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New Haven, CT

Dear Colleagues:

I attach some text to serve as a basis for our discussion of toleration. The m-s is both preliminary and incomplete, but I believe that there is more than enough here to sustain a useful conversation.

I very much look forward to having it.

DSM

Toleration as Respect

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1

Introduction

This book articulates a political theory of toleration. The theory develops a single idea: that the state ought not just to *indulge* dissent or deviance but rather to *respect* it. The book casts this respect conception of toleration (and not, say, justice) as the first virtue of political institutions.

The respect requirement makes toleration exceedingly difficult—not just to practice but also to defend. Conventional theories confidently imagine that toleration is secure in its core, so that the difficult and uncertain questions all arise at the extremes of moral disagreement and concern toleration's outer limits. These theories therefore emphasize the question just how destructive and immoral deviance must be before it becomes intolerable. The connection between toleration and respect destabilizes this assumption. Respect involves a display of deference to moral heterodoxy that orthodox moral opinion will condemn not just in cases that concern radical dissenters, but in every instance, concerning even the most modest moral disagreements. The difficulty of toleration thus reasserts itself in every instance, including in the cases conventionally thought central to toleration, and thus easy.

The core challenge for the theory of toleration is thus not to develop an argument demonstrating that every sectarian creed should tolerate every other; rather, it is to develop an argument

demonstrating that any sectarian creed might tolerate (in the respect sense) any other. Relatedly, respectful toleration is as uncomfortable for those whose sectarian moral ideals favor political arrangements commonly called “liberal” or “cosmopolitan” as for those whose morals tend towards “conservatism” or “communitarianism.” In order to make the case for respectful toleration, one must first come fully to appreciate these difficulties. The argument will therefore have to take several steps back before it can move forward.

Subsequent chapters elaborate the distinction between respect and mere indulgence and explain the difficulty of respect in theoretical detail. But it will help to begin by illustrating these matters more intuitively and concretely, through some simple and familiar examples. The examples will help to fix ideas and to create a vivid and immediate frame onto which to hang the more abstract arguments that follow.

Those who control a state, if they are decent, often choose on sectarian grounds to permit moral heterodoxy that they might if they wished repress. They regard heterodox opinion as mistaken and heterodox practice as deviant, to be sure. And they therefore regard toleration as costly. But they recognize that repression has its own greater costs, even from the perspective of orthodox morality. A measure of toleration thus arises insofar as indulging heterodox belief and practice best promotes orthodox values.

Historical and contemporary instances of such indulgent toleration abound. A religious authority might permit sectarian diversity and even robust debate insofar as doing so improves the faith of the devout, for example, and it might even countenance intransigent dissenters insofar as this is required to make faith genuine and expansive rather than coerced and cramped. The Muslim rulers of the Ottoman Empire thus tolerated Christian and Jewish religious practice at least partly on indulgent terms. Rooting out Christianity and Judaism, or even just driving non-

Muslims underground, might have been possible for the Ottomans. But to do so, they would have had to divert resources away from other enterprises and, moreover, trample their own Islamic values, which condemned cruelty and valued the authentic confessional community. For the Ottomans, the costs of repressing religious heterodoxy therefore exceeded the costs of tolerating it. A secular authority might similarly permit religious faith and practice insofar as doing so promotes individual self-determination and freedom of conscience. The secular rulers of France today thus practice indulgent toleration towards religion generally. Although they might successfully suppress religious practice (at least partially), the repression required to achieve this end would again distract from their other projects and offend against their own (now secular humanist) values, including their commitments to limited government and individual liberty. Once again, a moral orthodoxy's own sectarian agenda is better served by tolerating heterodoxy than by repressing it.

Moral orthodoxies do not all lend themselves equally to indulgent toleration, to be sure; and some may leave virtually no opening for indulgent toleration. Indulgent toleration must answer to the moral orthodoxy that it serves, and the scope of indulgent toleration thus depends on the content of that orthodoxy: specifically, on whether or not orthodox opinion affirms values that make intolerance and repression costly; whether or not an orthodoxy is decent, to return to my earlier characterization. Indecent orthodoxies, for which repression poses few sectarian moral costs, are also familiar. Religious fanatics, for example the Taliban, might sufficiently privilege spiritual purity over earthly interests so that the costs of every repression virtually never exceed the costs of indulging any religious deviance. And secular fanatics, for example Robespierre and the radical Jacobins, might sufficiently privilege unified political community over every private interest so that they similarly refuse to indulge any individual self-assertion.

Experience teaches that fanaticism and the failures of even indulgent toleration that fanaticism produces are difficult to prevent. But they are not difficult to condemn. Decent sectarian moral ideals all affirm some measure of individual license and all recognize the moral costs of ordinary harms. Adherents of such decent ideals can thus turn to their own values not just to sustain indulgent toleration in themselves but also to reject the fanaticisms of those who refuse even to indulge deviance.

Even the most decent moral orthodoxy's indulgence runs out before toleration does, however, giving moral heterodoxy less quarter than tolerant intuitions recommend. The examples used to illustrate the possibility of indulgent toleration reveal its limits also.

To begin with, Ottoman acceptance of Christians and Jews arose, as the indulgent model predicts, partly out of the relative convergence of these religions with Islamic theology, which gives Christian and Jewish prophets places in its own constellation. And indulgence of religious heterodoxy ran out where religions departed too far from Islamic theological doctrine, so that polytheists received nothing like the protection and recognition enjoyed by Christians and Jews. Furthermore, the Ottomans tolerated even preferred heterodoxies exclusively on Islamic terms: the highest state offices remained open exclusively to Muslims; and although Christians and Jews might apply their own norms and laws to purely internal disputes among their own believers, disputes involving Muslims were always governed by Islamic law. Confident and stable intuitions hold that Ottoman pluralism fell short of true toleration in these respects.

The shortfall, moreover, is not attributable simply to peculiar limitations of Ottoman cosmopolitanism. Rather, every sectarian indulgence of heterodoxy will fall short of true toleration, for structural reasons. Subsequent chapters will argue out the point; but another of the examples introduced here gives it an

intuitive illustration. Just as the Ottomans required heterodox religions to engage their state on exclusively Islamic terms, so the French today require the heterodox to engage their state on exclusively secular terms. The principle of *laïcité* famously entails that only secular and not religious weddings may receive official recognition; and it forbids certain prominent displays of religious affiliation (including in particular the wearing of certain forms of religious dress) in public spaces (including in particular in schools). Like the Ottomans did with respect to non-Islamic religion, the present day secular French state accepts religion *tout court* only insofar as this serves its own secular values. And its indulgence of heterodoxy thus similarly runs out before tolerant intuitions do, in ways that bear a close structural resemblance to the shortfall of Ottoman toleration.¹

¹ French secularism is not alone in facing these difficulties. Although the United States has not adopted *laïcité* as a general matter, the application of American principles concerning the separation of church and state to public education produces similar arrangements and thus poses similar problems. The American practice of teaching evolution in public schools, coupled with a prohibition on teaching religious creation narratives, amounts to a state mandate that all public school children must learn a secular theory concerning matters that concern religions also. It is plausible to suppose that the purpose of the requirement is the benevolent one of promoting rational and critical thinking and accurate beliefs about the origins of our species—capacities and beliefs that the state reasonably believes support the flourishing and self-respect of those who possess them. Equally plausibly, the foreseen and indeed intended consequence of this program of education is to undermine—which is to say to weaken or suppress—religious ideals and forms of life that promote meek and uncritical, and hence harmful, faith in a god who made man in his image. American practices concerning teaching evolution thus pose a problem for toleration.

The problem is in principle as great as would be posed by a state that required all public school children to learn a suitably ecumenical religious creation narrative. The benevolent aim of supporting school children's grace and salvation by promoting faith and humility before the divine (and preventing prideful and conceited confidence in human freedom and reason) could not insulate a policy of religious indoctrination on questions to which science also speaks from charges of intolerance against secular humanism. And secular humanists must answer the same charges when the shoe is on the other foot.

These and other regimes of indulging heterodoxy all fall short of true toleration in the same way. Merely indulgent toleration confronts an unsettling sense that (regardless of the particular values that underwrite the indulgence) its ultimate allegiance remains exclusively to orthodox opinion, so that it fails adequately to respect the heterodox. A religious state's indulgent toleration, no matter how humane the dominant religious ideal, constitutes an imposition on subordinate religions, which cannot accept its foundations or aims; and a secular state's indulgence, no matter how generous to the religious conscience, similarly subordinates religions to secular commitments that they cannot share.

True toleration, by contrast, requires that the license the state gives to dissent should not serve at the pleasure of orthodox opinion but should instead respect dissenters by answering directly to their ideals. This ambition makes true toleration the centrepiece of the form of political life in which the ground rules that establish the state, especially when they implicate the state's use of force, must be justified to citizens, from the citizens' several own points of view, across sectarian difference. Every such citizen (whatever her sectarian creed) stands in the same respectful relationship to a truly tolerant regime as every other. Respectful toleration aspires in this way to articulate a shared, public ideal that citizens, in spite of their sectarian differences, might affirm together.

This respect conception of toleration illuminates the intuitive discomfort generated by merely indulgent toleration and, in the same breath, announces a powerful affirmative ideal for regulating collective life in the face of intractable sectarian difference. For this reason, respectful toleration has had an influential career in political philosophy and has exercised considerable influence on the political imagination even outside philosophy. But respectful toleration also raises troubling questions of its own, which emphasize the darker side of respect

for deviance. The contrast between respect and mere indulgence, moreover, vividly displays not just the shortfalls of indulgent toleration but also the difficulties that confront respect.

Indulgent toleration is not a complex ideal, and its normative foundations are easy to understand. Every program of indulgent toleration is motivated by a dominant orthodoxy's own moral commitments: deviance is indulged just insofar as indulgence better promotes orthodox values than repression. The limits of indulgent toleration also track orthodox morality: deviance is repressed where its moral costs exceed the moral costs of the repression. A merely indulgent religious state's toleration will not extend to heresies that pose too great a spiritual threat to those who come under their sway; and a merely indulgent secular state's toleration will not extend to religious ideals that too harshly undermine human dignity. In each case, the limits of indulgent toleration (just as surely as the affirmative inclination to tolerate) reflect the deepest moral commitments of the orthodox.

These reflections underline the difficulty of respectful toleration. Insofar as respect distinguishes itself from mere indulgence and requires allowing deviance a scope that indulgence in pursuit of orthodox morality would deny, respectful toleration requires the orthodox to promote their own sectarian moral ideals less effectively than they can. Respectful toleration distinguishes itself from mere indulgence by constituting more than a superior way of promoting orthodox sectarian values. Respect requires genuine deference; it requires that the heterodox be given a degree of latitude to pursue their commitments that orthodox morality, even when the costs of repression are considered, condemns. At the very least, therefore, it will not be obvious to those whose moral commitments respectful toleration restrains why they ought to accept the restrictions on doing good that respect requires.²

² The case for toleration will be less obvious still in cases in which toleration protects moral heterodoxy from the private exercise of benign orthodox power. Toleration seems at least sometimes to require the state to

Indeed, respectful toleration may be thought to require the tolerant person to betray her own orthodox moral ideals, in favour of heterodox ideals that she regards as false. A respectfully tolerant religious state must permit souls that it might have saved to slip away; and a respectfully tolerant secular state must permit people whose dignity it might have secured to degrade themselves before false and oppressive gods. From the perspective of orthodox opinion (that is, from the perspective of those whom it constrains), respectful toleration articles the state to error.³ One might even say, speaking loosely, that respectful toleration is immoral.⁴

The seriousness of this objection to respectful toleration should not be underestimated.

To begin with, the moral ideals that a tolerant person restrains do not express only a narrowly self-regarding concern for

carve out a space in which dissenters may pursue their ideals free from not just public but also private interference. An example might be a principle of accommodation in employment, which requires the orthodox to bear some of the costs associated with heterodox religious or ethical beliefs and practices.

³ This difference arises, moreover, in every instance of respectful toleration, regardless of the moral distance between an orthodoxy and the heterodoxy that it is asked to respect. It is commonly supposed that toleration becomes really difficult only with respect to extreme moral deviance, so that the central question for a theory of toleration concerns when deviance becomes sufficiently extreme, which heterodoxies lie beyond the pale. This question does indeed loom large from the perspective of indulgent toleration, as the extent of moral difference influence the costs of toleration against which the costs of intolerance must be weighed. (Recall that Ottoman indulgence extended only to theologically sympathetic religious heterodoxies.) But respectful toleration is different, and difficult in every case. The deference that respectful toleration involves and the difficulties that this deference introduces arise regardless of the extent of the deviance to which the respect requirement applies.

⁴ For some similar observations, see Nagel, "Moral Conflict and Political Legitimacy," p. 222 and *Equality and Partiality*, p. 158.

the person's private interests but rather express a broad and impartial concern—a moral concern—for the interests of others. The objection to respectful toleration is backed by the full force of the sectarian moral commitments whose sacrifice respectful toleration requires. Making the case for respectful toleration thus requires opening up a new dimension of value, which cannot be reduced to morality, much as (to introduce an analogy to which the argument will return) making the case for moral other regard requires opening up a new dimension of value, which cannot be reduced to self-interest.

Furthermore, the difficulty of respectful toleration arises not only at toleration's outer limits—in connection with views that are not just heterodox and hence mistaken but also outlandish and even hateful—but also, characteristically, at toleration's core. *Every* act of respectful (in excess of indulgent) toleration for *any* sectarian deviance, no matter how minor, seems to betray orthodox sectarian morality. This is the root of the fact that the first and greatest challenge for a theory of toleration is not (as is commonly supposed) to defend tolerating broadly, or even to explain the limits of toleration, but instead to defend a free-standing commitment to tolerating any moral deviance—to get toleration, in the sense of respect and not just indulgence for moral difference, off the ground, at all.

The respect conception of toleration thus invites a natural scepticism concerning whether the deference in the face of moral disagreement that it involves, and the moral error that it necessarily invites, can ever be justified at all. Certainly respectful toleration cannot be motivated by the moral values that motivate indulgent toleration; once again, respect imposes avoidable costs as assessed by these values.

The case for respectful toleration must thus be made in terms of some other value, which stands structurally apart from sectarian morality (in all its varieties). That value—as the term

respect suggests—sounds in each person’s interest in engaging others as persons, who constitute free-standing points of view, across perspectival difference. Persons, that is, are *sociable* creatures, open to one another’s *charisma*, which is just the colloquial name for persons’ capacity, by sheer force of personality, authoritatively to draw others into their points of view, making others see things their way, so to speak. Persons are thus attracted to opportunities to establish a genuinely *public* perspective on their relations to one another. This perspective is an intrinsic good for persons, who are drawn to one another’s society for its own sake and not just as an instrument for promoting their private ends. And the good of such society sounds in a distinctive value-register, which stands structurally apart from every sectarian morality. These are all terms of art, of course, and the propositions that they state remain for the moment conclusory. The chapters to come aspire to cure this defect. They elaborate human sociability in terms that identify it as a distinctive and irreducible source of value, whose structure sequesters it from the concerns of every sectarian morality. And they defend respectful toleration as a concrete expression of sociability, at least in the circumstances of modern politics.

