Anna Elisabetta Galeotti
Dept. of Humanities.
Università del Piemonte Orientale

elisabetta.galeotti@uniupo.it

Rescuing Toleration
(pre-print)

(abstract)

Toleration has been recently attacked both on practical and on theoretical grounds. On practical grounds, confronting religious terrorism, many commentators have asked whether toleration can remain the general policy toward cultural and religious diversity. Theoretically, toleration has been questioned as to its analytical capacity in the realm of partisan politics. This paper aims at countering such criticisms, by means of a conceptual clarification especially focused on the notion of intolerance, intolerable and response to intolerance. The controversial cases arising in contemporary democracy are usually focused on the limits of toleration, hence on the intolerable, by stretching the interpretation of the self-defense and of the harm principle. The author argues that the stretching is often excessive and the resulting interpretations too contentious to provide solid grounds for the intolerable. Alternatively, issues of toleration can be examined from the point of view of tolerance/intolerance. This viewpoint can clarify issues at the descriptive level, sorting out who was tolerant and who was intolerant and what was intolerable, while disagreement may persist at the normative level, according to the favored justification of toleration.

Introductory note

Toleration has recently received multiple attacks from different sources. On the one hand, toleration seems defeated in practice by the violence stemming from religious fundamentalism, violence which calls for security measures of police and intelligence, for toleration is stopped in front of the intolerant. Confronting religious terrorism, many Western commentators now wonder whether toleration can remain the general policy toward cultural and religious diversity and, more specifically, toward practices and convictions at odds with liberal and democratic values, among which most prominent are those coming from Muslim religion. This question seems to suppose that too much toleration is threatening the cohesion of Western societies, depriving them of adequate defense against the penetration of religious radicalism, .[1]

On the other hand, toleration is being questioned theoretically, as a useful analytical and normative tool in liberal-democratic politics. In a recent work, Glenn Newey affirms that toleration has been taken hostage by partisan politics and that accusations of intolerance are circular and settled only by political contingency.[2] The political decision settling the issue is moreover a

coercive decision, and not a tolerant act.₃ Hence, he doubts that toleration can still be, if ever, a useful theoretical concept, a normative ideal and an analytical category for understanding politics and social reality, and for providing insights into what to do. In a different fashion, Peter Balint's *Respecting Toleration*, despite the title, outlines an idea of toleration as "live and let live" where its specificity is lost and toleration is conflated with negative liberty.₄ Both authors, in their own different ways, share the view that normative theories of toleration are of little use to make sense and to settle political conflicts over different convictions and practices. By means of different arguments, both Newey and Balint intend toleration as synonym of accommodation of value conflicts, and hold that all the conceptual and normative discussion of *when*, *what, why* and *how far* toleration is recommended is misplaced. Toleration is a rhetorical instrument in power struggles, according to Newey, and it is any sort of behavior not violating others' liberty in Balint's view. Yet if toleration is not specifically defined and does not provide guidelines for social and political action, how can one rebut the claim that too much toleration is defeating liberal society in front of any illiberal invasion?

In this paper, I aim at rescuing toleration as an analytic and normative category and at showing that it can still provide guidelines for interpreting social reality and orienting political action. I think that a theoretical restatement of toleration will help to counter the claim for restricting toleration of cultural practices in response to terrorist violence. I shall not however be here concerned with this issue, while I shall focus specifically on the theoretical challenge. To this end, some preliminary conceptual clarifications are necessary. The concept of toleration and the conceptions which articulate the concept have elicited a lot of theoretical reflection which I am going briefly to rehearse in the first section of this paper. The specular concept of intolerance is instead left unexplored as if it were self-evident, being the opposite of toleration. But, in fact, the alternative to toleration is not just intolerance, but may be a welcoming attitude, indifference, or acquiescence. Moreover, it is unclear which acts are simply intolerant or are the responses to intolerance or the responses to a trespassing on the boundary of the tolerable. In the second section of the paper, I am thus going to trace these distinctions that are especially important to sort out circular claims of intolerance I shall argue that drawing theoretical distinctions between toleration, intolerance, responses to intolerance and intolerable will help breaking down the vicious circle and reinstating toleration as an analytical and normative category.. In the third section, I shall make use of the preceding conceptual analysis of toleration/intolerance/intolerable by examining an especially complex controversy, where the reciprocal accusations of intolerance seems to confirm Newey's skeptical view on toleration. The controversy concerns the discussion over freedom of expression vs. protection of religious sensitivity, which started in 2005 with the publication of the Danish cartoons portraying Mohammad and went on until its tragic epilogue with the deadly attack on

*Charlie Hebdo.*₅ I have picked this case for it is a good example of the confusion about *who* was intolerant and of *what*, given the circular accusations of intolerance with reference to different objects. It thus represents a good case to test whether toleration is capable to disentangle the knot, as I contend.

