedom of Expression and Categories of Expression" (1979) in this volume, essay 5.

What I fear is not merely the legal enforcement of religion but its social predominance.

So I see nothing mistaken or illegitimate about at least some of the *concerns* that have moved those who advocate the legal enforcement of morals or who seek to restrict expression in order to prevent what they see as the deterioration of their society. I might disagree with them in substance, but I would not say that concerns of this kind are ones that anyone should or could avoid having. What is objectionable about the "legal enforcement of morals" is the attempt to restrict individuals' personal lives as a way of controlling the evolution of mores. Legal moralism is an example of intolerance, for example, when it uses the criminal law to deny that homosexuals are legitimate participants in the informal politics of society.

I have not tried to say how this informal politics might be regulated. My aims have been, rather, to illustrate what I mean by informal politics, to point out what I take to be its great importance to all of us, and to suggest that for this reason toleration is, for all of us, a risky matter, a practice with high stakes.

III. THE VALUE OF TOLERANCE

Why, then, value tolerance? The answer lies, I believe, in the relation with one's fellow citizens that tolerance makes possible. It is easy to see that a tolerant person and an intolerant one have different attitudes toward those in society with whom they disagree. The tolerant person's attitude is this: "Even though we disagree, they are as fully members of society as I am. They are as entitled as I am to the protections of the law, as entitled as I am to live as they choose to live. In addition (and this is the hard part) neither their way of living nor mine is uniquely *the* way of our society. These are merely two among the potentially many different outlooks that our society can include, each of which is equally entitled to be expressed in living as one mode of life that others can adopt. If one view is at any moment numerically or culturally predominant, this should be determined by, and dependent on, the accumulated choices of individual members of the society at large."

Intolerant individuals deny this. They claim a special place for their own values and way of life. Those who live in a different way – Turks in Germany, for example, Muslims in India, and homosexuals in some parts of the United States – are, in their view, not full members of their society, and the intolerant claim the right to suppress these other ways of living in

the name of protecting their society and "its" values. They seek to do this either by the force of criminal law or by denying forms of public support that other groups enjoy, such as public subsidies for the arts.

What I have just provided is description, not argument. But the first way of making the case for tolerance is simply to point out, on the basis of this description, that tolerance involves a more attractive and appealing relation between opposing groups within a society. Any society, no matter how homogeneous, will include people who disagree about how to live and about what they want their society to be like. (And the disagreements within a relatively homogeneous culture can be more intense than those within a society founded on diversity, like the United States.) Given that there must be disagreements, and that those who disagree must somehow live together, is it not better, if possible, to have these disagreements contained within a framework of mutual respect? The alternative, it seems, is to be always in conflict, even at the deepest level, with a large number of one's fellow citizens. The qualification "even at the deepest level" is crucial here. I am assuming that in any society there will over time be conflicts, serious ones, about the nature and direction of the society. What tolerance expresses is a recognition of common membership that is deeper than these conflicts, a recognition of others as just as entitled as we are to contribute to the definition of our society. Without this, we are just rival groups contending over the same territory. The fact that each of us, for good historical and personal reasons, regards it as *our* territory and *our* tradition just makes the conflict all the deeper.

Whether or not one accepts it as sufficient justification for tolerance, the difference that tolerance makes in one's relation to those who are "different" is easy to see. What is less obvious, but at least as important, is the difference tolerance makes in one's relation with those to whom one is closest. One's children provide the clearest case. As my children, they are as fully members of our society as I am. It is their society just as much as it is mine. What one learns as a parent, however, is that there is no guarantee that the society they will want is the same one that I want. Intolerance implies that their right to live as they choose and to influence others to do so is conditional on their agreement with me about what the right way to live is. If I believe that others, insofar as they disagree with me, are not as entitled as I am to shape the mores of our common society, then I must think this of my children as well, should they join this opposition. Perhaps I hold that simply being *my children* gives them special political standing. But this seems to me unlikely. More likely, I think, is that this example brings out the fact that intolerance involves a denial of the full membership of "the others." What is special

about one's children is, in this case, just that their membership is impossible to deny. But intolerance forces one to deny it, by making it conditional on substantive agreement with one's own values.