Two final (and interconnected) preliminary observations are in order before commencing these arguments in earnest.

First, as even this brief introduction makes clear, toleration, understood in terms of respect, is a distinctively *political* virtue. Indeed, the form of respect that toleration involves is *characteristic* of politics. It is characteristic in the strict sense that (at least in the modern world) respectful toleration is necessary in order for a certain form of politics—one that makes the exercise of collective power into a form of recognition that expresses human sociability—to arise at all.

Second, toleration, as I shall discuss it in these pages, is distinctively political in a much weaker sense. This conception of

toleration makes its domain the exercise of legitimate collective authority and therefore differs from another ideal, sometimes called by the same name, which arises in connection with the standards that govern personal conduct towards those whose morals one disapproves. This purely personal ideal of toleration is both interesting and important, to be sure. But it involves a very different structure of ideas from toleration in politics, roughly because it is always an option, in purely personal conduct, to short-circuit a potential conflict by removing it from the plane of principle. This is exemplified by the inclination of many people nowadays to treat sexual practices as reflecting preferences rather than as matters of virtue or vice and therefore more or less entirely to forswear judging others for their sex lives.

That option is simply not available in politics, as least as long as some citizens continue to attribute moral valences to a sphere of action even as they disagree about what these valences are. The state cannot simply be easygoing in such a case, because to do so is—directly—to take sides. This is again illustrated by the case of sexual morality, where a decision to adopt a permissive legal attitude towards sexual variety (on the ground that sexual conduct is a mere preference), far from removing questions concerning the legal regulation of sex from political conflict, instead appears, at least at first blush, to take sides in this conflict. Indeed, this thought is the basis for the familiar accusation that cosmopolitan claims that “toleration” requires the legal order to treat sexual variation permissively are a sham, because they fail adequately to respect ideologies that make sexual purity central to living well. Thus critics of cosmopolitanism insist that, far from being tolerant, it is instead itself a sectarian creed, which, as Thomas Nagel has put it, takes sides “against God and in favor of sex.”⁵

⁵ GET CITE (to Equality and Partiality) get quote right.

This observation re-emphasizes a theme struck earlier, which might serve almost as an epigraph for the book's entire argument: respectful toleration, at least in principle, requires self-restraint from *all* sectarian creeds, including from those that champion individualism and human self-determination as sectarian values. True toleration, it bears repeating, requires ethical self-restraint from self-described "liberals" or "cosmopolitans" as well as from those who subscribe to more "conservative" or "communitarian" ethical ideals. *Every* sectarian creed exhibits a tendency towards parochialism, a tendency that must be circumscribed if respectful toleration is to be achieved. The constraint must come not from other moral values but rather from values that inhere in relations among persons, across sectarian moral difference.

This book explains the problem of respectful toleration, elaborates the distinctive values that lie behind its solution, and displays the practical entailments of these values, not for toleration in all its forms but for toleration in connection with the proper management of state power, at least under the conditions in which states generally operate in the modern world. The book thus develops a political theory of toleration.

2

Morality and Sectarian Conflict

Toleration is a political virtue because sectarian conflict presents a political problem. A theory of toleration in politics must therefore begin from an account of morality and of the conflicts that sectarian disagreements about morality engender.

Each moral view describes a set of goods whose achievement makes a life successful; and it identifies whose interests in these goods matter, whose success counts. A general account of moral conflict must begin by characterizing each of morality's two formal elements. The characterizations identify the substantive variety with which particular sectarian moral views might fill in the generic moral form. This will make it possible to fix the range and character of moral conflict.

Begin with morality's idea of the good. Every sectarian moral ideal elaborates certain practical attitudes and forms of well-being that together contribute to a flourishing life. Moreover, the ideals that deserve to be called *moral* will all elaborate accounts of these matters that bear a family resemblance to one another. To be sure, there exist practical philosophies that elucidate goodness in terms that cast doubt on its connection to human flourishing. These creeds—think of the most extreme forms of asceticism or fanatical penance—preach extreme self-denial or even self-mutilation. But morality owes its intuitive appeal, its hold over our imaginations, to the fact that its regulative principles *favour* humanity. In order to participate in morality's allure, a practical philosophy must elaborate its regulative principles in terms of a conception of the *successful* life; morality insists on proceeding in terms that reflect, somehow, the natural conditions and possibilities for human flourishing. Creeds that conceive of success in terms that retreat from rather than express our natural humanity may be excluded from the realm of morality, or at least be discarded without substantial argument. Amoralists, of various stripes, must

be resisted, and perhaps they should sometimes be indulged. But they cannot claim morality's mantle, and their views do not deserve the respect that makes toleration so difficult.^{DM}

Next, take up the question whose good matters. Every moral ideal balances persons' lives against one another, adjudicating among persons' competing claims to secure success for their own lives. A moral ideal's account of this balance across persons will be necessarily intertwined with its account of flourishing within the individual person. Any plausible sectarian view will insist that many elements of a successful life—charity, for example, or compassion, or just friendship and love—involve concern for others. The idea of a flourishing life thus has some measure of balancing other persons' interests against a person's own already built into it. But in spite of this connection, which makes it possible to do well by doing good, the two elements of morality remain conceptually distinct. Thus it is a dubious proposition that the kind of concern for others that is good for the person who has it completely fills out the concern for others that moral balancing demands. At some point, balancing will require a person to sacrifice her own good, however broadly conceived, for the good of others. Moral other-regard thus cannot be limited to self-serving sacrifice but at least raises the possibility of genuine self-sacrifice. Morality thus categorically rejects egoism,⁶ the idea

^{DM} Why pursue the outer limits of toleration at all here? This seems a red-herring or worse at such an early stage in the proceedings.

⁶ Egoism is itself a complex view and may take at least two forms. In the first, more extreme variety, the egoist asserts not just that she has no reason to pursue any interests other than her own but also that all other persons have no reason to pursue any interests other than hers. In the second, more moderate variety, the egoist asserts only that she has no reason to pursue interests besides hers but leaves it open that others might have reason to pursue their own interests, and indeed that they might have reason to pursue exclusively their interests. The extreme variety of egoism is not, it seems to me, a philosophically respectable view; and the familiar invocations of egoism generally involve the more moderate variety.

that all that matters is for one's own life to go well, so that one's concern for others is limited to that concern which in the end promotes one's own good.⁷ Moreover, the generic structure of morality establishes limits on other ways in which candidate moral ideals might permit egoism to establish a beachhead within other-regard itself: it rejects proposals to lauder desire by recasting flourishing self-servingly, in terms—of desert, for example, or tribal purity—that pre-judge who may flourish and who may not, fundamentally preferring some persons over others. Ideals that strike a biased balance among persons' competing claims to success may thus also be excluded from morality and rejected.⁸ Every properly moral ideal will cast its principles for balancing across persons' in terms that accept that all persons are equally human and that their lives are, as an indexical matter, all equally important. Morality insists, categorically, on one or another

Finally, both versions of egoism must be distinguished from another, very different idea, that sometimes goes by the same name and proposes that each person should pursue only his own interests because, due to the workings of the market or some other invisible hand, this will in the end be best for all. That idea is perfectly consistent with impartial concern for others, so that although it may be Panglossian, it is not fundamentally opposed to morality.

⁷ Some extreme moral views also accept this proposition but give self-interest the opposite interpretation from usual. These moral views seek to recast persons' interests so that anything less than absolutely impartial concern for others will always disserve them. Instead of measuring other-regard by self-regard, these views measure self-regard by other regard. Both the views are reductionist: they just disagree about which idea is reduced to which, about whether self-interest or impartial concern for others is fundamental. I regard both reductions as equally implausible.

⁸ The commitment to impartiality does not, however, require every person to display the same concern for all others in practice. It may, for example, be impartially justifiable for each person to prefer her near and dear over strangers. Impartiality rules out only views, like the tribalisms mentioned in the main text, that allow some persons to display preferences of this kind while insisting that others may not.

interpretation of impartiality.⁹ This is also essential to morality's allure. Ideals that reject impartiality in favour of prejudicial special pleading may, once again, trigger indulgence; but they do not command respect.^{DM}

Not every guide to practical life can therefore properly be called moral. Morality, in virtue of the formal structure that underwrites its generic appeal, excludes views that counsel destruction rather than success and views that nakedly serve faction rather than universal humanity. And morality's formal structure in this way limits the range of sectarian moral disagreement and hence the scope of toleration's demand for respecting deviance. But even if morality is understood in these ways narrowly, to insist on accounts of flourishing that elaborate success concepts for person and to value all persons' flourishing impartially, there will still exist substantial sectarian variation within the class of moral ideals. These sectarian disagreements need not, and indeed generally will not, entail that one side commits a category error in calling itself moral, nor will they deprive one side of morality's solemnity and allure.

Such disagreements, concerning both elements of morality's subject-matter, do indeed commonly arise among competing ideals that are unambiguously moral. Sectarian ideals disagree, for example, about whether the good life consists in freely developing and continuously re-evaluating one's ambitions, or instead consists in embedding oneself in prescriptive cultural

⁹ The commitment to impartiality does not forbid ever personal loyalty or preferences, of course. It may, for example, be impartially justifiable for each person to prefer her near and dear over strangers. Impartiality rules out only views, like the tribalisms mentioned in the main text, that allow some persons to display preferences of this kind while insisting that others may not.

^{DM} Why pursue the outer limits of toleration at all here? This seems a red-herring or worse at such an early stage in the proceedings.

associations.¹⁰ And sectarian ideals disagree about whether balancing persons' competing claims to success requires preferring persons who are absolutely worse off over those who are absolutely better off, or instead requires counting equal marginal increments in success equally, no matter to whose lives they accrue.¹¹ Moreover, these disagreements—about the character of the good and the proper balance among persons' competing claims to the good—are enduring and inevitable. They cannot be resolved by appeals to broader or more significant areas of agreement, and they cannot be eliminated outright by arguments that induce one side to appreciate its errors and revise its views. Sectarian disagreement is a fundamental feature of moral life, of the application of human reason to the human condition. This is what Rawls famously called “the fact of pluralism.”¹²

Finally, sectarian moral disagreement is vivid, intense, and weighty. It is made so by the same structural features of morality that cabin moral disagreement's scope. Both sides of every moral disagreement believe themselves to be promoting the impartial pursuit of human flourishing and hence to be defending this practical project, imbued with morality's full allure, against an

¹⁰ Moral ideals disagree even about whether the good life is the same for everyone or whether, instead, the conditions of success vary across personal and social circumstances. (Although ideals that take the view that they vary will butt up against the impartialist tendencies in morality, which will render such suggestions—for example, that the good life for aristocrats differs from the good life for peasants, or that the good life for men differs from the good life for women—suspect.)

¹¹ Sectarian ideals disagree even about whether persons' claims to be treated equally are unconditional or whether, instead, these claims depend upon the good behavior of the claimants. (Although ideals that extend impartial concern only to the righteous will butt up against the naturalist tendency in morality, which will wonder whether views that condition concern for a person on that person's self-abnegation have adopted a view of human success at all.)

¹² John Rawls, *Political Liberalism* xvii.

adversary that instead promotes degeneration or prejudice. Precisely because they are narrowed by shared structural pre-suppositions, moral disagreements run unusually deep.

Where moral disagreements engage circumstances—for example, involving centralized government policy-making—that demand coordination on a uniform course of action, they also become unignorable. Morality after all belongs to practical reason—reason about how to act—and inconsistent actions (including actions that promote incompatible ends) will in inevitably collide in the world. Aesthetic differences concerning taste may be simply ignored, as in the familiar thought that *de gustibus non est disputandum*. And theoretical differences may perhaps be set aside, as when persons’ agree to disagree. But practical differences, including especially moral differences, cannot naturally be disregarded or deferred in these ways. A simple example drives the point home: a couple contemplating a painting may disregard their aesthetic differences about whether to *admire* it, and they may defer their theoretical differences about whether it is *authentic*, but they cannot disregard or defer their practical differences about whether to *buy* it. Easygoingness, as I have said, is simply not an option in this setting. Respect across moral disagreement is hard.

The structure of morality thus necessarily engenders profound and troubling political conflict. This connection between moral disagreement and conflict is unsurprising, and may even be thought obvious. But although the connection between sectarian disagreement and conflict is unsurprising, it is important to emphasize, because it is less conspicuous, that *morality itself* drives the conflict—that the conflict is an *expression* of persons’ moral commitments and not in any way a *retreat* from them. Sectarian morality opposes the egoist, to be sure, but conflict arises not just because persons act, self-servingly, to promote their own interests more extensively or exclusively than morality allows. Although commonly thought to promote harmony, the impartial

concern for others that sectarian morality involves in fact itself presents an independent source of conflict.¹³ As Thomas Nagel has observed, persons may all be “motivated by an impartial regard for one another” but be “led into conflict by that very motive if they disagree about what the good life consists in, hence what they should want impartially for everyone.”¹⁴ And this sectarian conflict will only be deepened when persons also disagree about what impartiality itself requires.

The examples introduced earlier render the point vivid. The historical Ottoman Muslims and the present-day French secularists both elaborate powerfully human conceptions of flourishing and both care deeply about promoting the good life, as they each understand it, for everyone on equal terms. But they disagree about the most basic features of the good life (including even about whether it may be found in this world or in the next¹⁵) and about the most basic structure of equality (including even about whether equality requires concern on identical terms for all or that the style of concern should adjust according to a person’s faith¹⁶). These disagreements—which are driven by distinctively

¹³ A recent effort by Noah Feldman to reconcile a state’s embrace of religion with political equality illustrates the common mistake. See Noah Feldman, *Equality and the Islamic State*, in Martha Nussbaum, ed., *PHILOSOPHICAL TOPICS* (2003). Feldman proposes that a religion’s own commitment to equality is sufficient to underwrite the reconciliation, but insofar as this commitment commands an equal concern for all persons’ religious fidelity and salvation, and insofar as these depend upon theocratic command, the religious commitment to equality undermines rather than invites political equality. This is not to say that religion and political equality cannot be reconciled; only that they cannot be reconciled as Feldman proposes.

¹⁴ Thomas Nagel, *Equality and Partiality* p. 154.

¹⁵ And therefore about whether political governance should serve the needs of this world or of the next.