Conceptual Clarification: Conceptions of Toleration

A first clarification concerns the inextricably normative nature of the concept of toleration, which I am going to illustrate shortly. Some thinkers have recently criticized the moralized view of toleration as a useless theoretical exercise and proposed a purely descriptive concept as an alternative.₆ A moralized view of toleration holds that either or both the *objects* of toleration and the *reasons* for tolerating them are of moral nature so as to grant the moral quality of toleration as a virtue.₇ In this way, toleration turns out too restricted, for it does not include objects of mere dislike such as cultural differences, and carries an unpleasant tone of moral condescension toward the tolerated. Nevertheless, the alternative to a moralized concept of toleration is not necessarily a purely descriptive account. We need a normative account, which makes sense of toleration as a valuable thing, and sets it apart from forbearance of what cannot be tolerated, without relying on an unduly restricted moral view. For, toleration is an ideal and is an undisputed social and political value in democratic society, though the reasons why it is a value vary and there is no agreement about that. That toleration is a value is reflected in the fact that no one likes to be called intolerant, and that is the reason for the reciprocal accusations of intolerance in public discourse, which Newey refers to. Instead of inferring from such an ideological use that toleration is a form of ideology tout-court, I propose that clear criteria for a proper use of 'tolerant/intolerant' should be provided, whereas tolerant is *prima facie* a commendable attitude and intolerant is not. In other words, I think that the definition should include the (normative) conditions under which toleration *as valuable* is the case, keeping agnostical concerning the reasons why it is a value. Putting up with murder, for example, is not an instance of toleration. Yet, under a purely descriptive definition, there is no way to set apart toleration of the hijab, for example, and connivance with crime. Therefore, the definition of toleration should not only specify what toleration consists in, in terms of attitudes and actions, but also circumscribe the area within which toleration is a value. For outside that area, the same kind of attitude and action is no more 'tolerant' in the proper sense I want to defend here, but just 'permissive' and more precisely culpably indulgent. If we do not want to equate toleration with permissiveness or forbearance in general, then the limits for toleration to be a value are constitutive of the concept, which has a descriptive content but which is also inherently normative, though not moralized for neither the objects nor the reasons of toleration need to be of moral nature, as it will

become clear in the following analysis. I hold that the confusion surrounding the discourse over toleration will be greatly diminished with the adoption of a normative definition of the concept of toleration.

Toleration is a concept articulated in different conceptions and theories. While there is an ongoing debate about which conception is the most suitable for addressing certain issues, there is basic agreement on the concept of toleration,[8] despite the fact that it is spelled out differently by different authors.[9] Briefly, the core features of the concept of toleration are: 1) agent **a's dislike of** agent **b**'s views, codes, or convictions. 2) **a**'s **wielding of some power of interference** with the difference in question. 3) **a's withholding of such power** in favor of leaving **b** free to live by and pursue her ideals, 4) **within the limits of self-defense and of harming others**. Toleration, as a relevant social and political category, applies in a context of religious, moral and cultural pluralism where social differences do not harmoniously combine and social groups disagree about what counts in life and how one should live. There is no toleration if there is no original dislike, be it moral disapproval or non-moral objection, and if such dislike is not eventually overcome in favor of non-interference, despite the possibility of intervention. Yet, overcoming one's dislike and not acting out of it can be said 'tolerant' only within the limits fixed by the principle of self-defense and of harm to third party.

The different conceptions of toleration then organize these core features according to two criteria. The first criterion pertains to the reasons justifying toleration, which can vary from *modus vivendi* to equal liberty, and equal respect.[10] The second concerns whether toleration applies horizontally, among individuals and groups, or vertically, directed by the state or political institutions at certain groups of citizens. While the concept of toleration specifies the general features that any instantiation should have in order to be recognized as toleration, set apart from indifference, acquiescence and culpable indulgence, the conceptions of toleration specify why toleration is a value, for what reasons, and in what setting. I am now going to consider three conceptions of toleration which are especially relevant in contemporary debates and specifically for the purpose of this paper, namely: 1) the social virtue of toleration; 2) the liberal model of toleration; 3) toleration as recognition.[11]

The conception of toleration as a *social virtue* articulates the core concept in the horizontal relationship of two social parties, one of which objects to the other's conduct (or convictions, or lifestyle), but withholds the possibility of interfering, choosing to tolerate the disapproved or disliked conduct. The reasons why the tolerator decides to withhold his power of interference, then, characterize the social virtue of toleration either as negative, if based on instrumental and pragmatic reasons, or positive, if backed by moral considerations. [12]The social virtue thus bifurcates in two further conceptions according to the type of justification for toleration.

While toleration as a social virtue applies horizontally, the liberal conception of toleration is vertical and addresses the relationship between the political authority and citizens. The move from the horizontal to the vertical dimension changes the structure of the problem: it still originates in the dislikes among different social parties, but, in this case, the decision to intervene or tolerate the object of dislike resides with the political authority, which has the monopoly of coercion. Hence, a horizontal dislike between two social parties gives rise to a vertical decision for or against toleration. In this way the parties involved are at least three: the objecting party, the objected party and the political authority which will settle the question in favor or against toleration.

Within liberalism, the principle of political toleration recommending political non-interference with religious and moral convictions of people, if there is no disruption for law and order, is generalized in equal liberty rights. Accordingly, liberal toleration is embodied in the principle of liberal neutrality.[13] The ideal of neutrality addresses disagreement and dislike over religious, moral and cultural difference by granting equal liberty to all, without judging the content of the dispute, as long as the harm principle is not violated.[14] Neutral political institutions do not adopt attitudes of dislike or disapproval of any views, but provide conditions for their peaceful coexistence.[15] The state thus requires toleration of its citizens in their reciprocal relations, that is, it requires that citizens respect each other's liberty. The political duty to tolerate each other is compatible with either social tolerance or intolerance. In the latter case, intolerance manifests not in obstructing other agents' liberty literally, but in using social sanctions of various kinds, which diminish social freedom and standing.