My argument so far is that the case for tolerance lies in the fact that rejecting it involves a form of alienation from one's fellow citizens. It is important to recognize, however, that the strength of this argument depends on the fact that we are talking about membership in "society" as a political unit. This can be brought out by considering how the argument for tolerance would apply within a private association, such as a church or political movement.[4] Disagreements are bound to arise within any such group about how their shared values are to be understood. Is it then intolerant to want to exclude from the group those with divergent views, to deny them the right to participate in meetings and run for office under the party label, to deny them the sacraments, or stop inviting them to meetings? It might be said that this also involves the kind of alienation I have described, by making others' standing as members conditional on agreement with our values. But surely groups of this kind have good reason to exclude those who disagree. Religious groups and political movements would lose their point if they had to include just anyone.

In at least one sense, the ideas of tolerance and intolerance that I have been describing do apply to private associations. As I have said, disagreements are bound to arise within such groups, and when they do it is intolerant to attempt to deny those with whom one disagrees the opportunity to persuade others to adopt their interpretation of the group's values and mission. Tolerance of this kind is required by the very idea of an association founded on a commitment to "shared values." In what sense would these values be "shared" unless there were some process – like the formal and informal politics to which I have referred – through which they evolve and agreement on them is sustained?[5] But there are limits. The very meaning of the goods in question – the sacraments, the party label – requires that they be conditional on certain beliefs. So it is not intolerant for the group as a whole, after due deliberation, to deny these goods to those who clearly lack these beliefs.

Tolerance at the level of political society is a different matter. The goods at stake here, such as the right to vote, to hold office, and to participate in

[4] Here I am indebted to very helpful questions raised by Will Kymlicka. I do not know whether he would agree with my way of answering them.

[5] As Michael Walzer has written, addressing a similar question, "When people disagree about the meaning of social goods, when understandings are controversial, then justice requires that the society be faithful to the disagreements, providing institutional channels for their expression, adjudicative mechanisms, and alternative distributions." *Spheres of Justice* (New York: Basic Books, 1984), p. 313.

the public forum, do not lose their meaning if they are extended to people with whom we disagree about the kind of society we would like to have, or even to those who reject its most basic tenets. One can become a member of society, hence entitled to these goods, just by being born into it (as well as in other ways), and one is required to obey its laws and institutions as long as one remains within its territory. The argument for tolerance that I have been describing is based on this idea of society and on the idea that the relation of "fellow citizen" that it involves is one we have reason to value. The form of alienation I have mentioned occurs when the terms of this relation are violated: when we deny others, who are just as much members of our society as we are, the right to their part in defining and shaping it.[6]

As I have said, something similar can occur when we deny fellow members of a private association their rightful share in shaping it. But the relation of "fellow member" that is violated is different from the relation of "fellow citizen," and it is to be valued for different reasons. In particular, the reasons for valuing such a relation often entail limits on the range of its application. It would be absurd, for example, for Presbyterians to consider everyone born within the fifty United States a member of their church, and it would therefore not be intolerant to deny some of them the right to participate in the evolution of this institution. But the relation of "fellow citizen" is supposed to link at least everyone born into a society and remaining within its borders. So it does not entail, and is in fact incompatible with, any narrower limits.

IV. THE DIFFICULTY OF TOLERANCE

Examples of intolerance are all around us. To cite a few recent examples from the United States, there are the referenda against gay rights in Oregon and Colorado, attempts by Senator Jesse Helms and others to prevent the National Endowment for the Arts and the National Endowment for the Humanities from supporting projects of which they (Helms et al.) disapprove, recent statements by the governor of Mississippi that "America is a Christian nation," and similar statements in the speeches at the 1992 Republican National Convention by representatives of the Christian right.