¹⁶ Where faith is available to all.

moral commitments on each side, by what Stanley Fish, quoting Hobbes, called the “multiplying glasses . . . through which all men see truth and their duty”¹⁷—produce incompatible policy commitments. They thus inexorably generate conflict wherever the two camps meet in a single state.

Although sectarian morality makes a stand against egoism and insists upon impartiality in the conflict among persons’ competing interests, it makes no similar stand, and adopts no analogue to impartiality, in the conflict among persons’ competing points of view concerning what a moral engagement in the world requires. To the contrary, sectarian views each look to persons’ true interests and to the true demands of impartiality and give no independent or free-standing weight to persons’ mistaken beliefs about their interests or about impartiality. Sectarian morality, one might say, embraces the point-of-view analogue to the egoism about interests that morality seeks to combat. Where the egoist insists that only her own interests matter, the sectarian, adopting a position that might be called *egocentrism*, insists that only her own peculiar view of morality matters. As Locke observed, “every church,” and for that matter every non-church moral creed, “is orthodox to itself.”¹⁸

This formulation revisits the distinction between merely indulgent and respectful toleration with which the argument began. Indulgent toleration affirms egocentrism; that is its shortcoming. Respectful toleration overcomes egocentrism; that is its challenge.

¹⁷ Stanley Fish, *Mission Impossible: Settling the Just Bounds between Church and State*, 97 *Columbia L. Rev.* 2255, 2264 (1997). The phrase “multiplying glasses” comes from Hobbes’s *Leviathan*. See Thomas Hobbes, *Leviathan* 239 (C.B. Macpherson, ed., 1968) (1651).

¹⁸ John Locke, *A Letter Concerning Toleration* (1689), reprinted in John Horton and Susan Mendus, eds., *John Locke: A Letter Concerning Toleration in Focus* 24 (1991).

The next chapter elaborates both points more carefully, and in greater theoretical detail.

3

Two Conceptions of Toleration—Indulgence and Respect

There exist, as I have been saying, two very different conceptions of toleration: indulgent toleration and respectful toleration. These two conceptions overlap in their practical policy recommendations, at least in many cases. The normative structures of indulgent and respectful toleration, by contrast, stand fundamentally opposed to each other. It is now time to bring this opposition into sharp relief. Doing so will demonstrate the shortfalls of indulgence and the difficulty of respect.

Indulgent Toleration

The sophisticated egoist will recognize that some measure of concern for the interests of others will ultimately advance her own interests—that, as I have said, she can do well by doing good. Similarly, the sophisticated egocentrist will recognize that giving some quarter to the moral beliefs of others will ultimately advance her own moral beliefs—that she can be moral by being tolerant. This recognition sustains indulgent toleration, so called because the person who tolerates on this theory merely indulges moral error in others, always with an eye, ultimately, towards promoting her own true moral ideal.

This raises the question whether the characteristic practices of tolerant politics—the openness to moral heterodoxy that constitutes toleration’s lived experience—may be accounted for on the indulgent model. The examples that introduced the larger argument (concerning Ottoman Islam and French secularism) suggest that they cannot be. But a suggestion is not yet an argument.

Certainly, many of the defences of toleration that our political traditions make familiar openly embrace a merely

indulgent approach to moral deviance.¹⁹ The most prominent of these openly sectarian arguments for indulging moral heterodoxy involve prudence, scepticism, and freedom. These arguments have long and intricate histories. But the basic structure of each may be simply stated. Moreover, in each case, the simple statement of the argument reveals that it suffers a structural defect. This suggests that sectarian indulgence cannot account for the openness to moral heterodoxy that characterizes tolerant politics.

Begin by considering the prudential case for indulgent toleration.

When sectarian conflict is ineliminable (because moral agreement cannot be had) and no side is dominant, then people who hold political power cannot count on remaining in this position forever. This may make it prudent to adopt a rough and ready regime of toleration, in which partisans agree not to impose their moral views on others in exchange for a return agreement that when they lose power those who replace them will accept this same restriction. Rawls credited prudential considerations with ending the European wars of religion.²⁰ More generally, prudence in the service of sectarian ends plainly provides a powerful motive for replacing mutually destructive sectarian conflict with a more or less tolerant regime of accommodation.

The limits of the prudential model of indulgent toleration are equally plain, however.

For the prudential argument to work, each side must believe that the consequences of a failed effort at sectarian

¹⁹ A magisterial study is Rainer Forst _____. Forst also distinguishes the liberal conception of toleration for the respect that it gives to dissenters. GET CITE.

²⁰ See John Rawls, *Political Liberalism*, p. xxiv (1993).

intolerance are (much) worse than toleration. Prudence thus does not require indulging the reliably disempowered. Moreover, and much more importantly, prudence provides no reason for tolerating those who reject reciprocal intolerance quite apart from any truce and consequently do not credibly threaten any repression of their own. On the prudential argument, there is no reason to tolerate easy-going people, who will live and let live when they hold power regardless of what others have done to them (so that the consequence of failed intolerance is anyway just toleration).²¹ Contrariwise, prudence also provides no reason to tolerate the ruthless, who will not in any event return whatever quarter they are given.

The prudential argument thus makes the case for toleration contingent on a kind of shallow reciprocity. The contingency makes the argument pathologically fail to apply to certain core cases of toleration—so that it rejects toleration of consistently disempowered minorities, for example, or of the open-minded. Beyond this, the contingency embedded in prudential toleration stands opposed to the categorical commitments that characterize the lived experience of tolerant people—to tolerate not just when toleration easily serves their own purposes but even when, indeed especially when, toleration is difficult.

Next, consider the sceptical variety of indulgent toleration.

²¹ This means that the general acceptance of the prudential argument gives people an incentive to appear less easy-going than they are, which may have a de-stabilizing effect on the more-or-less tolerant truce the argument promotes. The stability of prudential toleration is further undermined by the fact that the prudential case for toleration does not apply to minor acts of intolerance, which do not threaten the peace but which tolerant people nevertheless condemn—the prudential argument sanctions cheating for anyone who can get away with it.

For both these reasons, the more successful the prudential argument becomes a promoting a stable peace, the less successful it will be at defending toleration within the peace.

When the orthodox can impose their ethical views over heterodox alternatives only by brutal force—by killing or torturing or imprisoning dissenters, or perhaps just by making them suffer—then scepticism about ethical knowledge should give them pause. The ethical benefits of intolerance are uncertain, because the sectarian beliefs intolerance serves are uncertain. But the costs of brutal intolerance transcend sectarian moral disagreement, so that ethical scepticism does not apply to them. This is what Judith Shklar had in mind when she noted, in discussing religious intolerance, that cruelty is “a purely human verdict upon human conduct, and so puts religion at a certain distance.”²² The same point applies equally in connection with secular ethics: cruelty is an immediate and visceral verdict, whose undeniability sets it apart from every abstract ethical ideal. It is therefore, as Montaigne observed, “putting one's conjectures at a rather high price, to burn a man alive for them.”²³ In the extreme case, the price becomes so high that it becomes difficult to believe in the sincerity of one who will pay it. Locke thus supposed that “... it will be very difficult to persuade men of sense that he, who with dry eyes, and satisfaction of mind, can deliver his brother unto the executioner, to be burnt alive, does sincerely and heartily concern himself to save his brother from the flames of hell in the world to come.”²⁴ Moreover, even in more modest cases, sceptical doubts will lead the orthodox to wish at least to test their beliefs against heterodox alternatives, proposed by persons empowered to present these alternatives in the most appealing ways possible.²⁵ Scepticism thus counsels

²² GET CITE.

²³ GET CITE.

²⁴ John Locke, A LETTER CONCERNING TOLERATION 34 (1990). Locke himself did not of course take a sceptical view of moral knowledge in general and even thought himself to know that there was but one way to heaven.

²⁵ Mill thus argued that the best way to protect against moral error is to be forced to defend oneself against all comers, not least because this helps ensure

restraining at least some forms of orthodox zeal, and indulging heterodoxy, including in ways that resemble toleration. Scepticism calls on the orthodox to weigh a doubt against a certainty, and tolerate.

Once again, however, an argument for indulging heterodoxy falls well short of sustaining true toleration.

On the one hand, doubts concerning sectarian morality will not always be so overwhelming as the sceptical argument supposes. It can be perfectly rational to choose a doubt over a certainty if it is only a slight doubt, or if the gain to be had by acting on it, although doubtful, is much larger than the certain cost it is set against. The orthodox may hold that the benefits of intolerance are much, much greater than its costs. Scepticism thus supports indulging heterodoxy only when the certainty with which these benefits can be known is much, much less than the certainty with which the costs can be known. Even the sceptic need not think, in all cases, that his knowledge of ethics is this uncertain. He may instead, applying a variant of Pascal's wager, accept the smaller known costs of intolerance in the hope of also achieving its enormous, although admittedly uncertain, benefits.

On the other hand, the sceptical case for indulgent toleration falls away entirely where intolerance avoids brutality or the other bedrock harms of the sort that may be condemned immediately and without resort to the theoretical ideas that the sceptic doubts. Often, including in the earlier examples

that one's ethical beliefs are not only true but justified, that is, believed for the right reasons and in the right way. See John Stuart Mill, *On Liberty* 115-16. Here Mill echoes an idea that was earlier expressed by Milton, who said he could not "... praise a fugitive and cloister'd vertue, unexercis'd & unbreath'd, that never sallies out and sees her adversary, but slinks out of the race, where that immortall garland is to be run for, not without dust and heat." John Milton, *Areopagitica* 515.

concerning the limits of Ottoman and French toleration, the only costs of vigorously pursuing moral orthodoxy are paid in terms not of brutality but rather of freedom, privacy, or subordination. It takes a sectarian ethical ideal to identify these costs, so that now the costs of intolerance themselves fall within scepticism's sphere of doubt. Asking the orthodox to weigh a doubt against a doubt does not give toleration a reliable defence.²⁶

The sceptical case must leave indulgent toleration sensitive to the balance of confidence and doubt.²⁷ In this way, the sceptical

²⁶ The force of this consideration only grows once one recognizes that false beliefs can take advantage of toleration as well as true ones. Indeed, people who want as many converts as possible, and who believe in a standard of justification for beliefs that is less strict than the sceptics, will generally be more successful at proselytizing than people who want only converts whose new beliefs are justified. Mill himself recognized that the truth will not always triumph over persecution. He pointed out that "... the Reformation broke out at least twenty times before Luther, and was put down," although he added that the advantage truth has over falsehood is that it will always be re-discovered until it "... falls on a time when from favourable circumstances it escapes persecution until it has made such a head as to withstand all subsequent attempts to suppress it"(John Stuart Mill, *On Liberty*, pp. 89-90). The point Mill seems to have missed is that the truth will not always triumph over toleration, and that propaganda may lead people to abandon the truth even if it cannot be suppressed, or may weaken belief in the truth until it can be suppressed.

²⁷ Might a more thoroughgoing scepticism, which removes itself from the conventional calculus of belief and doubt, sustain toleration more effectively? It has been thought by some that subjectivism—the view, roughly, that there are no ethical facts, as there are facts of science or observation—might sustain toleration by denying sectarian morality the meta-ethical foothold on which intolerance relies. (This way of expressing the subjectivist position comes from Bernard Williams, *Morality: An Introduction to Ethics*, p. 28. The subjectivist case for toleration has been proposed, for example, by GET CITE FROM BW ESSAY). Others have similarly suggested that relativism—the view, roughly, that ethical propositions are valid only within a culture (and subjectivism's close cousin on the non-sceptical side of the family tree)—similarly sustains toleration, on the ground that since ethical propositions are valid only within a culture it is wrong to judge one culture by the standards of another. Both arguments fail, however, and the relativist argument fails famously.

argument once again makes indulgent toleration serve at the pleasure of the contingent moral ideals of the tolerant person. This is, once again, unsatisfying, as the felt instinct to tolerate remains outward-looking. Toleration requires a categorical openness to heterodoxy, an engagement with heterodoxy on its own terms, rather than one subject to the vagaries of orthodox introspection.

Finally, consider the effort to defend toleration, on the indulgent model, on the basis of a sectarian morality that valorises freedom.

Insofar as a dominant creed is committed to individual liberty of conscience, this gives the orthodox reason to sacrifice other values, and permit otherwise wrongheaded dissent, so that dissenters may enjoy their freedom or even to secure the conditions required for free moral deliberation quite generally. When persons

Subjectivism can say that intolerance cannot be justified in terms of people's interests in holding true ethical beliefs, and it thus robs intolerance of a defence that involves the paternalistic concern for the truth of other people's ethical beliefs. See Bernard Williams, "Subjectivism and Toleration," p. 205. But for the subjectivist, this is to say very little indeed. By the same stroke with which it undermines the paternalist concern that others should pursue the true morality, subjectivism also undermines the anti-paternalist concern that others should independently seek moral truth. The idea of another person's ethical life is no more mysterious for the subjectivist than the idea of her own, and nothing in subjectivism suggests it is wrong for her to promote his ethical life (as she conceives of it) against his own ethical views and against his will, that is, intolerantly. Subjectivism is thus "unlikely to achieve any unique results for toleration," of a sort unavailable to the cognitivist. Bernard Williams, "Subjectivism and Toleration," p. 205. Subjectivism recasts the terms of the argument, but does not change its practical conclusion.

The relativist case for toleration fares worse still. The relativist conclusion that it is "wrong" to judge one culture by the standards of another, simply cannot mean what the argument wants it to mean, namely wrong for all cultures or wrong absolutely. It is denied these meanings by the argument's relativist premise. "Wrong" in the conclusion can only mean wrong for cultures who anyway think cross-cultural judgments are wrong, in which case the relativist argument does not add to the defense of toleration at all.

are permitted freely to pursue the dictates of their own consciences, they will inevitably fall, on occasion, into error. Contrariwise, persons enjoy freedom of conscience only in political and social orders that permit them to fall into error. An orthodoxy that values liberty of conscience thus requires indulging heterodoxy.

Locke's main argument for toleration, which turns on the value of sincere faith and involves the idea that sincerity cannot be imposed by force, follows roughly in this line.²⁸ The general style of argument remains, moreover, alive and prominent today. The most important contemporary proponent of liberty of conscience, Joseph Raz, emphasizes precisely that freedom precludes repressing heterodox moral ideals on grounds of their falsehood. "The availability of repugnant options," Raz insists, "and even their free pursuit by individuals, does not detract from their autonomy," so that "although conditions in which repugnant options are available and pursued are undesirable, they may not be curbed by coercion."²⁹ This is just another way of saying that best promoting the true value of liberty requires tolerantly indulging the false (and hence repugnant) creeds that free people will inevitably on occasion embrace.