Lastly, toleration as recognition relates both to the vertical dimension and to the horizontal dimension, and is meant to supplement liberal toleration in the circumstances of contemporary pluralism.[16] In contemporary democracy, where liberty rights are enshrined in constitutions, it would seem that significant questions of toleration were preempted. Yet they still arise, from veil wearing to places of worship, from gay marriage to religiously dietary restrictions. These contemporary issues are special because a) they explicitly concern *public* toleration and b) they imply a claim to recognition of the contested differences. The standoff is usually produced by social majorities demanding that practices perceived as being at odds with the host society's principles and customs be restricted, contained, and rendered invisible, and symmetrically, by minorities claiming public toleration of their practices and political protection against offenses, humiliation, and discrimination. There is more than equal freedom at stake: there are asymmetries of power deriving from the social standing of different groups and defining inclusion in, or exclusion from, society, with significant political implications. The principle of neutrality is not sufficiently sensitive to perceive the struggle over exclusion/inclusion underlying issues of toleration. Neutrality does not see that the public space is not difference-free, but populated by the majority's customs and

conventions, and that difference-blind politics runs the risk of reproducing existing exclusion, for not all members of society enjoy the same freedom to follow their convictions and lifestyles, and such asymmetries in freedom correspond to asymmetries in inclusion. Beyond toleration in the sense of equal liberty for minorities, here at stake there is the recognition of minority members, with their different practices and customs, as equal members of the polity worthy of the same respect as members of the majority. In this sense, it is important that the difference in question not only is not prohibited, but also receives *public* toleration, and for the *right reasons*, meaning the recognition of its legitimate presence in the public space. Liberal neutrality tends to bracket all social differences together as equally irrelevant politically, thus obscuring the asymmetries among social differences and their implications in terms of inclusion in the polity. Toleration as recognition intends to overcome this specific blindness, by making room for all social differences (within the bounds of the harm principle), while yet reaffirming the principles underlying liberal neutrality, that is non-perfectionism and impartiality. For the public recognition of a social difference implies its recognition as a legitimate option of the pluralist society. But it does not imply a substantive evaluation of that difference as good and worthwhile; liberal institutions must not abdicate from their non-judgmental, non-evaluative, impartial stance: toleration as recognition does not imply taking sides. In this respect, toleration as recognition is neither *permission* nor *acceptance*, since liberal institutions are not entitled to forbid or accept, let alone embrace, anything within the bounds of the law, but *legitimization*: a public declaration that a given practice, if it does not infringe any right, is a legitimate option among others. The literal meaning of toleration does not change from liberal toleration to toleration as recognition, but the symbolic meaning does, for the reasons in favor of toleration are not negative, but positive. The difference in question is tolerated not because it does not infringe the harm principle, but because it contributes to fully include the bearers of that difference. The legitimization of the public presence of a difference then brings along an accommodation in the social practices and a revision in social standards so as to make room for the difference in question and for its bearers.[17]

To sum up, the three conceptions of toleration supplement each other, depending on the circumstances of their application and the issue at hand. The social virtue of toleration applies horizontally among social agents, and according to the reasons backing the choice for toleration may mean either "putting up" or "accept out of respect". This conception however is inadequate as a political principle because the primary condition of dislike or disapproval cannot apply to democratic authority. Political toleration, either according to the traditional liberal model or to toleration as recognition, instead resolves a social conflict engendered by the objection of one social group toward the difference of another. The two vertical conceptions differ concerning their backing reasons and their symbolic meaning. Which is the most adequate depends on the issue at

hand: whether it has to do just with equal liberty or whether it has to do with equal respect and equal standing in the polity as well.

Intolerance and Intolerable

The clarification of what constitutes an intolerant act and what constitutes an intolerable act is crucial if toleration as analytical and normative category is to be rescued from partisan politics and media debates. Toleration is a value, both as a virtue and as a political principle, only within limits, as generally acknowledged, for 'toleration' of murder or rape is certainly not a value. Beyond its limits, toleration turns into culpable indulgence of conducts and practices that are 'intolerable'. In the doctrine of toleration, the self-defense of the political and social order, coming from Locke, and the harm principle, coming from Mill, represent the two, widely shared boundaries separating objects for toleration from what is intolerable.[18] While the two principles are uncontentious, what counts as a threat to the social and political order, as well as what counts as harm is a matter of ongoing controversy.[19] , I shall not get into this discussion which usually requires to plunge into specific contexts. I shall simply assume a bottomline definition of either principle which no one can reasonably rejects. That is to say, I take that harm is any violation of rights of others, their bodily integrity, their liberty and their property. Similarly I take that self-defense kicks in when actual threats to law and order are the case, such as terrorist attacks. The two limits of self-defense and harm to others qualify acts trespassing on them as 'intolerable'. Consequently, the response to the intolerable should be non-toleration of those very acts. The non-toleration of murder or rape, however, is not 'intolerant', for the prosecution of crime is mandated by the rule of law, and not ascribed to disapproval or disagreement between social parties. The response to the 'intolerable', to whatever has infringed the limits of toleration, is therefore not an intolerant act even though it implies the non-toleration of the 'intolerable'.