But it is easy to see intolerance in one's opponents and harder to avoid it oneself. I am thinking here, for example, of my reactions to recurrent

[6] Intolerance can also be manifested when we deny others the opportunity to *become* members on racial or cultural grounds. But it would take me too far afield to discuss here the limits on just immigration and naturalization policies.

controversies in the United States over the teaching of evolution and "creation science" in public schools and to the proposal to amend the Constitution if necessary in order to allow organized prayer in public schools. I firmly believe that "creation science" is bogus and that science classes should not present scientific theory and religious doctrine as alternatives with similar and equal claim to the same kind of assent. I therefore do not think that it is intolerant per se to oppose the creationists. But I confess to feeling a certain sense of partisan zeal in such cases, a sense of superiority over the people who propose such things and a desire not to let them win a point even if it did not cost anyone very much. In the case of science teaching, there is a cost, as there is in the case of school prayer. But I am also inclined to support removing "In God We Trust" from our coinage and to favor discontinuing the practice of prayer at public events.

These changes appeal to me because they would make the official symbolism of our country more thoroughly secular, hence more in line with my own outlook, and I can also claim that they represent a more consistent adherence to the constitutional principle of "nonestablishment" of religion. Others see these two reasons as inconsistent. In their view, I am not simply removing a partisan statement from our official symbolism, but at the same time replacing it with another; I am not making our public practice neutral as between secularism and religiosity but asking for an official step that would further enthrone secularism (which is already "officially endorsed" in many other ways, they would say) as our national outlook. I have to admit that, whatever the right answer to the constitutional question might be (and it might be indeterminate), this response has more than a little truth to it when taken as an account of my motives, which are strongly partisan.

But why should they not be partisan? It might seem that here I am going too far, bending over backwards in the characteristically liberal way. After all, the argument that in asking to have this slogan removed from our money I am asking for the official endorsement of *ir*religiosity is at best indirect and not really very persuasive. Whereas the slogan itself does have that aggressively inclusive, hence potentially exclusive "we": "In God *We* Trust." (Who do you mean "we"?)

Does this mean that in a truly tolerant society there could be no public declarations of this kind, no advocacy or enforcement by the state of any particular doctrine? Not even tolerance itself? This seems absurd. Let me consider the matter in stages.

First, is it intolerant to enforce tolerance in behavior and prevent the intolerant from acting on their beliefs? Surely not. The rights of the persecuted

demand this protection, and the demand to be tolerated cannot amount to a demand to do whatever one believes one must.

Second, is it intolerant to espouse tolerance as an official doctrine? We could put it on our coins: "In Tolerance We Trust." (Not a bad slogan, I think, although it would have to be pronounced carefully.) Is it intolerant to have tolerance taught in state schools and supported in state-sponsored advertising campaigns? Surely not, and again for the same reasons. The advocacy of tolerance denies no one their rightful place in society. It grants to each person and group as much standing as they can claim while granting the same to others.

Finally, is it contrary to tolerance to deny the intolerant the opportunities that others have to state their views? This would seem to deny them a standing that others have. Yet to demand that we tolerate the intolerant in even this way seems to demand an attitude that is almost unattainable. If a group maintains that I and people like me simply have no place in our society, that we must leave or be eliminated, how can I regard this as a point of view among others that is equally entitled to be heard and considered in our informal (or even formal) politics? To demand this attitude seems to be to demand too much.

If toleration is to make sense, then, we must distinguish between one's attitude toward what is advocated by one's opponents and one's attitude toward those opponents themselves: it is not that their *point of view* is entitled to be represented but that *they* (as fellow citizens, not as holders of that point of view) are entitled to be heard. So I have fought my way to the ringing statement attributed to Voltaire,[7] that is, to a platitude. But in the context of our discussion, I believe that this is not only a platitude but also the location of a difficulty, or several difficulties.