The intuition behind these arguments—namely that insofar as intolerance coercively restricts persons' deliberative field, it infringes on their freedom of conscience—is perfectly sound. Nevertheless, the libertarian version of the indulgent argument for toleration fares no better than its prudential and sceptical cousins. As in those cases, so also in this one, orthodoxy's indulgent protections for heterodoxy remain too narrow and too fragile to sustain a satisfying account of toleration.

²⁸ CHECK. GET CITE.

²⁹ Joseph Raz, *The Morality of Freedom* p. 419.

All else equal, toleration better promotes freedom than intolerance. But all else is often not equal. Coercion in the service of true morality is not the only threat to freedom of conscience. Often, it is not even the principal threat. Liberty of conscience has an introspective face, and the free agent must be free from debilitating internal constraints as well as external ones, so that she is appropriately open to the alternatives that she faces. She must choose from a reflective deliberative stance in which a she is self-conscious about the range of options that she faces and of both her capacity and her responsibility for choosing well. Accordingly, certain false moral ideals (more precisely, ideals that the libertarian orthodoxy on which the case for indulgent toleration is based regards as false) may undermine liberty of conscience from within the agent, by making meaningful moral choice difficult or even impossible for their adherents. Such authoritarian ideals (in addition to being false) themselves threaten their adherents' liberty of conscience.

Accepting authoritarian views involves becoming indoctrinated into unreflectively obeying a sectarian leader, a caste or class or gender, or perhaps a text. Often, this indoctrination occurs during moments of personal vulnerability—in childhood, or in periods of crisis—so that people who adopt such sectarian views have not even freely chosen subjugation. Just as it is implausible that valuing freedom requires enforcing contracts by which people sell themselves into slavery, so it is implausible that valuing freedom requires allowing someone to join a cult that brain-washes its members, or indeed to submit too readily and entirely to any authoritarian moral ideal. Intolerance of even authoritarian views has direct costs for freedom, to be sure. But intolerance in such cases also benefits liberty of conscience, by protecting people (especially when they are vulnerable) from being otherwise deprived of their liberty.

Even the indulgent libertarian should therefore sometimes—readily, really—favor intolerance over toleration.

The libertarian case for intolerance becomes stronger, moreover, insofar as intolerance's own offence against liberty of conscience may be minimized by wise policy-making. Those who defend indulgent toleration by reference to liberty of conscience often write as if intolerance necessarily involves oppression and hence commits a direct assault on freedom.³⁰ But it is possible for the libertarian to take aim against an authoritarian heterodoxy without employing any coercion or indeed any other harsh assault on freedom. One prominent class of examples concerns intolerant policies of *preference* rather than restraint: the French practice of permitting religious wedding ceremonies but recognizing only secular marriages presents an example of such preference (a preference whose intolerance is cast into sharp relief in the light of its near-perfect structural analogy to the decidedly non-libertarian Ottoman practice of permitting deviant religious observances but reserving state offices for Muslims). Policies of sectarian preference may even aim directly to foster sectarian views that applaud the deliberative stance associated with freedom of conscience. An example is the policy of teaching evolution in the public schools considered earlier in these pages. Teaching evolution encourages children to adopt habits of critical self-distance and beliefs in material contingency. These attitudes, in turn, support sectarian moral ideals that valorise prideful intelligence and freedom of conscience and oppose authoritarian moral ideals that valorise humility and require deference to received cultural authorities.

In these and any number of other analogous cases, valuing liberty of conscience counsels undermining rather than indulging various authoritarian heterodoxies (by means that are appropriately sensitive to freedom of course, but that are not, for this, any less

³⁰ Raz, for example, writes as if intolerance directly “violates the autonomy” of those against whom it is directed and, indeed, takes coercive repression of heterodoxy as intolerance's characteristic expression. See Joseph Raz, *The Morality of Freedom*, pp. 418-19.

effectively sectarian). The case for undermining these views turns not on their being substantively repugnant but on their being hostile to procedures of free individual moral deliberation.³¹ Liberty of conscience does indeed require allowing persons freely to pursue the “repugnant options” that Raz considers. But the arguments that break the link between freedom and toleration focus not on “repugnant” views but rather on views that, as Thomas Nagel has put it, “... thwart self-expression, or inculcate obedience to authority or divine law, or subordination of personal aims to the collective goals of an organic community.”³²

The morality of freedom is thus a multi-layered enterprise. And a moral ideal that seeks to promote or even just to respect freedom of conscience will therefore indulge some heterodox ideals and stifle others, depending on how those ideals stand with respect not to moral values generally but to freedom in particular.³³

³¹ The libertarian case for checking certain moral heterodoxies grows stronger still insofar as liberty of conscience is not a purely negative freedom. Plausibly, a free conscience must face a meaningful choice among moral ideals, which is to say that it must face a choice among a set of moral ideals that are (collectively) *acceptable*. This possibility increases the moral engineering required to secure meaningful freedom of conscience and hence also the meddling in heterodox opinion that those who support indulgent toleration based on the value of liberty of conscience must accept.

³² Thomas Nagel, *Equality and Partiality*, p. 165.

³³ Note, finally, that libertarian defenders of indulgent toleration cannot plausibly retreat to the practical consideration even limited and benign manipulation of heterodox morality, inevitably becomes pervasive and renders governments who practice it tyrannical, so that at least over the long run the autonomy gains of intolerance will never outweigh the costs. Probably, this is just false. Governments can attack sectarian views that threaten autonomy through the educational system and in other ways that are stable, limited, and subject to the rule of law. (T.M. Scanlon makes a similar in "Rawls' Theory of Justice," p. 172.) Certainly, arguments for toleration that rely on conjecture about the eventual corruption of well-motivated governments introduce empirical ad hocery into the discussion in an unsatisfying way. Such concerns seem themselves opportunistic—with the precise contours of government

Proponents of liberty of conscience have tended, in the end, to acknowledge this. Raz, for example, admits that “[a] moral theory which values autonomy highly can justify restricting the autonomy of one person for the sake of the greater autonomy of others or even of the person himself in the future.”³⁴ This pattern of preference does not match most tolerant people's considered convictions about the proper scope of toleration,³⁵ however, nor even the considered convictions of people who agree that freedom is a fundamental value (very few of whom are willing in the end to support even subtle state measures intended to undermine all freedom-denying fundamentalist religions³⁶). The gap signals another indulgent argument's merely contingent commitment to permitting heterodoxy, and thus its retreat from true toleration.

The arguments from prudence, scepticism, and freedom all illustrate that the best long-run strategy for pursuing many moral orthodoxies may include granting a measure of indulgence to dissenters, so that something resembling toleration arises. But they also reveal that indulging dissenters for each of these reasons only approximates, and inevitably falls short of, true toleration. To be sure, it remains possible that a new variation on a familiar argument in favor of indulgent toleration, or even an entirely new argument for indulgence, can accommodate tolerant intuitions

corruption reverse-engineered with an eye to the tolerant conclusion that is sought.

³⁴ Joseph Raz, *The Morality of Freedom*, p. 419.

³⁵ Nagel makes a similar point (see Thomas Nagel, *Equality and Partiality*, p. 165).

³⁶ And almost none of whom are willing to accept what is perhaps the logical conclusion of Raz's argument, namely that governments should promote a society in which everyone has the strongly autonomous self-understanding of a self-consciously independent, post-enlightenment intellectual.

more satisfactorily than the arguments have been found wanting. It is impossible to demonstrate the shortfall of indulgent toleration exhaustively, with respect to every sectarian argument for indulging moral deviance. But it should give indulgent toleration's defenders pause that the most plausible statements of the canonical arguments for indulgent toleration are all inadequate to toleration's intuitive appeal.

Moreover, the failures of the three prominent varieties of indulgent toleration just canvassed share a common character, and this also suggests that a shortfall away from true toleration will reappear in every practice of indulging dissent, no matter what sectarian values it begins from. The moral case for indulging deviance in the service of promoting orthodoxy is far more *brittle* than the intuitive claim that toleration makes on us.

This brittleness is not a matter of the *scope* of the protections for deviance that indulgent toleration sustains. Although it may be that indulgent toleration casts a narrower net than true toleration, this not necessarily so, and the most important challenge for political philosophy is anyway to characterize toleration's core rather than to expand, or even to identify, its outer limits. Rather, the brittleness of indulgent toleration has to do with its *quality*, in the cases to which it applies. Even where it succeeds on its own terms, indulgent toleration falls short of toleration's intuitive appeal. The indulgently tolerant person takes into account the moral ideals of others, but only on her own terms, from her own point of view, and certainly never *recognizes* the moral ideals of others as free-standing constraints on her own conduct, to which she must sometimes *defer*.

This is just another way of saying that indulgent toleration inevitably remains itself a sectarian position, whose commitment not to suppress deviance depends at every turn on the service that such indulgence provides sectarian ends. The new framing is important, however. It emphasizes that indulgent toleration is

contingent, in the sense that the protections it affords moral deviance may be undone by circumstances and considerations that toleration's intuitive appeal nevertheless withstands. In particular, the indulgence model makes the value of toleration a matter for orthodox opinion in exactly the same way in which every other moral value is. As Barbara Herman has observed in discussing a version of what I am calling indulgent toleration, the person who indulges deviance “maintain[s] a position of judging outsiders, attempting to assess whether the area of disagreement meets the conditions warranting intervention.”³⁷ Moreover, the indulgently tolerant person makes her judgments against precisely the same backdrop of values that she employs in making all her other moral judgments—she recognizes nothing special or distinctive about the place of toleration in her broader moral life.

Indulgent toleration is therefore not a free-standing ideal for the person who embraces it—not an independent value to which his practical reason must attend—but merely a report that the balance of the other, ordinary values that she pursues favors allowing heterodoxy to persist, at least for the moment. Indulgent toleration remains, in this way, merely a hypothetical commitment, held contingent on the service that it provides the tolerant person's own moral ideals; indeed, it is not really an ideal at all but only a technique used to serve other ideals, and to be discarded as soon as it is no longer useful. Across persons, indulgent toleration arises as what Rawls has called a mere *modus vivendi*,³⁸ whose appeal rests on the service that toleration provides its various sectarian proponents, each for her own several reason, rather than on a

³⁷ Barbara Herman, “Pluralism and the Community of Moral Judgment,” in David Heyd, ed., *Toleration: An Elusive Virtue*, 60-80, 76 (____).

³⁸ John Rawls, “Justice as Fairness: Political not Metaphysical,” 14 *Philosophy and Public Affairs* 223, 247 (1985). Rawls's remark was directly addressing the prudential argument, but the structure of the objection applies just as well to other efforts to defend toleration as a sectarian indulgence.

respect for moral difference that proponents of all sectarian creeds can adopt together. Indulgent toleration may be a truce in the war among sectarian views of the good, but it is best described as a part of that war. Even when indulgent toleration establishes a truce among competing sectarian view, it is a truce that all sides prosecute against one another rather than endorse together. Under indulgent toleration, adherents to each sectarian view continue act under the maxim “who is not for us is against us,” and they retain the ruthlessness and manipulation that are that maxim’s attendant attitudes and modes of action. Adapting Clausewitz’s famous phrase, one might say that indulgent toleration is a mere continuation of sectarian conflict, by other means.

Whatever peace indulgent toleration establishes therefore remains void of trust or community and lacks the motivations and obligations that trust and community generate and sustain. In particular, merely indulgent toleration denies politics the essential idea of a loyal opposition, because it abandons the idea of a shared political project and thus gives each side nothing to be loyal to other than its own peculiar sectarian purposes. This will tend to make indulgent toleration unstable, although how unstable is a question for politics and in particular for political psychology. Perhaps the peace is unacceptably unstable, in which case the general acceptance of the idea that toleration that goes beyond indulgence turns out itself to be necessary for toleration to remain, over time, a going concern at all.

Every form of indulgent toleration, one might say, necessarily depends on an evaluative judgement *made narrowly in the service of orthodox opinion*. But true toleration constitutes an unconditional commitment to engage moral difference openly, independent of any service that this openness provides moral orthodoxy.³⁹ True toleration aspires to stand above the fray of

³⁹ This is not to say that the commitment to true toleration can never be overcome by countervailing sectarian considerations. Of course, it can be. But even when sectarian concerns outweigh toleration, all-things-considered, the

sectarian moral conflict so that it is more than just a superior way of imposing the tolerant person's own views. True toleration aspires to avoid any symmetric relationship with the several varieties of intolerance so that it is not reduced, again in Rawls's words, to "just another sectarian creed."⁴⁰ Independence from moral orthodoxy is not just an ambition *for* toleration, which a principle of toleration may or may not satisfy, but rather an ambition *within* toleration, which a principle must satisfy in order truly to be a principle of toleration at all. True toleration requires a commitment to what Jeremy Waldron has called "toleration in general,"⁴¹ or Fish (more sceptically) calls "toleration as such"⁴²: a commitment that takes the non-sectarian management of moral conflict to be an intrinsic good. Indulgent toleration cannot, by construction, serve this purpose: sectarian dispute has no bottom—in the sense that each of the several sectarian moral views contains principles that cannot be recast in terms of any principles recognized by the other views; and so even the most indulgent forms of toleration cannot possibly approach competing moral views on terms that these views will find acceptable.

force of respectful toleration is not *eliminated* but instead remains in place, and may tip the balance against sectarian zeal if circumstances change. Respectful toleration is unconditional in the sense that its *appeal* does not depend on sectarian considerations, even its finally being implemented might do.

Indulgent toleration, being merely a summary of sectarian considerations, is not like this. It cannot play any role in practical deliberations that stands apart from the purely sectarian concerns that it summarizes. And the appeal of indulgent toleration is therefore entirely conditional on these concerns.

⁴⁰ GET CITE.

⁴¹ Jeremy Waldron, Locke: Toleration and the Rationality of Persecution, in John Horton and Susan Mendus, eds., *John Lock: A Letter Concerning Toleration in Focus* 99 (1991). CHECK CITE.

⁴² Stanley Fish, *Mission Impossible: Settling the Just Bounds between Church and State*, 97 *Columbia L. Rev.* 2255, 2270 (1997).

Respectful Toleration

Sectarian disagreement places the problem of managing moral conflict at the center of political life. Indulgent toleration cannot possibly, by its own terms, establish a shared perspective on moral conflict. But this is precisely the accommodation that tolerant intuition requires. True toleration presents a particular management style in this conflict. A theory of respectful toleration elaborates this management style and establishes the values that can sustain it against the inevitable moral criticisms that give toleration its normative complexity.

The failure of indulgence to account for toleration of course cannot vindicate the respect conception, but it does motivate pursuing the structurally different approach to toleration that the respect conception involves. It initiates a quest for something like a transcendental argument—from the observed phenomenon of toleration (in excess of indulgence) to the normative conditions of such toleration's possibility. The distinctive value of respect, it turns out, supplies the required material for sustaining our toleration intuitions.