What is then intolerance? First, intolerance properly applies to the same domain of objects for which toleration is in order. Intolerance is to be detected within the scope of what can be tolerated, and it is a value to tolerate. It does not apply to what trespasses on the limits of toleration: thus one can tolerant or intolerant of vegetarianism, but she cannot be said to be tolerant or intolerant of rape. Imposing a meat-based menu in a cafeteria is an intolerant act towards vegetarians, while prosecuting rape is the proper response to the intolerable. In this way, we have in principle drawn a clear line between intolerant acts and proper responses to intolerable acts. This distinction is important descriptively, but it has also very important political implications. Since in liberal democracy, being tolerant is considered a value, while being intolerant is generally disapproved, then agents tend to present their intolerant acts as responses to the intolerable, for in

that case they would be justified and not at all intolerant. Yet, such justification is valid only if the object in question oversteps the limits of toleration, hence it is justifiably defined as intolerable. That is why the accusations of intolerance are circular, for each party contests the opponent to have overstepped the limits of toleration, and that is why the interpretation of self-defense and of the harm principle have become so inflated that little room is left to toleration. That is also the reason why I stick to a bottomline definition of harm and threats to social and political order so as to avoid conflating intolerant acts with responses to the intolerable.

Going back to the definition of intolerance, what constitutes an intolerant act within the boundaries of the tolerable? The answer is not obvious for lack of toleration may depend on indifference or acquiescence, and requires going back to the concept of toleration. The core concept of toleration comprises both an *original objection* by a social agent with some power of interference and the *suspension of that objection*.[20]

If there is no original objection, there is no case for either toleration or intolerance. Intolerance follows from the original objection. More precisely, intolerance is the case when social party A, endowed with some power of interference, objects to some difference x of party B and, instead of suspending the objection in favor of toleration, *chooses to act on that very objection,* even if x does not infringe the limits of toleration.[21] Attitudes and behavior that are intolerant, implying the non-suspension of the original objection, can thus be set apart from attitudes and behavior that are responses to intolerance, that is, acts of resistance to interference with one's convictions and lifestyles by another party. If the KKK, out of its dislike of non-white people, organizes a racist demonstration, displaying all the symbols of white supremacy and exercising its power of intimidation, this is a display of intolerance, of a dislike openly exhibited with the purpose of intimidating. If African-Americans protest against such a demonstration, which targets them as a racial group, their claim to stop such racist displays is not intolerant, but, more properly, is the response to intolerance. Similarly, those who object to the construction of mosques, and pour pig's blood on the building site, are intolerant, whereas Muslims protesting against such behavior are resisting the intolerance directed at them. The line between intolerance and response to intolerance is thus based: a) on the decision to act on the original objection instead of withholding it, on the one hand, and on the response to the interference with one's convictions and customs on the other; b) on the content of the objection, whether it concerns the convictions, way of life, and customs *of the other party*, or whether it concerns the rebuttal of the attack on *one's own* convictions, customs, and way of life. Resistance to the attack and defense of one's convictions and lifestyle cannot be equated with intolerance of those who dislike those convictions and lifestyle. For example, the aggressive display of homophobic attitudes is intolerant of the sexual orientation of gays and lesbians; in contrast, the gay pride parade is an affirmation of the legitimacy of homosexual orientation, and not

an attack on the heterosexual lifestyle. .Those who protest against the gay pride in fact claim that the gay display in the parade harms their convictions and pollutes the moral fabric of society, hence it is *intolerable*, Yet if we allow such a stretching of the limits of toleration, the room for personal liberty of minority groups would be unduly reduced and equal liberty of all would be undermined. For, heterosexuals would be free not only to follow their sexual orientation, but also to limit the correlative freedom, and hence the public consideration of homosexuals. Thus there are good reasons to stick to the bottomline definition of the limits of toleration provided above. Summarizing, there seem to be two conditions for intolerance: a) the original and non-suspended objection; b) the other-regarding nature of the objection. By contrast, the response to intolerance is characterized by a) being the counter-objection to a previous objection targeting the respondents, b) being self-regarding.

In sum, when we are confronting acts harming other people or threatening the security of the political order, we are confronting the 'intolerable' and toleration and intolerance are likewise beside the point. If we consider instead practices, conducts, convictions, which are not violating any right, but are the object of moral and social disagreement, this is the area where indifference, acquiescence, toleration, intolerance and, lastly, response to intolerance are all possible attitudes and types of conduct. Displays of social intolerance are often translated into political claims for the prohibition of the contested practice or conduct, as well as responses to intolerance usually lead to claims for the public toleration of the practice. A horizontal issue is thus translated into a vertical issue of toleration requiring political settlement, and usually the public controversy revolves on whether the conduct or practice that is the object of dislike or disapproval can be defined as intolerable or not. The almost exclusive focus on the intolerable, on the one hand, has induced an excessive stretching of the notion of harm and self-defense, while, on the other, it has prevented from seeing certain claims as intolerant. My proposal is to reverse the attention from the intolerable back to the intolerant.

Freedom of Expression and Harm of Misrecognition

Among the controversial cases around toleration, a very thorny one concerns whether free speech should be limited when it causes harm of misrecognition.[22] I am referring to the controversy which followed the publication of the vignettes on Mohammad by the Danish magazine in 2005, and which escalated up to the 2015 deadly attack on *Charlie Hebdo*. I pick this debate since its special complexity makes it a good test for the conceptual distinctions drawn above, given the prevailing confusion and reciprocal accusations. In most of other well-known and amply discussed cases of toleration, such as dress code for Muslim women and mosque building, stricter limits to toleration

are demanded by sectors of the majority in order to exclude practices of the Muslim minority from public toleration. In this long standing affair, instead, the situation seems prima facie reversed, for the limits to toleration of free speech are claimed by Muslim representatives, on the ground of the blasphemous offensiveness of the vignettes and of the harm done by misrecognition; but let us examine the controversy more closely.