What Voltaire's statement reminds us is that the attitude toward others that tolerance requires must be understood in terms of specific rights and protections. He mentions the right to speak, but this is only one example. The vague recognition of others as equally entitled to contribute to informal politics, as well as to the more formal kind, can be made more definite by listing specific rights to speak, to set an example through one's conduct, to have one's way of life recognized through specific forms of official support. To this we need to add the specification of kinds of support that *no* way of life can demand, such as prohibiting conduct by others simply because one disapproves of it. These specifications give the attitude of tolerance

[7] He is said to have said, "I disapprove of what you say, but I will defend to the death your right to say it."

more definite content and make it more tenable. One *can* be asked (or so I believe) to recognize that others have these specific rights no matter how strongly one takes exception to what they say. This move reduces what I earlier called the vagueness of the attitude of tolerance, but leaves us with what I called the indeterminacy of more formal rights. This residual indeterminacy involves two problems.

The first is conceptual. Although some specification of rights and limits of exemplification and advocacy is required in order to give content to the idea of tolerance and make it tenable, the idea of tolerance can never be fully identified with any particular system of such rights and limits, such as the system of rights of free speech and association, rights of privacy, and rights to free exercise (but nonestablishment) of religion that are currently accepted in the United States. Many different systems of rights are acceptable; none is ideal. Each is therefore constantly open to challenge and revision. What I will call the spirit of tolerance is part of what leads us to accept such a system and guides us in revising it. It is difficult to say more exactly what this spirit is, but I would describe it in part as a spirit of accommodation, a desire to find a system of rights that others (all those within the broad reach of the relation "fellow citizen") could also be asked to accept. It is this spirit that I suspected might be lacking in my own attitudes regarding public prayer and the imprint on our coins. I need to ask myself the question of accommodation: is strict avoidance of any reference to religion indeed the only policy I could find acceptable, or is there some other compromise between secularism and the many varieties of religious conviction that I should be willing to consider?

The second, closely related problem is political. There is little incentive to ask this question of accommodation in actual politics, and there are usually much stronger reasons, both good and bad, not to do so. Because the boundaries of tolerance are indeterminate, and accepted ways of drawing them can be portrayed as conferring legitimacy on one's opponents, the charge of intolerance is a powerful political coin.

When anyone makes a claim that I see as a threat to the standing of my group, I am likely to feel a strong desire, perhaps even an obligation, not to let it go unanswered. As I have said, I feel such a desire even in relatively trivial cases. But often, especially in nontrivial cases, one particularly effective form of response (of "counterspeech") is to challenge the limits of the system of informal politics by claiming that one cannot be asked to accept a system that permits what others have done, and therefore demanding that the system be changed, in the name of toleration itself, so that it forbids such actions.

The pattern is a familiar one. For example, in the early 1970s, universities in the United States were disrupted by protesters demanding that speeches by IQ researchers, such as Richard Herrnstein and William Schockley, be canceled. The reason given was that allowing them to speak aided the spread of their ideas and thereby promoted the adoption of educational policies harmful to minority children. Taken at face value, this seemed irrational, because the protests themselves brought the speakers a much wider audience than they otherwise could have hoped for. But the controversy generated by these protests also gained a wider hearing for the opponents. Because "freedom of speech" was being challenged, civil libertarians, some of them otherwise friendly to the protesters' cause, others not so friendly, rushed into the fray. The result, played out on many campuses, was a dramatic and emotional event, provoking media coverage and anguished or indignant editorials in many newspapers. Whether the challenge to the prevailing rules of tolerance made any theoretical sense or not, it made a great deal of sense as a political strategy.

Much the same analysis seems to me to apply to more recent controversies, such as those generated by campus "hate-speech" rules and by the Indianapolis and Minneapolis antipornography statutes. I find it difficult to believe that adopting these regulations would do much to protect the groups in question. But *proposing them*, just because it challenges accepted and valued principles of free expression, has been a very effective way to bring issues of racism and sexism before the minds of the larger community (even if it has also had its costs, by giving its opponents a weapon in the form of complaints about "political correctness").