These intuitions place toleration apart from, or above sectarian moral conflict. True toleration, they insist, answers to a class of values that cannot be reduced to moral terms but that rather constrain morality, in every sectarian expression. Language can be misleading here, and so words—especially *moral* and *sectarian*—should be used carefully and consistently, as terms of art. Two confusions in particular must be avoided. The first concerns the relation between toleration and human flourishing and worries that insofar as toleration stands apart from morality it serves no articulable human interest. The second concerns the problem of disagreement about toleration and worries that every disagreement about toleration undermines the aspiration to non-sectarianism. Avoiding both confusions requires paying close

attention to the distinction between moral interests and values on the one hand and political interests and values on the other.

Begin by taking up the connection between toleration and human flourishing. Toleration does indeed promote an interest of the persons who practice it. This may make it seem that toleration should be understood as part of morality, given the earlier suggestion that morality “describes a set of goods whose achievement makes a life successful.”⁴³ But the human interest in toleration stands structurally apart from the goods that moral ideals describe, in the sense that this interest can be characterized only in the second order, *after* persons have already articulated their several conceptions of the good without reference to the problem of toleration. Toleration answers to the human interest in achieving a public perspective on moral disagreement—in achieving what Herman has called a “shared deliberative field,”⁴⁴ even in the face of moral disagreement. In this way, toleration announces a regulative ideal for governing collective life across sectarian moral disagreement, which is equally acceptable to the several sides in the disagreement. Toleration seeks to establish a public perspective on politics, where publicity is achieved among persons who have each already formed moral views before engaging the problem of toleration and the interest that this problem addresses.

The analogy between egoism and egocentrism usefully illuminates the issue. Sophisticated accounts of self-interest include space for other-regard, I have observed. But no such account, no matter how sophisticated, can span the space of impartiality, which identifies a new dimension of practical life. Self-serving sacrifice—the kind that redounds to the benefit of the

⁴³ See supra p. ____.

⁴⁴ Barbara Herman, “Pluralism and the Community of Moral Judgment,” in David Heyd, ed., *Toleration: An Elusive Virtue*, 60-80, 69 (____).

person who displays it—does not exhaust the demands of impartiality. Impartiality is not just a superior way of promoting self-interest but instead identifies a new category of value. Similarly, sophisticated accounts of moral value include space for accommodating moral heterodoxy. But no such account, no matter how sophisticated, can span the space of toleration, which again identifies a new dimension of practical life. Indulgent toleration—the kind that promotes the sectarian morals of the person who practices—does not exhaust the demands of toleration. Toleration, it turns out, is more than just a superior way of promoting moral interests but instead identifies a new category of value. We call the category of value opened up by rejecting egoism *moral* and we say that impartiality is the central moral value. Similarly, we call the category of value opened up by rejecting egocentrism *political*, and we say that respect is the central political value. And while one might say that respect is just another practical value and hence like ordinary moral values, speaking in that way obscures an important structural distinction, in much the same way as happens in the elision of altruism in self-serving sacrifice.

Next consider the second confusion, concerning disagreement about true toleration and the requirements of respect.⁴⁵ Just as moral disagreement is the ineliminable by-product of the application of human reason to the circumstances of moral life, so disagreements about the character and content of respect are equally ineliminable. Even persons who all reject egocentrism and affirm the importance of achieving a respectful, public accommodation across sectarian moral difference will inevitably disagree about just what this accommodation requires. Independence from moral orthodoxy is an ambition not just for toleration but within it, so that an account of toleration that takes sides in sectarian moral disagreement will not satisfy the tolerant instincts of even those whose side it takes. But why is the same

⁴⁵ Jed Rubenfeld helpfully pressed me on this point.

not true for independence from orthodoxy concerning respect? Does the brute fact of disagreement about respect prevent every conception of respect from satisfying the tolerant instincts of even those who adopt it?

It does not. Although a full explanation why not must abide the more systematic elaboration of the content of respect that the next chapter develops, a partial and intuitive explanation may be given even now. Respectful toleration requires that the state's treatment of moral heterodoxy be justifiable from the perspective from the perspective of heterodox opinion. Justification is a normative concept, so that an argument may *justify* the state's practices to someone even though she remains, because she has adopted a mistaken conception of respect, *unpersuaded*. This is a familiar and, I take it, uncontroversial point: in order for political philosophy even to get off the ground as a rational and critical enterprise, it must answer to standards apart from persons' actual, brute beliefs.⁴⁶ Respect requires persons to recognize and even to defer to moral ideals besides their own; but it does not require (which would anyway be impossible) that they abandon their own values entirely.⁴⁷ The theory of respectful toleration does not state an elaborate brief against itself but rather announces and explains a

⁴⁶ See, for example, Thomas Nagel, "Moral Conflict and Political Legitimacy," 16 *Philosophy and Public Affairs* 215, 218 (1987) and Joseph Raz, "Facing Diversity: The Case for Epistemic Abstinence," 19 *Philosophy and Public Affairs* 3, 32 (1990).

⁴⁷ Of course, an orthodox ideal of respect might recommend indulging heterodoxy concerning respect, just as a moral orthodoxy might recommend indulging moral heterodoxy. But any additional deference to deviant conceptions of respect, beyond that recommended by orthodoxy on the indulgent model, would constitute a failure of respect, to be rejected by orthodox opinion as *disrespectful*. To defend deference in excess of indulgence would require identifying a value in meta-respect, that is, in achieving a shared perspective on disagreements concerning respect. Elaborating the value of first order respect is difficult enough. There is no prospect of a theory of meta-respect on the horizon.

distinctive value—promoted by achieving a shared, public perspective on disagreement concerning other, moral values—that a person may affirm and pursue from her own (although not her narrowly moral) point of view.

The stage for developing the theory of respectful toleration has now been set. The next chapter identifies the human interest in achieving a public perspective on moral disagreement and elaborates a theory of respect—understood as the distinctive value to arise out of that interest. Subsequent chapters connect this value, at least under the conditions of modern politics, to the political policies and practices associated with toleration. Although the argument will be philosophical, it will not employ philosophy in a free-standing way, to construct a defence of toleration from the ground up. Instead, philosophy will figure as the handmaiden of historical developments in politics and government, to show that the respect (and the deference) that toleration involves is necessary in order for political life, in the wake of these developments, to continue today to serve certain basic human needs.

4

False Starts Towards Respect

Sectarian morality embraces egocentrism and so displays a natural distrust of deference to mistaken points of view. Morality seems to require persons, as Learned Hand once said, to “press a partisan advantage to its bitter end.”⁴⁸ Indulgent toleration yields to this distrust (merely sugar-coating bitter sectarianism in an unsuccessful attempt to sustain toleration without deference).

Our language gives us away. The egocentrist’s relentless partisanship *is* bitter. It thus repels persons even as their moral ideals drive them to it. Respectful toleration answers an instinct to avoid egocentrist bitterness. In order to overcome, respectful toleration must confront the distrust of deference that breeds partisanship head-on. The challenge for a defense of respectful toleration is therefore nothing less than to stand up to morality. A theory of respectful toleration must identify the forms of engaging others that respect makes possible. It must give an account of the value of these engagements that is able to resist the moral pressure towards egocentrism.

This is a daunting challenge, to be sure, but worth pursuing nevertheless. Certainly there is no reason to think that a successful defense of respectful toleration cannot even get started, because abandoning egocentrism is conceptually incoherent. Respectful toleration does not require doing what one has *all-things-considered* less reason to do, after all, but only doing what one has less *sectarian* reason to do; and the values of sectarian morality do not exhaust the sphere of value, *tout court*, or even the sphere of moral value. Moreover, the pursuit of respectful toleration is nourished by the fact that the single-minded pursuit of sectarian ideals (even when restrained by indulgent toleration) remains

⁴⁸ LEARNED HAND, *The Contribution of an Independent Judiciary to Civilization*, in *THE SPIRIT OF LIBERTY* 155, 164 (3d ed., enlarged 1960).

deeply discomfiting, not least because (as earlier arguments emphasized) it is inadequate to toleration's immediate intuitive appeal.

Moreover, the structural analogy between egoism and egocentrism, even as it emphasizes the difficulty of toleration, should also itself give the sectarian pause before concluding that egocentrism is the all-things-considered best attitude towards moral disagreement. In spite of its appeal, egoism is, after all, rejected by almost all reflective people. There exists broad agreement, across sectarian difference, that the concern morality requires persons to show one another's interests is not exhausted by the (egoist) concern that in the end redounds to their own interests—that morality requires not just self-serving-sacrifice but rather genuine self-sacrifice.⁴⁹ And the suggestion naturally arises, by analogy, that the accommodations persons owe dissenting sectarian ideals is not exhausted by the (egocentrist) accommodations that best promote their own moral creeds—so that they ought at least sometimes not just to indulge moral difference but to respect it.

Indeed, the structural analogy between these two lines of reasoning—against egoism and against egocentrism—penetrates even to their foundations. The case against egoism and for altruism rests on the foundational idea that persons assert free-standing claims on others in their capacities as patients—that is, bearers of interests. The case against egocentrism and for true toleration rests on the foundational idea that persons assert free-standing claims on others in their capacities as agents—that is, possessors of intentions and, ultimately, points of view. A successful defense of respectful toleration must identify and elaborate the necessarily *trans*-sectarian value that arises when a

⁴⁹ Agreement at this general level does not, of course, preclude deep sectarian disagreement about the precise nature of the self-sacrifice that morality requires.

person steps outside her own sectarian judgments and engages other persons' points of view, which she recognizes as establishing free-standing constraints on her own sectarian moral pursuits.⁵⁰ It must characterize the relations that are constituted by this form of respectful recognition across sectarian difference and explain the essential contribution that these relations make to human flourishing quite generally.

Liberal political thought has not been insensible of this challenge, although it has not quite acknowledged the stark terms in which it is framed here. Certainly liberalism has not confined itself to the various arguments for indulgent toleration discussed earlier (or to their analogues). Two recent efforts to defuse egocentrism in favor of something like the respect conception of toleration are worth mentioning in particular, as object lessons in the difficulty of respectful toleration and because recognizing their shortcomings helps to identify the necessary foundations on which a successful defense of respectful toleration must be built. The discussion of these arguments will be brief (too brief, perhaps, given their prominence in the recent history of political philosophy). I introduce them only as counterpoints to illuminate the approach that I ultimately prefer.

The first argument might be called the *perspectival* approach to liberal toleration. This approach seeks to overcome egocentrism by applying the techniques of abstraction through

⁵⁰ In calling this element of morality trans-sectarian, I do not mean to suggest that there will be no disagreement about what respectful toleration requires. Of course there will be. But whereas standing outside sectarian moral disagreement (concerning the good and whose good matters) is an ambition *within* toleration, which an account of toleration must achieve in order to succeed even on its own terms, standing outside disagreement about what tolerant respect requires is an ambition merely *for* the theory, which measures the scope of its influence but does not determine whether it is worthy of its own name.

which moral thought seeks to overcome egoism to sectarian morality itself.

A prominent argument against egoism asks a person to step back to reconsider her own interests (and her relation to them) from the outside, and in the third person. When she does so, the argument proposes, she must recognize that other persons have interests just as she does, and indeed stand in the same relationship to their interests as she does to hers. When a person takes an outsider's perspective on her self, she comes to realize that she is not in the relevant sense special—that just as she has interests that are reason-giving for her, so other persons have interests that are reason-giving for them.⁵¹ This form of reasoning probably does not *require* rejecting egoism in favor of the forms of impartiality that sectarian moralities all insist on.⁵² As Bernard Williams points out, it requires only the conclusion that all persons equally have reason to promote their own interests, which does not yet entail that anyone has reason to promote anyone else's.⁵³ But the perspective that the argument achieves has plausibly been thought to exert a pressure that tends against egoism, and this pressure—the sense that egoism involves an unwarranted sense of one's own distinctiveness—constitutes a large part of the intuitive appeal of sectarian morality's commitment to impartiality.⁵⁴

It is tempting to take this form of argument and adapt it to the political (as opposed to the sectarian moral) part of practical reason—to the part of practical reason that deals not with conflicts of interest but with moral among sectarian ideals. It is tempting to

⁵¹ Arguments like this appear in JONATHAN DANCY, *MORAL REASONS* (1993) and THOMAS NAGEL, *THE VIEW FROM NOWHERE* (1986).

⁵² Even as they do not, of course, agree about just what impartiality requires.

⁵³ See Bernard Williams, *Ethics and the Limits of Philosophy* p. ____.

⁵⁴ CITE TO NAGEL AND KORSGAARD HERE?

adopt a perspectival approach to overcoming egocentrism, and to defend toleration by a similar step backwards, which asks the egocentrist to reconsider her point of view (and her relation to it) in the third person. This argument asks the egocentrist to observe that other persons have sectarian moral views just as she does and indeed stand in the same relationship to their views as she does to hers—that she is, in respect of her beliefs just as in respect of her interests, not in any fundamental way special. Thus, as Nagel has proposed, a person who steps back from her own beliefs may come in certain cases—quintessentially, according to Nagel, in cases of religious belief—to recognize that although she believes something, “others presented with the same grounds could reasonably refuse to believe it.”⁵⁵ Similarly, Rawls proposes that reasonable people must accept that their sectarian moral beliefs are formed subject to the “burdens of judgment,” that is, features of the human mind and the circumstances in which it reasons that entail that reasonable disagreement about sectarian morality is ineliminable.⁵⁶

For both Nagel and Rawls, these are practical rather than theoretical and epistemic ideas. The perspectival shift that the arguments recommend, in contrast to ordinary scepticism, is designed not to undermine the *certainty* with which the sectarian moralist holds her beliefs, but rather to cast doubt on whether *her* certainty undermines the reasonableness of others who form and pursue other, incompatible beliefs. The perspectival argument is designed to cast doubt on a person’s *entitlement* to act on her moral beliefs even when they are epistemically warranted. And in this way, its proponents suggest, the perspectival shift leads persons who adopt it towards toleration as respect rather than merely as indulgence.

⁵⁵ Thomas Nagel, *Moral Conflict and Political Legitimacy*, 16 PHILOSOPHY AND PUBLIC AFFAIRS 215, 235 (1987).

⁵⁶ GET CITE. LIST BURDENS?