The publisher, the journalists, and many people after them claimed that the publication was an instance of free expression against bigotry and fanaticism.[23] Seen in this light, the subsequent protests of Muslim groups and the demand to censor the blasphemous publication was read as an instance of Muslim intolerance. The Muslims' disapproval of the vignettes was not withheld in favor of toleration, but acted upon for invoking the ban on the publication. In this reading, the champions of toleration were the journalists and publishers who personally risked the Islamic violent reaction for the sake of freedom of expression—that is for the very embodiment of toleration. The unrest characterizing the protest in Muslim countries against the cartoons, the harsh protests taking place in Europe as well, and lastly, the deadly attack on *Charlie Hebdo*, followed by other terrorist outbursts, have seemingly vindicated this reading, and proved the Muslim intolerance and its threat to liberal values and political security.

The specular reading of the affair, supported by Muslim spokespeople, but also by liberal sectors of the majority, understood instead the publication of the cartoon as a trespassing on the harm principle and, more specifically, on the principle of non-discrimination, toward a minority on the basis of their religious convictions.[24] Intolerable, in this reading, was the disrespect and the implicit discrimination implied by the content of the cartoons. Along this line of reasoning, toleration would have recommended not to publish the vignettes. This interpretation comprises two different claims: a) the cartoons impaired the Muslims' right to religious liberty for the latter implies not only freedom from legal impediments in practicing one's faith, but also freedom from social harassment and demeaning of what religious believers hold sacred. b) The satire was meant not only to criticize the expression of the Muslim faith, but also to target Muslim groups who already suffer discrimination and marginalization in Western countries. Under this interpretation, the publication of the cartoons was thus intolerable and in two ways: it was literally a restriction of Muslim religious liberty, and symbolically undermined their social standing and inclusion in Western democracy. As we can see, the two opposed readings of the affair seem to vindicate the claim that toleration is inextricably involved in circular accusations and has become useless as an analytical category. Before subscribing to this conclusion, let me reframe the controversy anew with the help of the above conceptual distinctions.

I shall start considering the issue from the viewpoint of vertical conceptions of toleration. According to the liberal model, that is the political principle embodied in constitutional rights, equal

liberty is granted to every citizen and member of society, and that mandates freedom of expression for all. Henceforth, toleration of dissenting opinions is no longer a discretionary act of a gracious sovereign who withholds his or her power of suppression, as it was under the absolute monarchies of the seventeenth and eighteenth centuries, but that it has become embodied in liberty rights. Freedom of expression implies that political authority ought not to interfere with free speech as a rule, and ought to refrain from censoring the expression of dissenting opinions in society. Hence, generally speaking, everyone is free to express their opinions and views: in the light of the liberal model, the publishers were thus entitled to publish the vignettes, and the Muslims to protest against them, as long as the protest was not violent.

Does toleration as recognition recommend something different? As said, toleration as recognition aims at the equal standing and equal respect for members of minorities compared to members of majorities. In this respect, the claim that the publication of vignettes undermines the equal standing of Muslim people in European society, by demeaning and ridiculing their religion and culture, is one that supporters of toleration as recognition cannot dismiss beforehand. And if there are grounds to consider the publication intolerable, then there may be grounds to state intervention, by a legal ban of the publication. This conclusion cannot however be easily drawn by supporters of toleration as recognition, and for various reasons. Firstly, the harm done by misrecognition is diffuse and cannot be established in a precise way, as in case of libel. Secondly, the harm of misrecognition should be balanced with the harm of censorship. Thirdly, a legal ban on the vignettes might have induced a backlash on all Muslims, instead of contributing to their inclusion. All in all, the option of banning the publication for the sake of the overall toleration of Muslim religion and culture meets serious obstacles in its way, so as to make the legal ban ill advised. Yet, the decision against the ban does not imply that the harm of misrecognition cannot be addressed in a different way. If the point of toleration as recognition is the legitimization of the public presence of a cultural and religious difference, then, even though censorship is excluded, different political actions affirming the symbolic meaning of equal respect for the Muslim population are usually available.[25]

In the circumstances of the 2005 Danish publication of the cartoons, I think that such a political action was precisely to accept the request of the ambassadors of several Muslim countries who had asked to discuss the negative depiction of the Muslim religion with the Danish government. Receiving them and attending to their grievances would not have compromised freedom of expression, but, rather, given Muslims due consideration and would have meant to take them seriously. By contrast, the Danish Prime Minister bluntly dismissed the ambassadors' request, commenting to the press: "This is a matter of principle. I won't meet with them because it is so crystal clear what principles Danish democracy is built upon that there is no reason to do so".[26] In so

doing, the Prime Minister did not acknowledge that there was any point in the claim that the cartoons represented an act of misrecognition for Muslim faith and culture, and showed that he did not take their offense seriously. This kind of attitude was unfortunately present in the whole debate and exacerbated the feelings of being misrecognized by Muslim groups.

In sum, considering both vertical conceptions of toleration there was no case for restricting freedom of expression though for different reasons. There were principled reasons in favor of the publication in light of the liberal conception, while, according to toleration as recognition, a balance of reasons, partly pragmatic, partly principled, suggested the ban as ill advised.[27] Nevertheless, there was room for a more respectful approach to the Muslim request by the political authorities, an approach that could have contributed to the recognition of the public presence of Muslims, while deflating the whole issue at the same time. With few exceptions,[28] most participants in the debate in fact did not question the legal right to publish. Yet the right to publish does not imply the duty to publish, and, in this respect, the question moved to whether the publication was wise, either for prudential or for principled reasons. In other words, the question was whether self-restraint of the press would have been right, wrong or simple expediency.