Challenging the accepted rules of tolerance is also an effective way of mobilizing support within the affected groups. As I have already said, victims of racist or anti-Semitic attacks cannot be expected to regard these as expressing "just another point of view" that deserves to be considered in the court of public opinion. Even in more trivial cases, in which one is in no way threatened, one often fails (as I have said of myself) to distinguish between opposition to a message and the belief that allowing it to be uttered is a form of partisanship on the part of the state. It is therefore natural for the victims of hate speech to take a willingness to ban such speech as a litmus test for the respect that they are due.[8] Even if this is an unreasonable demand, as I believe it often is, the indeterminacy and political sensitivity of standards of tolerance make it politically irresistible.

[8] See, for example, Mari Matsuda, "Public Response to Racist Speech: Considering the Victim's Story," *Michigan Law Review* 87 (1989). Matsuda emphasizes that legal prohibition is sought because it represents public denunciation of the racists' position.

Because of the indeterminacy of such standards – because it is always to some degree an open question just what our system of toleration should be – it will not seem out of the question, even to many supporters of toleration, to demand that one specific form of conduct be prohibited in order to protect a victimized group. This can be so even when the proposed modification is in fact unfeasible because a workable system of toleration cannot offer this form of support to every group. On the other hand, because of this same indeterminacy, a system of toleration will not work unless it is highly valued and carefully protected against erosion. This means that any proposed modification will be politically sensitive and will elicit strong opposition, hence valuable publicity for the group in question.

Moreover, once this protection has been demanded by those speaking for the group – once it has been made a litmus test of respect – it is very difficult for individual members of the group not to support that demand.[9] The result is a form of political gridlock in which the idea of tolerance is a powerful motivating force on both sides: on one side, in the form of a desire to protect potentially excluded groups; on the other, in the form of a desire to protect a workable system of tolerance. I do not have a solution to such problems. Indeed, part of my point is that the nature of tolerance makes them unavoidable. The strategy suggested by what I have said is to try, as far as possible, to prevent measures inimical to the system of tolerance from becoming "litmus tests" of respect. Civil libertarians like me, who rush to the defense of that system, should not merely shout "You can't do that!" but should also ask the question of accommodation: "Are there other ways, not damaging to the system of tolerance, in which respect for the threatened group could be demonstrated?"[10]

V. CONCLUSION

I began by considering the paradigm case of religious toleration, a doctrine that seemed at first to have little cost or risk when viewed from the perspective of a secular liberal with secure constitutional protection against the

[9] I am thinking here particularly of the Salman Rushdie case. The Ayatollah Khomeini's demand that *The Satanic Verses* be banned was unreasonable. On the other hand, many Muslims living in Britain felt they were treated with a lack of respect by their fellow citizens. Even if they could see that the Ayatollah's demand was unreasonable, it was difficult for them not to support it once it had been issued. Here the situation was further complicated (and the appeal to "unfeasibility" clouded) by the existence of a British blasphemy law that protected Christianity but not Islam. The result was gridlock of the kind described in the text.

[10] I do not mean to suggest that this is always called for. It depends on the case, and the group. But the difficult cases will be those in which tolerance speaks in favor of protecting the group as well as against the measure they have demanded.

"establishment" of a religion. I went on to explain why toleration in general, and religious toleration in particular, is a risky policy with high stakes, even within the framework of a stable constitutional democracy. The risks involved lie not so much in the formal politics of laws and constitutions (though there may be risks there as well) but rather in the informal politics through which the nature of a society is constantly redefined. I believe in tolerance despite its risks, because it seems to me that any alternative would put me in an antagonistic and alienated relation to my fellow citizens, friends as well as foes. The attitude of tolerance is nonetheless difficult to sustain. It can be given content only through some specification of the rights of citizens as participants in formal and informal politics. But any such system of rights will be conventional and indeterminate and is bound to be under frequent attack. To sustain and interpret such a system, we need a larger attitude of tolerance and accommodation, an attitude that is itself difficult to maintain.