This version of the perspectival argument does not, however, exert the pressure against egocentrism that its analogue exerts against egoism. Unlike interests, sectarian moral beliefs do not themselves give reasons but instead merely report the reasons that *independently* apply. The egocentrist can (and indeed should) therefore reject the idea that other persons' sectarian views are reason-giving for them, and indeed that her sectarian view is reason-giving for her. She will insist, instead, that each sectarian view merely purports to identify the reasons that apply, independently, to everyone. Insofar as a person is confident that her sectarian view accurately identifies these reasons (insofar, that is, as she is not sceptical in the ordinary epistemic sense), then the reasons that her view identifies will continue to stand out as distinctive even when she steps back from her own moral views and approaches herself in the third person. Even once she has made the perspectival shift, she will therefore continue to insist that everyone, and certainly that she herself, has reason to promote exclusively the true moral view, and never to defer to other, false views, regardless of how reasonable they are. As Raz has observed, in criticizing Nagel's version of the perspectival argument, the argument fails "because it depends on driving a wedge between appeal to truth and acceptance of objective standards of justification; and that wedge comes unstuck."⁵⁷ Even if it demonstrates that others are reasonable in their heterodoxies, the perspectival argument does not give the orthodox believer reason to attend to the reasonableness of the heterodoxies rather than their falsehood.⁵⁸

The perspectival argument is, in a sense, precisely the opposite of the argument that is needed to sustain respectful

⁵⁷ Joseph Raz, *Facing Diversity: The Case of Epistemic Abstinence*, 19 PHILOSOPHY AND PUBLIC AFFAIRS 3, 43 (1990).

⁵⁸ Jules Coleman provided helpful discussions on this point.

toleration, because it emphasizes the gulf between persons' several sectarian perspectives without constructing a perspective that persons can share even across this gulf. Rawls was sensible of this and supplemented the perspectival argument with a set of ideas designed to explain why persons should attend to the reasonableness of sectarian beliefs that they consider mistaken and take people's reasonable (but mistaken) beliefs to demand respect and not just indulgence. Rawls's arguments in this connection, and their shortcomings, present a second example that is instructive for developing the approach that I prefer.

Rawls seeks to ground the argument for respecting reasonable (but mistaken) sectarian beliefs in moral psychology, and in particular in the account of the two moral powers of human personality that appears throughout Rawls's mature work. The second of these powers is what Rawls calls the capacity for a sense of justice, that is, the capacity to participate in fair schemes of social cooperation.⁵⁹ Rawls hopes that this feature of moral personality can provide the foundation for attending to reasonableness rather than truth that the perspectival argument standing alone lacked, and on which the case for respectful toleration ultimately depends.

This suggestion—which connects the case for respectful toleration to a conception of the person and in particular to the conditions of human flourishing—has the right form. But Rawls's formulation of the capacity for a sense of justice does not make the dramatic departure from egocentrism that a successful defense of respectful toleration finally requires. Specifically, Rawls's account of the capacity for a sense of justice—through its focus exclusively on *fair* schemes—makes accepting necessarily sectarian ideas concerning the appropriate balance among persons' competing interests into a *pre-condition* for political engagement. Indeed, it

⁵⁹ See John Rawls, *A Theory of Justice* p. 505, *Political Liberalism* p. 19.

makes a particular, sectarian conception of fairness *constitutive* of political life. In this way, the Rawlsian position never quite manages to avoid stating a sectarian position—grounded in a particular conception of human freedom—and thus never quite overcomes egocentrism, as respectful toleration requires.

This is, moreover, not merely an outgrowth of an infelicitous formulation in Rawls's account of the capacity for a sense of justice. Instead (and unsurprisingly, given the pervasive role of his moral psychology in Rawls's larger argument) the connection between a particular sectarian conception of fairness and the Rawlsian view of politics pervades Rawls's larger argument. The initial construction of the Original Position, for example, seeks to identify *both* the proper balance among people's competing interests and the balance among their competing sectarian views (which include views about how to balance their interests) by one and the same representation device—the Original Position behind the Veil of Ignorance. Indeed, the argument from the Original Position is designed, in the one and the same breath, to elaborate (sectarian) principles of distributive justice (specifically, the difference principle) alongside a purportedly non-sectarian principle of toleration. The result, as many commentators have observed, is that the principle of toleration Rawls articulates never quite achieves the non-sectarianism to which it aspires. Instead it recapitulates the individualistic, freedom-loving sectarian view that provided the raw materials for its construction. In Rawls's early work, the selection of the primary goods in terms of which principles of justice are evaluated from behind the Veil of Ignorance is biased in favor of such individualistic sectarian moral views.⁶⁰ And in Rawls's later work, the conception of reasonable disagreement that fixes the character of political argument and therefore lies at the core of the proposed notion of tolerant respect

⁶⁰ CITE TO HART, ETC. MAKE AN ANALOG OF THE POINT IN THE NEXT NOTE THAT THIS IS NOT JUST A QUESTION OF SCOPE OF TOLERATION BUT ALSO OF ITS CHARACTER.

builds a similar circularity into the argument.⁶¹ In each case, Rawls's argument—although it has the right form for a defense of respectful toleration—prescinds from sectarian first principles and therefore never truly overcomes egocentrism.

This shortcoming is deeply ingrained in Rawls's work. Indeed, it is entailed by the goal that Rawls set himself when he announced, at the start of a *Theory of Justice*, that “[j]ustice is the first virtue of social institutions.”⁶² The sectarian character of Rawls's political philosophy is further emphasized in the name he gave his theory—“justice as fairness”—which signals that justice, as Rawls understands it, includes principles concerning how to balance persons' competing interests and thus has a necessarily sectarian component. In Rawls's work, the two forms of balancing—first, among persons' competing interests and, second, among their incompatible sectarian moral views (which themselves contain ideas about how to strike the first balance)—are inextricably intertwined.

The argument developed here rejects this intertwining of impartiality and toleration. It insists, instead, that toleration, and the deference to mistaken sectarian views that toleration involves, necessarily extends even to mistaken sectarian views about *justice*. In doing so, the argument makes *toleration*, rather than justice, the first, and indeed the characteristic, virtue of free-standing politics. (Egocentrism, by contrast, is not a *political* ideal at all but rather an

⁶¹ This point is familiarly made with respect to the scope of the principle of toleration that Rawls proposes—in Rawls's terms, the range of sectarian moral views that might be brought within the overlapping consensus out of which his political principles arise. CITE TO WENNAR. But it is important to see that, even within this consensus, Rawlsian toleration is less than truly respectful, since it remains, in the end, an expression of agreement among the several sectarian views (this is the “consensus” part of Rawls's formulation) rather than of respect across disagreement.

⁶² John Rawls, *A Theory of Justice* p. 3.

idea about politics, namely the idea that there are no sensible political ideals.) This represents a profound departure from past philosophical practice. The difference between views that make justice central to politics and one that makes toleration central is more than just a difference about how best to fill out an agreed structure of political thought. Rather, this difference concerns what structural role political ideas—including characteristically the ideal of toleration—should play in practical life more generally. The respect conception of toleration, as I am developing it, proposes nothing less than a new *concept* of politics.⁶³

⁶³

CITE TO CONCEPT-CONCEPTION DISTINCTION.

5 Human Sociability

The challenge for political philosophy, once again, is not in the first instance to give toleration a broad scope—to demonstrate that one should tolerate a wide range, or indeed the entire range, of sectarian diversity—but rather to explain why one should truly tolerate—in the sense associated with respect rather than merely indulgence—any sectarian deviance at all. The question how broadly to tolerate, which is the usual starting point for discussions of toleration, must take a back seat until this conceptually prior question can be answered.

The critical engagements in the last chapter emphasized that in order to meet this challenge, political philosophy must invoke practical and moral, rather than merely theoretical ideas and that these ideas must avoid becoming entangled in sectarian morality. A defense of toleration must explain that the relationship among persons that respectful toleration establishes is a free standing good, and in particular that it is good precisely in virtue of its involving respect across sectarian difference—of its requiring people to step outside their own sectarian views and defer to views that they regard as mistaken. Political philosophy must elaborate and defend the thought that tolerant politics is an expression of a distinct human interest, which stands entirely apart from the interests that lie behind every sectarian morality. To do this, it must identify the interest and then demonstrate that toleration is necessary for meeting it. This chapter takes up the former task.

The thought that every person's success, on any terms, requires the company of others has been familiar at least since Aristotle's observations that man is a political animal and, relatedly (really equivalently) that we desire the esteem of others

and especially of those others whom we ourselves esteem.⁶⁴ Nevertheless, there are many ways in which persons might need others to flourish, and many of them are purely instrumental, as when two people must combine forces to remove an obstacle that blocks both their paths, and which is too heavy for either to lift alone. Certainly not all of the ways in which each person needs others involve recognizing others, and certainly not retreating from egocentrism to defer to others (across sectarian difference) in the manner of respectful toleration. The project of elaborating the good of respectful toleration must therefore begin by characterising the general class of deferential relations to which toleration belongs and the interest that these relations promote.

The analogy between morality's project of overcoming egoism and toleration's project of overcoming egocentrism provides a useful frame for this effort. The roots of moral other-regard may be found in the natural *sympathy* that persons possess for one another.⁶⁵ Each person's successes and failures induce reflected sentiments in others who observe them. This led Adam Smith to observe that "[i]n every passion of which the mind of man

⁶⁴ Aristotle, *Politics* ____ (on being a political animal) Aristotle, *Nicomachean Ethics* 1095b 26-69 (on desiring esteem). READ AND CHECK. SEE WHETHER THERE IS LANGUAGE SUGGESTING WE NATURALLY ADJUST OUR SELF-ESTEEM TO THEIR ESTEEM OF US.

⁶⁵ Here I am using the word *sympathy* as a term of art, as I shall do with *sociability* in the next paragraph. Others have used the word differently. (Stephen Darwall, for example, uses *sympathy* in a sense more narrowly, to refer only to harmonious reflected feelings, as felt from the perspective of one who cares for the persons who are its object. See Stephen Darwall, *Welfare and Rational Care* 50-51 (2002).)

Hume and Smith, to whom I refer at points in the main text, employ their own usages. I am not persuaded that these are always consistent, in particular across the conceptual distinction between sympathy and sociability that I emphasize. This is not, however, the place to address the interpretation of classic texts. Better simply to forestall confusion by disclaiming any interpretive intent.

is susceptible, the emotions of the by-stander always correspond to what, by bringing the case home to himself, he imagines, should be the sentiments of the sufferer.”⁶⁶ Smith’s observation, and also the examples by which Smith sought to illustrate it (which almost all involve one or another form of sympathetic pain, reflected from those directly inflicted by physical harm to be experienced by those who observe the harm), emphasizes harmonious instances of human sympathy.⁶⁷ But nothing requires this harmony, and sympathy can also generate oppositional sentiments, as when the cruel person takes pleasure in the failure of another. The distinguishing feature of sympathy for other persons’ is not whether it promotes harmonious or oppositional reactions in observers, but rather that it takes as its object the *circumstances* of observed persons rather than the sentiments that they form, given these circumstances. Sympathy thus arises by application of the observer’s perspective to the condition of the observed: To return to Smith’s formulation, the by-stander *brings the case home to himself*, which is to say that he imagines what, given the observed’s circumstances, her sentiments *should be*. A person in

⁶⁶ ADAM SMITH, *The Theory of Moral Sentiments* 2-5 (1971). Check words, pages, edition.

⁶⁷ Smith believed that “[t]he source of our fellow-feeling for the misery of others” may be found in our natural tendency toward harmonious sympathy. When we confront another who suffers, Smith wrote, we “place ourselves in his situation, [so that] we conceive ourselves enduring all the same torments, we enter as it were into his body, and become in some measure him, and thence form some idea of his sensations, and even feel something which, though weaker in degree, is not altogether unlike them. His agonies, when they are thus brought home to ourselves, when we have thus adopted and made them our own, begin at last to affect us, and we then tremble and shudder at the thought of what he feels.” Smith believed that this mechanism operates not just with respect to failures but also with respect to successes: the language, quoted a moment ago, concerning “every passion of which the mind of man is susceptible,” follows an express recognition that “[n]either is it those circumstances only, which create pain or sorrow, that call forth our fellow-feeling.” ADAM SMITH, *The Theory of Moral Sentiments* 2-5 (1971). Check words, pages, edition.

the grip of sympathy, whether harmonious or oppositional, imagines another's condition, asks "how would I feel if I were she?" and then develops actual feelings in response to the answer that he gives. A sympathetic person occupies the circumstances of the object of his sympathy, but occupies them *as himself*. Sympathy, in its harmonious expression, can thus ground morality's rejection of egoism.

We are sympathetic to others because we imagine ourselves in their shoes. But the question "how would I feel if I were she?" presents only one of two possible glosses on such imaginative role reversal with other people: the gloss in which both our circumstances and theirs are assessed *by us*, employing our sensibilities. Yet when we engage another person, in the manner of role-reversal, we might respond not just to her circumstances but also to her sensibilities, so that we respond to how her circumstances appear to her, which is to say as assessed *by her*. Smith, as it happens, observed the familiarity of this form of role-reversal also: "When I console you for the loss of your only son," Smith wrote, "in order to enter into your grief I do not consider what I, a person of such a character and profession, should suffer, if I had a son, and that son were unfortunately to die: but I consider what I should suffer if I was really you, and I not only change circumstances with you, but I change persons and characters."⁶⁸ (Here note Smith's focus on your *grief* rather than, as sympathy would have it, your *misfortune*.) David Hume also emphasized this phenomenon, observing the "propensity we have . . . to receive by communication [the] inclinations and sentiments" of others—their *sentiments* not their circumstances (where their sentiments may depart from those that we would form in their circumstances).⁶⁹ Hume called the propensity "sympathy,"

⁶⁸ Adam Smith, *The Theory of Moral Sentiments* 317. CHECK QUOTE AND CITE.

⁶⁹ David Hume, T316 CHECK QUOTE AND CITE. See also T 2.2.2-8, 3.3.1.7-8. Smith adopted similar language, for example writing that when a

confusingly so, given its structural difference from sympathy understood along the lines just set out. To mark this difference, I shall call the human susceptibility to the sentiments—or the perspectives, as I shall generally say—of others *sociability*.

Human sociability is as central as sympathy to persons' being the kinds of creatures that we are. Indeed, our lives would be quite unrecognizable if we could do without social relations, if we were insensitive to other persons as personalities and so could live successfully free from every felt need to engage others as free-standing points of view. This would be so even if we retained a pragmatic need for coordination and even our sympathies (our concern for other persons' circumstances, as we assess them). Sociability adds a new dimension to persons' interests in one another, and hence to their interactions.⁷⁰ This new dimension reveals itself in three basic ways in which the society of others contributes to human flourishing. All three will eventually underwrite arguments in favour of respectful toleration.

person experiences a passion, “an analogous emotion springs up, at the thought of his situation, in the breast of *every attentive spectator*.” ADAM SMITH, *The Theory of Moral Sentiments* 2-5 (1971). Check words, pages, edition.