If political toleration was not the issue, the controversy must be relocated around social toleration, for, in this case, the contention concerned intergroup relationships rather than the political authority and the focus was on the social fabric and civil coexistence in pluralist democracy. What would horizontal toleration have recommended to either side: publication or not, protest or not? And what was 'intolerable' in this case, any limit put to freedom of expression or the harm done by misrecognition? Contrary to the prevalent discussion focused on the second question, I shall instead address the first. Instead of debating on where to draw the line of the intolerable, I shall approach the issue from the point of view of who was 'intolerant' socially speaking: the publishers of the offensive vignettes or the protesters against the publication?

We have seen that social toleration is the case if: i) party **A** objects to some conduct or practice of party **B**; ii) party **A** has the power to intervene in the disliked or disapproved conduct or practice of party **B**; iii) nevertheless refrains to use such power and let **B** free to act and live as he or she pleases. These three conditions hold, and toleration is the case, only if the object to tolerate falls within the scope of the tolerable; the death threats and the subsequent terrorist attacks are clearly intolerable, hence excluded from the scope of this analysis. Intolerance is the case if party **A**, i) objecting to party **B**, and ii) having some power of intervention, iii) chooses to act on his or her original objection. Before applying this model to the cartoons controversy, a preliminary consideration on power is in order. Condition sub ii) is meant to set apart toleration from acquiescence: if **A** has no power over **B**, **A**'s non-interference follows from a state of necessity. True, the lack of power does not prevent the possibility of having the disposition of being tolerant,

and in that case, the non-interference may be not only a necessity, but also a choice internally subscribed.[29] The question is however how the power to interfere is defined, given that social agents are not in the position of legally and literally obstructing others' liberty, a position that characterizes only political authority. Social agents may have rather the power to put a burden on others' liberty, to make it more costly, and to stigmatize certain kinds of behavior or practices with social sanctions. For social toleration to make sense at all, the notion of interference should be interpreted in such a way as to include social sanctions and extra burdens on the conduct or practice that is the target of the objection.

Back to the case. From the publishers' standpoint, the publication of the cartoons was not only permitted by their constitutional right to free expression, but was also morally and politically recommended as a response to a widespread culpable timidity toward Islam and its violent threats, since the time of the fatwa on Rushdie's *Satanic Verses.* Hence, the publication of the cartoons was not only within the scope of the tolerable, but actually a morally due reaction toward the intolerable, namely the violence and the bigotry of Islam, and the culpable tendency of Western indulgence toward such characteristics. Under this reading, the alleged harm of misrecognition, that is the harm done by the satire to the religious sensibilities of Muslims was simply dismissed on the basis that, in a liberal society, no religion and no view can claim immunity from critical scrutiny or from irony, ridicule, and mockery.[30] Muslim groups protesting and demanding an apology were viewed as claiming preferential treatment over other religions and views,[31] and the support Muslims got from liberal sectors of the majority was just an instance of the process of victimization of Islam sustained by the cage of political correctness. In other words, the publication was an instance of non-toleration of the intolerable.

This interpretation, however, is questionable. In general, it is not true that no limit to free speech is tolerable, and no harm of misrecognition can ever override free speech. More specifically, in this case, the point was not political censorship, but rather self-restraint in social context, which is often dictated by the virtue of civility in social relationships.[32] Moreover, this interpretation implies the reference to a highly problematic notion of intolerable. Can the claim not to be offended in one's religious convictions, understood as a claim to immunity from rational scrutiny, be defined "intolerable"? Recall that 'intolerable' are objects which fall outside the boundary of toleration, for they infringe on either the self-defense or the harm principle. Even granted that such principles allow contested interpretations, still it is hard to see how the claim to immunity from rational scrutiny harms third party or puts the political order at risk. Such a claim may be the object of strong disapproval, but that qualifies it precisely as an object of toleration/intolerance. The only way in which the claim to immunity from rational scrutiny can be included into the "intolerable" is if it is taken as a symptom of the general intolerance of Islam as a

whole. But, even conceding such interpretation, it does not follow either that only the symptom should justifiably not to be tolerated or that Islamic doctrine is "intolerable" because it is deemed intolerant as a whole. For, . For, on the one hand, Islam is not a monolithic doctrine, but comprises many interpretations and persuasions, some more reasonable than others, as most religious doctrines which were precisely the original object of toleration. On the other hand, even dogmatic and illiberal doctrines are hardly "intolerable" as such: as a rule, it is the actions following from certain doctrines that are prosecuted and the organizations aiming at such actions that are banned. In general, even if the Muslim religion were declared "intolerant" as such (and I argue that this is wrong), it would not follow *ipso facto* that it were considered "intolerable" In sum, the moral recommendation to publish could easily be trumped by the reasons in favor of tolerant self-restraint.