⁷⁰ To illustrate the difference between sympathy and sociability concretely, consider the following example. You are a competitive person—you hate to lose and suffer when you do—and are playing a competitive game against someone. Your sympathy for her sensitizes you to the costs that you imagine a losing player feels and thus inclines you secretly to allow her to win. But she intends for the two of you aggressively to compete at the game (in fact, it is not clear that it is even possible for her to intend that you secretly permit her victory). Your sociability—your desire to engage her respectfully as an independent point of view—can be served only by trying to defeat her. That is the only way for you to respect the public rules and character of the game, which serve as the medium through which the two of you recognize each other as players. (The tension between sympathy and sociability in the example may be reproduced quite generally. Analogous tensions arise quite generally in the face of value pluralism, which necessarily brings the two forms of role-reversal into conflict, by causing the answers to the questions “if I were you” and “if you were I” to diverge.)

To begin with, society of another (a single other may suffice) might be a transcendental good for a person, a condition for her achieving her personality at all. This possibility is most prominently explored by Hegel, who believed that persons' self-actualization (and in particular the development of their freedom) requires that "[t]hey *recognize* themselves as *mutually recognizing* one another."⁷¹ The path to recognition reveals a great deal about its terminus. Hegel believed that recognition begins in struggle; for he supposes that "it is only through staking one's life that freedom is won."⁷² Hegel thus imagines that two persons encounter each other and enter into a struggle for recognition through which each seeks to realize his own freedom, wherein one triumphs and, asserting his will, becomes what Hegel calls the lord while the other capitulates unconditionally and, serving the lord, becomes what Hegel calls the bondsman.⁷³ Hegel observes that the lord, by denying that the bondsman has any authority over him and converting the bondsman into his mere instrument, deprives himself of the society of an other who might satisfy his need to be recognized. As Hegel says, "[t]he master standing over and against the servant [is] still not truly free," for, having reduced the servant to his instrument, "he still [does] not thoroughly look on himself in the other," so that "it is only through the liberation of

⁷¹ G.W.F. Hegel, *Phenomenology of Spirit* s. 184 (A.V. Miller, trans. & J.N. Findlay, ed. 1977) (emphasis in original).

⁷² G.W.F. Hegel, *Phenomenology of Spirit* s. 189 (A.V. Miller, trans. & J.N. Findlay ed. 1977). Wood's gloss (see note 32, *supra*) gives Hegel's claim a conditional gloss (*if* a person's self-worth depends on achieving esteem in the eyes of others . . .). But, as the quoted remark illustrates, Hegel himself thought that a person's flourishing unconditionally required the recognition of others—indeed, that recognition is required for realizing one's personality on any terms.

⁷³ See G.W.F. Hegel, *Phenomenology of Spirit* s. 187-189 (A.V. Miller, trans. & J.N. Findlay ed. 1977).

the servant that the master, too, becomes perfectly free.”⁷⁴ This remains so even where the master (for instrumental or other reasons) takes the servant’s *interests* as constraints on his use of the servant. The master can find the recognition that he seeks, and so realize his own personality and freedom, only by recognizing the servant’s *personality*—the servant’s judgments and intentions—as a free-standing constraint on his conduct.

The dialectic of master and servant asserts a central place for sociability in the formation of each individual’s personality. It also illustrates a feature of sociability that will become very important when the argument turns to political toleration proper. As with sympathy, sociability may operate not just in a harmonious but also in an oppositional fashion. Whereas harmonious sociability involves an inclination to respect others by deferring to their perspectives, oppositional sociability characteristically involves an inclination to dominate others by overcoming their wills and imposing one’s own perspective on them.⁷⁵ Domination turns out to be a complicated matter, and the complications reveal something about recognition more generally.

Total domination, the dialectic emphasizes, deprives the dominated other of the perspectival capacity that might make him a worthy object of engagement, including even of domination. Hegel’s point, as Allen Wood observes, is “an instance of the general truth that if I want to acquire worth in my own eyes [or more generally to achieve my own personality] on the basis of another’s esteem, I can do it only to the extent that I esteem the

⁷⁴ G.W.F. Hegel, *Hegel’s Philosophy of Mind* s. 436A (William Wallace and A.V. Miller, trans. 1971). CHECK QUOTE.

⁷⁵ This carries forward the analogy between sympathy and sociability, according to which sociability reprises sympathy’s structure, only concerning perspectives rather than interests. Whereas harmonious sympathy promotes interests, harmonious sociability respects perspectives; and whereas oppositional sympathy harms interests, oppositional sociability dominates perspectives.

other as a judge of my worth.”⁷⁶ Achieving recognition requires esteeming the *independent judgment* of the other, and not just recognizing the other’s worth judged from one’s own point of view. The truth is in fact more general even than Wood’s formulation suggests. It applies not just where my motive is to acquire worth based on esteem, but with respect to *any* motive that references another’s independent judgment: I cannot vindicate such a motive through actions that destroy or deny the other’s capacity *as an independent judge*.

Transcendental sociability, that is, reflects the human interest in engaging others for their independent perspectival capacities, and such engagements must make reference to the full personality and not just the interests of others. To promote a person’s transcendental interest in society, recognition must involve attributing authority to the judgments and intentions that others form, from their perspectives: to achieve his own freedom, the lord must appreciate the bondsman’s freedom, his independent judgment. Hegel’s dialectic thus illustrates that oppositional sociability has a distinctively self-limiting character, because recognition by its nature involves deference to the recognized other. This feature of sociability, including the self-limiting quality that it imposes on sociability’s oppositional expression, will eventually figure prominently in the theory of toleration.

Another sense in which the society of others might be good for a person is hypothetical. There exists a class of activities that persons value contingently, whose value can be achieved only through engaging others sociably, that is, on account of their independent personalities. For people who happen to value these

⁷⁶ See Allen Wood, *Hegel’s Ethical Thought* ____ (____). The insight, incidentally, was not unique to Hegel. Fichte, for example, had also observed that to address someone is necessarily to address them as someone who can address back. GET CITE.

activities, the society of others required to engage in them is a good.

The hypothetical good of society is illustrated by the human interest in many forms of joint intention, ranging from informal pursuits such as taking a walk together or singing a duet, to more formal practices such as games. These behaviors require participants to develop intentions that are, as Michael Bratman has observed, self-consciously *interlocking*: “[F]or each agent must have intentions in favor of the efficacy of the intentions of the other. In this way, each agent must treat the relevant intentions of the other as *end-providing* for herself; for each intends that the relevant intentions of the other be successfully executed.”⁷⁷ Persons who take a walk together, for example, must adjust their gaits and routes to each other; persons singing a duet must adjust the tone and cadence of their singing; and persons playing a game must adjust their actions so that their play approaches the game’s objective and remains consistent with the game’s rules, given the play of the others.⁷⁸ Each participant in these activities—by taking the intentions of other participants as end-providing—recognizes the authority of the others (within the frame of the activities). This authority relation is illustrated by the good of games. Each player of a game grants the others authority to insist that she comply with the rules, including in particular with what the rules require of her given their play. It is through this grant of authority that she

⁷⁷ Michael Bratman, Shared Cooperative Activity, in Michael Bratman *Faces of Intention* 93, 102 (1999).

⁷⁸ The case of games is a little complicated, at least where the games are competitive. The characterization in the main text supposes that competition to win at such games is nested in cooperation to implement the rules and thus to play the game. The appeal of games, moreover, rests more on the cooperation involved in playing them than on the competition involved in winning them. We play as avidly, after all, even when no prizes or honors attach to victory, and we find a value in even the most trivial competition that we can never find in *solitaire*.

engages the other participants sociably, in respect of their perspectival capacities (and not just their interests).

Achieving the hypothetical good of society thus again (like society in its transcendental form) requires genuine intersubjectivity—joint action, in all its contingently appealing forms, requires that the participants reciprocally appreciate one another for their perspectival capacities. They must treat one another not just as patients who possess interests (which each addresses entirely from within her own point of view) but rather as agents who possess free-standing intentions and beliefs, to which they must reciprocally defer. Games, to return to the example, hold interest for persons only insofar as they recognize the worthiness of their opponents.⁷⁹ At the same time, this form of society remains a hypothetical good only, for the participants' interests in sociable engagements involved in these activities remain conditional on the participants' commitments to the joint activities that frame them. At least in the pure cases of these activities (in which the participants neither rely on nor even expect the activities' being brought to completion), each may abandon the joint activity without regard to the other's engagement with it or, through it, with her. The walkers, singers, and players in the

⁷⁹ In this respect, games once again illustrate the self-limiting character of oppositional sociability. When a player over-matches her opponent (either because her play is too much better or because she has cheated), play (and, a fortiori, victory) loses its characteristic satisfactions. This happens not just because of the operation of the superior player's private ideals of fairness but also because it converts the over-matched opponent into the her instrument, who (in a domesticated reprise of Hegel's lordship and bondage) is no longer capable of joining the shared perspective, established by the rules, on which engagement through the game ultimately depends.

Indeed, it seems plausible that games are attractive because they create artificial environments in which persons may engage others as points of view, and accept the retreat from egocentrism that such engagement entails, at relatively low cost. Games attract players because they create artificial, and inexpensive, social relations.

examples need not have any commitments (or even intentions) directly in favor of each other.⁸⁰

The society of others is, finally, also a categorical good for persons. The good of society understood in this categorical sense is most elaborately developed in Kantian ethics. This is made vivid in the emphasis that Kant—most directly in the statement of the Categorical Imperative that has come to be called the Formula of Humanity—placed on the idea that all persons are, simply in virtue of their personalities, free-standing sources of moral claims on every agent, claims that must be respected no matter what else an agent happens, contingently, to value or what other ends she happens to pursue. As Kant said, “Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end.”⁸¹

⁸⁰ Of course, they may have such intentions. Indeed, a joint activity may owe its appeal to its capacity to act as a medium for social relations among its participants. This is easily illustrated with respect to games. By creating purely artificial perspectival differences (based on the strategic oppositions that they establish), games manufacture opportunities for sociability under conditions in which the stakes with respect to other values (including those that trigger sympathy, driven by each player’s concern for the other’s circumstances as she sees them) remain low. Persons are attracted to games, on this account, not for the physical or intellectual problems that the games pose but for the opportunities for engaging others that the games open up, which is why solitaire or play against machines is never as appealing as play against another person. (Promising may present another, in important respects analogous, mechanism for opening oneself up to the society of others.)

This view reverses the main text’s account of games as instances of hypothetical sociability: on that account, the social engagements in games serve an antecedent interest in the non-social aspects of play; on this account the non-social aspects of play serve an antecedent interest in establishing social relations. The new account thus connects games to the categorical interest in society that the main text now takes up.

⁸¹ IMMANUEL KANT, *GROUNDWORK OF THE METAPHYSIC OF MORALS* 427-30 (H.J. Paton trans., Harper & Row 1964) (1785) at 429.

This language identifies two senses in which persons represent free-standing sources of moral claims: first, a person should never treat others merely as means to his own ends; and, second, he should always treat others also as ends in themselves.⁸² The first principle, which insists that other persons are never simply *available* to an agent for her own use, is important to be sure. But the failures of recognition are not exhausted by the disruption of the will that occurs when one person, employing force or fraud, treats another merely as a means. And sociability is most implicated, and the theory of toleration is best pursued, in light of the second (separate) idea that persons must always treat others as ends in themselves. This has sometimes been thought to announce merely that each person should “enhance [other persons’] prospects for the successful exercise of their agency,” including “by directly assisting [them] in their pursuit of [their] ends.”⁸³ But this way of speaking does not quite capture Kant’s idea, which is that in order to treat others as ends in themselves it is not enough to act just *in support of* their ends, assessed from one’s own point of view. Rather, one must defer to their points of view which, insofar as they reflect their personalities,⁸⁴ override

⁸² The distinction that I emphasize receives especial attention, among Kantians, from Onora O’Neill, who writes of “two separate aspects to treating others as persons.” See ONORA O’NEILL, *CONSTRUCTIONS OF REASON: EXPLORATIONS OF KANT’S PRACTICAL PHILOSOPHY* 13 (1989).

⁸³ PAUL GUYER, *KANT ON FREEDOM, LAW, AND HAPPINESS* 148 (2000).

⁸⁴ This caveat responds to the possibility that another person’s ends might undermine rather than express his own moral personality. Most simply, his ends (insofar as they are adopted under threat, for example, or even subject to the influence of ideology) may reflect something other than his own deliberative processes. Moreover, it may also be that some ends are so degraded in their substance that they cannot, for this reason, present an avenue for respecting the persons whose ends they are. It is, of course, a difficult question precisely when these thresholds are crossed and indeed (especially with respect to the second possibility) whether they are ever crossed at all. But however these questions are answered, the answers cannot come from entirely within the ordinary

(at least in some measure) one's own sense of the value of the ends in question. This entails, moreover, that one take their ends as one's own not just contingently (subject to one's private sense of their value, including one's private sense of the value to them of pursuing whatever ends they have chosen) but rather categorically, on the ground, simply, that these are their ends and that they are persons.⁸⁵ One must, that is, adopt the distinctive attitude towards others associated with appreciating not just that they have value but that they have the capacity *to value*.

This is the attitude Stephen Darwall has in mind when he says that "in esteeming another's valuing one also appreciates and esteems that person as well."⁸⁶ The Formula of Humanity calls on each person to appreciate others as persons, who possess the distinctive perspectival capacity, and also the distinctive authority, of persons. One must support the ends of others *for the sake of* their personalities, which requires deferring to their judgments and intentions concerning these ends. One must, that is, always be open to the power of others to draw one, by the sheer force of their personality, into their points of view, and thus to establish a shared, public perspective on the relationship that the appreciation creates. One must be open to what I have called the *charisma* of others.

application of the sociable person's own moral beliefs, which would involve a return to egocentrism that undermines the sociability that she seeks.

⁸⁵ CITE TO TAMAR SHAPIRO ON KANTIAN ANTI-PATERNALISM.

⁸⁶ Stephen Darwall, *Welfare and Rational Care* 100. Darwall once again connects this attitude to the production of public reason: As he says, "[w]hen two people share esteem for merit, whatever its source, they are then in a position to appreciate this meritorious response in each other, and then, to appreciate the merit of their so doing, and so on. And when the merit they appreciate is in each other, these effects are accentuated. Moreover, since, as Joseph Brodsky put it, 'a man is what he loves,' in esteeming another's valuing one also appreciates and esteems that person as well." Stephen Darwall, *Welfare and Rational Care* 100.