According to the definition of toleration/intolerance, we can actually reverse the publishers' interpretation, for: 1) they objected to aspects of the Muslim religion, 2) had the power to ridicule those aspects publicly and to issue a social sanction against them, and 3) had the choice of either a) refraining from using that power, hence embracing tolerance, or b) acting on their objection, hence rejecting toleration. Publishing the cartoons constituted the action consequent to the original objection; hence, it was a choice against toleration by agencies endowed with social power in the media system targeting a religious minority in European society. This reading has not been a prevailing line of argument in the controversy, yet it can provide a stronger criticism of the publication of the vignettes than the harm of misrecognition and, especially, it seems to me a helpful approach to clarify the confusion of crisscrossed accusations. The first condition for the interpretation of the vignettes as socially intolerant to stand is that the not-withheld objection of the publishers and journalists refers to an object belonging to the area of the 'tolerable' and this condition is satisfied, as we have seen, for the objection concerned aspects of the Muslim doctrine. The second condition concerns the power of interference, which, as said above, must be understood as a social power to stigmatize certain behavior. The publishers are indeed endowed with the ample social power of media in our society, which in this case is the power to ridicule those aspects publicly, and hence to issue a social sanction against Muslims. Given the original and other-regarding objection and the power to interfere, the publishers and journalists' decision to publish was precisely acting on the basis of their objection, conforming to the intolerance option. What about the Muslims' protests then? They also acted on their objection to the publication; are they therefore socially intolerant as well, thus taking toleration back in a vicious circle? The conceptual distinctions drawn above come in handy once again, for Muslims' protests satisfy the two conditions for being classified as *response to intolerance*, being a) the counter-objection to an original objection targeting Muslims' religion, and b) being self-regarding, in so far the protest was directed to defend the protesters' religion.

To sum up: from the standpoint of vertical toleration, no interference with the publication of the vignettes was licensed according both to the liberal model and to toleration as recognition. The latter would have rather suggested some public stand to counter the sense of disrespect and misrecognition of Muslims within their hosting country. As much as the cartoons were permitted, peaceful public protests against the vignettes also fell within the scope of vertical toleration, for public protests are just different instantiations of freedom of expression. From the standpoint of horizontal toleration in the social exchanges, moving the focus of the analysis from the intolerable and the limits of toleration to the intolerance of given acts and conducts has permitted to describe the choice of publishing the vignettes as intolerant and the following Muslims' protests as responses to intolerance.

Does that imply that the publication was wrong and that the protests right? I think that publication was not good and that the protests, as long as peaceful, were justified. Yet, I like to remind that social toleration is a value among competing others and not a duty of justice. The strength of social toleration compared to other values depends on its justification: if it is justified out of respect for other people is stronger than is justified on pragmatical grounds. In this latter case, if the reason for the objection is moral, then pragmatical reasons for toleration may not win over the disapproval. The publishers in fact saw self-restraint as proceeding from a compromising attitude for peace, while their objection was phrased in terms of deontological duty; plausibly, a duty could not be trumped by prudential considerations. Yet, publishing the vignettes was an *intolerant act*, which according to the different understandings of why toleration is required, may be seen as justified or not. If toleration is accounted in terms of respect for others, as I hold, then the publication of the vignettes constitutes an instance of unjustified intolerance. On the other side, the protests against the publication, as long as they were peaceful, were not intolerant, but responses to the intolerant ridiculing of Muslim convictions. Even in this case, the protests may be judged unwise, but the conditions for defining them as responses to intolerance are all in place. In other words, since the judgment on whether intolerance is justified or not, hence, acceptable or bad, depends on the reasons in favor of toleration which my previous conceptual analysis has left open, then there might still be disagreement about whether the decision to publish the vignettes and to protest against them was good or bad, wise or unwise. What is clear though is what toleration would prescribe, while the circular accusations of intolerance can be brushed away.

Conclusions

Toleration has been recently attacked on different grounds: at the political level, toleration policies have been criticized for leaving liberal democracy defenseless against Islamic invasion and Jihadist

terrorism; at the theoretical level, toleration has been questioned as to its analytical capacity in the realm of partisan politics. I have here responded only to the theoretical criticisms as the necessary preliminary to counter the political ones. I have thus provided a conceptual clarification, starting with a discussion of the inextricably normative nature of the concept of toleration, and then proceeding to the three main conceptions of toleration, finally focusing on the concepts of intolerance, intolerable and responses to intolerance. I have then taken up the skeptical criticism to the analytic capacity of toleration, by examining an especially complex case, namely the one started with the publication of the Danish cartoons and ended with the terrorist attack on *Charlie Hebdo*. In this respect, I have argued that what vertical toleration, on the one hand, and what horizontal toleration, on the other, would recommend is clear, notwithstanding a persistent reasonable disagreement on what it was good or bad, wise or unwise. Toleration is thus rescued from the skeptical position, while the disagreement concerns rather the justification of social toleration, which may lead either to prioritize ethical integrity over pragmatic reasons for toleration, or to view toleration as part of one's moral outlook on the grounds of the higher principle of respect.

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[1]   See for example, M. Houellebeqc (2015).

[2]   G.Newey (2013)

[3]   "The state is nothing if not coercive, and its prime role in the circumstances of toleration is to impose a solution when the protagonists reach a deadlock. This is not the same as acting tolerantly. (Newey 2013, 15)

[4]   P.Balint (2017). See also Abridged for anonymity.

[5] For a philosophical presentation of the Danish cartoon controversy, see S.Lægaard (2007). On Charlie Hebdo the first reflections can be found in E.M.Iacobucci, S.J. Toope (2015).

[6]   I am specifically referring to Balint's account (2017). Another scholar who insists on the distinction between descriptive and normative toleration is Sune Laegaard (2013, 2015). Yet, he does not hold that the normative doctrine of toleration is not useful, but, rather that normative conceptions of toleration do not properly allow to single out if a particular act of toleration proceeds from the respect-conception of toleration or the permission-conception.

[7]   Abridged for anonymity.

[8]   Among the most recent literature on toleration, see for example: M.Williams-J.Waldron (2008); R.Forst (2013); abridged for anonymity (2014); abridged for anonymity *(*2015). The general agreement has been recently questioned by Peter Balint (2017) on the basis of his purely descriptive and behavioral conception of toleration. I have argued that such a view loses toleration's specificity equating it with negative liberty.

[9]   Among the definitions of the concept of toleration, well-known are P.King (1976), A.Cohen (2004) and R.Forst (2013).

[10] John Horton is a well-known defender of the modus vivendi justification for toleration, see *infra…*

11   A proper presentation of the three conceptions is in abridged for anonymity (2015).

12   Within the discussion on toleration, negative tolerance as forebearence and non-interference has been opposed to positive or affirmative tolerance as acceptance (See for example K.O.Apel 1997 and D.Zolo 1997). I have instead argued that toleration is always non-interference, but that the varying reasons for non-interference confer a negative or positive meaning to the act respectively. (Galeotti 2015).

13   Some contend that neutrality is not toleration, because the condition of dislike is precisely absent in the neutral attitude of the liberal state. They do not consider that neutrality of the state is the response to the conflict among social differences and to the dislike of one group toward another. Neutrality is rather the reason backing political toleration in the form of equal liberty rights. Political toleration implies precisely that a social dislike is faced by a political decision to withhold the dislike, within the boundary of the harm principle, because of the principle of neutrality. See abridged for anonymity (2002). For a wider discussion of the implications of liberal neutrality to toleration see Michael Kühler, *infra*

14   A discussion on the harm principle as the limit of toleration can be found in Andrew Cohen (2014) and *infra*

15   I shall not be concerned here with the issue whether or not attitudes and beliefs can apply to institutions (Laegaard 2015), given that here the argument is properly normative and that positive and negative attitude can easily be translated into preference and disadvantages.

16   I like to stress that toleration as recognition is an extension of liberal toleration, within the same normative framework of liberalism. In that respect, it may sound misleading to talk of the conception of liberal toleration. I use such label for that is the standard view in the liberal tradition, while toleration as recognition is not. I would add that the standard view, focused on the principle of neutrality, is not uncontroversially acknowledged as a conception of toleration, which is instead my position, see also note 12 on the issue of neutrality.

17   For example, the legitimization of the public presence of gays and lesbians had the consequence of revising the traditional notion of marriage and opened the way to the legal recognition of same-sex marriage. See Galeotti 2008.

18   The self-defense principle can be found in John Locke[1685] (1991) while the Harm principle is introduced by John Stuart Mill [1859] (1972). A detailed discussion of the harm principle is in Forst (2013: 369-71) and A.J. Cohen (2014: 36-54)

19   Actually, the central cases of harm (such as right violation and damages to property) and of attack to the political order (such as terrorism) are undisputed; the controversy concerns exstensive interpretations of harm and attack to law and order.

20   The power condition is important to characterize toleration, otherwise we have acquiescence, as originally stressed by the seminal work of P.King (1976). In turn, power of interference does not necessarily imply a) coercive power which is monopolized by the State. If only coercive power could count as condition for toleration, the social virtue of tolerance would be preempted. Thus the power of interference should also refer to the social power of marginalization, stigmatization, and exclusion. b) Neither implies that toleration cannot be reciprocal, as stressed by R.Forst (2003) and P. Jones(2007).

21   My definition of intolerance is derived from the concept of toleration and it is specular to it. Peter Königs (*Infra)* instead derived toleration from intolerance. In his view, intolerance consists in especially cruel ways of interfering with others' behavior. It then follows that "toleration is morally obligatory, that is, simply because there is something evidently inhumane about the means of interference that are characteristic of intolerance" (*infra...*). In line with the prevalent discussion, I prefer to consider toleration the primitive concept, and also to keep its character as a virtue rather than as a duty. Finally, intolerance is wrong because unjustified interference infringes on liberty and is disrespectful of other persons, whether or not it makes use of cruel means.

22   S.Thompson, M. Yar (2011).

23   F. Rose (2006)

24   T. Modood (2006).

25   This position is endorsed also by S.Laegaard (2015).

26   Quoted by C. Rostbøll (2009) Rostbøll argues that both Rose, the editor of the magazine, and the Prime Minister displayed arrogance precisely in the arguments sustaining the publication. "The arrogance lies not so much in the decision to publish the cartoons as in the rejection of even discussing whether it was a good idea to do so" (p.631).

27   It is not the case, however that free speech is never to be regulated for justified good reasons. For an overview of legal restrictions on free speech, see M.Rosenfeld, "Hate Speech in Constitutional Jurisprudence: A Comparative Analysis" *Cardoso Law Review*, 24, 2003, pp.523-567.

28   E.Bleich (2012).

29   R.Forst (2013).

30   R.Hansen (2006); B. O'Leary (2006).

31   The argument on the alleged request for preferential treatment of Islam compared to other religions has opened a special discussion on the consideration of religion and of religious offenses. The standard liberal view is that no religion can claim to be protected against critical inspection and even blasphemy. On the Muslim side, Saba Mahmood (2009) contends that the offenses brought to Muslims by the cartoons were misinterpreted and not rightly perceived by secular liberals who equate Islam to Protestantism. Her point is thus that Muslims were claiming a consideration adequate to their feelings and perceptions. Interesting responses to this argument pointed out the need to contextualize 'religious pain' (J.Jakobsen 2015) and the need to differentiate between offenses to a religion and offenses to religious persons(A.F.March 2012).

32   S.Laegaard (2011).

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