The charisma of persons, in this categorical sense, is familiar from ordinary experience. It is revealed, most crassly, by the fact that it is literally impossible completely to *ignore* another person—where to ignore is consciously to disregard her in the full awareness that she is a person. We can (and do) find ways of avoiding becoming aware of the personalities of others; but once made aware, we cannot help but recognize. This ordinary experience of charisma is, moreover, confirmed by social psychology, in laboratory experiments. Well-established phenomena such as social referencing and joint visual attention reveal that a person’s perspective commands attention from, and penetrates, the perspectives of those who observe her, including from the very beginning of life: for example, infants whose mothers turn to direct their gaze at an object tend also to turn towards and focus on the same object, literally coming to see the world from their mothers’ points of view.⁸⁷ When charisma is effective, a person acknowledges the charismatic other simply in virtue of her constituting a point of view: one person’s attention follows another’s just because the other is an attending person. A person who responds to charisma thus makes the charismatic other’s personality itself into his object, rather than conditioning his response on contingent facts about her, including whether she

⁸⁷ See Thompson “Empathy and Emotional Understanding: The Early Development of Empathy” in the Eisenberg and Strayer, eds. *Empathy and Its Development* (CUP 1997). GET VOLUME AND READ AND GET MORE STUDIES.

Stephen Darwall has connected some of the results from social psychology to moral ideals—concerning respectful recognition and the construction of shared, public reason—that will figure in my argument also: “When we projectively mirror others’ feelings, we not only show them how they feel, we also indicate to them that we agree about how *to* feel. We show that we understand their feelings and signal our willingness to participate with them in a common emotional life. This makes projective empathy central to the formation of normative communities—like-minded groups who can agree on norms of feeling.” Stephen Darwall, *Welfare and Rational Care* 62.

affirms ends that he deems appealing, from his own point of view, as constituted apart from the encounter with her. (This feature of charisma—its power to cause people to break out of their own ideas and preconceptions—explains why it is such a potent persuasive tool.) Charisma is possessed exclusively by persons and is possessed by all persons and for all persons (although the extent and effectiveness of charisma will of course vary across pairs of persons). One might say, with another nod to colloquial usage, that although some persons have better personalities than others, nobody has literally no personality.

The structure of society as a categorical good reprises the familiar morphology of the other versions of the good of society. In order to treat others as ends in themselves, it is not enough to promote their ends insofar as these are seen to be appealing from one's own point of view. Rather, one must defer to their points of view, which, insofar as they reflect their personalities,⁸⁸ override (at least in some measure) one's own sense of the value of the ends in question. This is what makes the value of this form of social relation categorical rather than hypothetical. The Formula of Humanity commands one to take the ends of others as one's own not just contingently (subject to one's own sense of their value, including one's own sense of the value to them of pursuing whatever ends they have chosen) but rather unconditionally, on the ground, simply, that these are their ends and that they are

⁸⁸ This caveat responds to the possibility that another person's ends might undermine rather than express his own moral personality. Most simply, his ends (insofar as they are adopted under threat, for example, or even subject to the influence of ideology) may reflect something other than his own deliberative processes. Moreover, it may also be that some ends are so degraded in their substance that they cannot, for this reason, present an avenue for respecting the persons whose ends they are. It is, of course, a difficult question precisely when these thresholds are crossed and indeed (especially with respect to the second possibility) whether they are ever crossed at all. But however these questions are answered, the answers cannot come from entirely within the ordinary application of the sociable person's own moral beliefs.

persons.⁸⁹ Their personalities—their judgments and intentions—must shine an independent light on the relationship. Only in this case will one appreciate them for their personalities. Only in this case will it happen that one's ends and theirs do not just coincide but are instead *shared*, and shared, moreover, subject to a regime of public reasons that that constitutes a genuine social relation.

To realize the categorical good of society, a person must not just act solicitously towards others while all the while remaining fully within herself, but must rather, as one might say, fall genuinely under their sway. The Kantian ideal may thus be understood to insist that persons be always open to one another's natural authority—so that they are always amenable to engaging one another in social relations. It is, one might say, an inherent part of the dignity of persons that they possess the power charismatically to draw one another into social relations, that their judgments and intentions possess a natural authority for one another.

⁸⁹ This marks a morphological difference between categorical and hypothetical sociability. As I observed earlier, a person's interest in society as a hypothetical good remains conditional on her interest in whatever activity frames the particular instance of social relations in question—the hypothetical good of society can arise among persons who have no commitments in favor of each other. Categorical sociability is different, in this respect, as it arises (following the Formula of Humanity) out of each person's openness to the personalities of others, which makes each person inclined to act to support the ends of others not out of any convergence between these ends and her own contingent interests but directly, and non-contingently, for the sake of their personalities. Achieving the categorical good of society requires forming commitments directly and unconditionally in favor of other persons. These commitments, because they run in favor of other persons and do not depend on the private ideals of the person who has them, stand in the way of a person's abandoning a categorical social relation to promote her sectarian morality, as long only as her counterparty continues to assert the charismatic authority on which the relation is built. CITE TO TAMAR SHAPIRO ON KANTIAN ANTI-PATERNALISM. DARWALL ON TWO KINDS OF RESPECT?

Being sociable creatures, persons are concerned—in all three of the ways just outlined—not just for other persons’ circumstances as they assess them but also to engage other persons’ sensibilities—other persons’ intentions and judgments—made from the other persons’ own distinct points of view. Sociability, especially in its harmonious expression, thus grounds politics’ rejection of egocentrism. By making persons susceptible to influence by the sensibilities of others, sociability gives persons an inclination to *defer* to one another. Sociable persons are inclined to treat the perspectives of others as possessing a (possibly modest) measure of *authority* over their own perspectives.

In practical matters, this amounts to a person’s taking the beliefs and intentions of others as giving herself reasons for action that are, to borrow Joseph Raz’s formulation, “not to be added to all other relevant reasons when assessing what to do, but should exclude and take the place of some of them.”⁹⁰ In particular, sociability inclines persons towards excluding from their practical deliberations certain reasons that they have identified from their own private perspectives, prior to encountering the other persons whose society they might, by their deference, acquire. This does not require that persons go against the balance of their reasons, all-things-considered (which would be to violate right reason). Rather, sociable persons recognize a distinctive class of reasons, which have to do with a good—the society of others—that can be achieved only by recognizing the authority of other persons’ beliefs and intentions, made from their independent perspectives. A person cannot achieve the society of others from purely within her own point of view, no matter how expansive, and human sociability cannot be vindicated in a purely self-sufficient mode. Instead, society is a genuinely *relational* good arising only where persons cede their independence and adopt intentions and judgments that make reference to one another. Foreshadowing the

⁹⁰ Joseph Raz, *The Morality of Freedom* 46 (1988).

argument to come, one might say that sociability attracts persons to *inter-subjectivity*—to spaces of shared intentions and public reasons.

Finally, sociability underwrites a particular form of justification for the deference and authority that charisma involves. A sociable person defers to others not only for the instrumental reason, which Raz supposes establishes the normal justification for authority, that such deference might enable her better to conform to reasons that she anyway recognizes (including perhaps reasons that reflect her judgments about others' interests) from her purely private perspective than she could do by attending to these reasons directly, on her own.⁹¹ Rather, a sociable person also defers to others partly on *their* terms—because the deference constitutes an independently valuable social relation with those whose authority she recognizes. Sociability thus inclines persons to recognize the authority of others not in the service of their private relation to their own reasons but rather in the service of a public relation that this authority establishes among the persons who recognize it.⁹²

⁹¹ Raz writes that the normal justification for an authority is that the person subject to the authority “is likely better to comply with the reasons which apply to him (other than the alleged authoritative directive) if he accepts the directives of the alleged authority as authoritatively binding and tries to follow them, rather than by trying to follow the reasons which apply to him directly.” Joseph Raz, *The Morality of Freedom* 53 (1988).

⁹² Stephen Darwall has characterized authority in similar terms and has observed that this characterization better accounts for an important feature of the phenomenology of authority, namely that authority relations involve not just deference but deference *owed to* the authorities, so that the person in authority has special standing to hold the subject of her authority to account when he defies it. See generally Stephen Darwall, “Authority and Second-Personal Reasons for Acting,” GET CITE. PERHAPS ALSO TO *THE SECOND PERSONAL STANDPOINT*. On the normal justification thesis, the most that can be said of someone who defies a legitimate authority is that he is mistaken or perhaps (if he knows his mistake yet persists in it) akratic. But defiance of legitimate authority seems to involve a quite different wrong.

This difference matters to the theory of toleration. On Raz's approach, authority is just an instrument that an agent might use to achieve conformity to her private conception of right reason. Normal justifications render authority a shallow phenomenon only, so that although a person who obeys a legitimate authority initially retreats from her own judgments, she does so in the service not just of reasons that are reasons for her but also of more fundamental *judgments* that she makes *from her own point of view*. Relatedly, normal justifications of authority are therefore highly contingent—they depend, at every step, on the balance of antecedent reasons. Normally justified authority therefore must be grounded in considerations that apply *prior to* the operation of the authority. In both respects, Raz's normal justification for authority therefore proceeds by direct analogy to indulgent toleration—it counsels persons to abide authority merely as an unusually far-sighted and sophisticated strategy for promoting ends that they, ultimately, privately endorse. The person who accepts an authority along the lines of the normal justification thesis in the end *embraces* egocentrism. The authority associated with sociability, by contrast, is justified on grounds of the *intrinsic* value of the social relations that this authority (partly) constitutes. This picture of

The relationship between Darwall's own account of justified authority and the account given here is a complicated matter. Darwall connects the authority that persons have over us to the reasons that we have to care for them: his stock example is the authority of one person to insist that another, who is causing her pain by stepping on her, remove his foot. *Id.* GET CITE. The nature of authority, for Darwall, therefore turns on the nature of rational care. Darwall has complicated views on that matter. (Here see his *Welfare and Rational Care* (Princeton UP: 2002).) As I understand these views, they insist on a gap between the interests that we should promote when we care for someone and what that person is interested in. CHECK AND CITE. Even if the content of our rational care for another is, to some measure, determined *by reference to* that other's perspective, that is not the same thing as its being determined *from* her perspective. CHECK AND CITE. This seems eminently sensible for purposes of a theory of rational care; but it does not adequately capture the authority that persons possess for one another, in light of their sociability.

authority is therefore formally well-suited to grounding respectful toleration.

These observations indicate the path that the argument will eventually take: it will cast respectful toleration as the political expression of human sociability; and it will argue that, under the conditions of modernity—that is, given certain structural characteristics of modern politics and the modern state—persons must give their sociability a political expression if they are to give it any expression at all. In this way, the argument will draw a line—historically contingent, but nevertheless unavoidable given history's recent course—from human sociability to respectful toleration.

6

Politics, Recognition, and the Modern State

As Aristotle's remark emphasizes, human sociability finds one of its most important expressions in *politics*. This is true even with respect to politics in its generic sense—the sense (associated with “office politics,” for example) in which politics extends to the activities through which the several participants in any collective venture seek to influence, by influencing one another, that path that the venture will take. To be sure, these activities can involve manipulation and even outright deceit rather than recognition (as with “office politics” in the pejorative sense of the phrase), but they nevertheless remain essential to rendering a collective enterprise the common property of all those who participate in it. All forms of coordination that do without politics in this generic sense leave the participants in the coordinated activity to pursue the activity severally rather than together. (This is vividly illustrated by the forms of coordination described by game theory, for example, which involve equilibria in which each person's behavior best responds to every other's and which may be sustained without there even being *communication* among the participants.) Finally, although it will not always be so, for many persons and many activities, the sociability of the activities that invite such politicking is an intrinsic part of their appeal (which partly explains why the politics of these activities, even when it is maddening, remains irresistible).

Moreover, human sociability also finds an important (and, I shall eventually propose, an essential) expression in politics proper, that is, in the institutions and practices that regulate the conduct of a body that claims a monopoly over the collective use of force—in the project of government.

Thus, the human need for society finds a narrowly political expression in the fact that, as Jeremy Waldron observes, the question how to exercise collective power generally arises in the

context of a “felt need . . . for a common framework of decision or course of action on some matter, even in the face of disagreement about what the framework, decision or action should be.”⁹³ The natural appeal of such a framework is, moreover, not just an expression of the instrumental benefits—associated with efficiency and stability—that orderly coordination provides, although it surely is this also. Instead, the need for a common framework of political decision arises because such a framework is the only way for those who participate in the exercise of collective power to act together—the only way for political life itself to be a form of recognition. As Waldron says, a person who “acts on his own judgment and does whatever seems right or just to him” abandons “very idea of a community taking a position on an issue on which its members disagree.”⁹⁴ Politics thus establishes what Hannah Arendt has called “a stable worldly structure to house, as it were, [persons’] combined powers of action.”⁹⁵

Moreover, others, including most notably Jürgen Habermas,⁹⁶ have pursued this suggestion into the interstices of political practice, to argue that dialogue is politics’ essential activity. Indeed, Bruce Ackerman has connected the importance of dialogue for politics to politics’ special concern for overcoming egocentrism, specifically distinguishing politics from morality in respect of the role that dialogue plays in each. Ackerman observes that a person may perhaps properly cut herself off from dialogue in deciding what course of action she thinks is best but may not abandon dialogue in deciding which course of action the state

⁹³ Jeremy Waldron, *Law and Disagreement*, p. 102.

⁹⁴ Jeremy Waldron, “Kant’s Legal Positivism,” 109 *Harvard Law Review* 1535, 1539 (1996).

⁹⁵ Hannah Arendt, *On Revolution*, pp. 86, 175, 249 (Harmondsworth: Penguin 1973).

⁹⁶ CITES. THEORY OF COMMUNICATIVE ACTION?

should pursue.⁹⁷ Ackerman proposes, moreover, that dialogue serves its political purpose precisely by engaging persons' actual points of view and not just idealizations of them (constructed to serve their interests as understood according to the speaker's own sectarian moral conception)⁹⁸—that dialogue is politically useful insofar as it involves respect and not just indulgence across sectarian disagreement. To be sure, nothing that I have said establishes dialogue in particular as the unique or even best expression of reciprocal recognition in political life, and Ackerman's emphasis on dialogue takes the argument in a new direction, which I shall not follow here. Perhaps other mechanisms—for example, fair voting—might sustain politics as a form of recognition across sectarian difference. (It seems, after all, that games can sustain recognition without dialogue, so why not politics also.) These quibbles concerning the particular techniques by which to establish politics as a form of recognition should not, however, obscure that Habermas's and Ackerman's theories elaborate Arendt's and Waldron's general idea: that politics proper, whatever its specific methods, might serve as a locus of human sociability.

Finally, these are not idiosyncratic suggestions. They merely illuminate, from the novel perspective of human sociability, the familiar civic republican idea that political engagements should integrate citizens into an organic community in which reciprocal political recognition functions as a kind of civil religion.

These canonical examples from political theory establish precedents to support the thought (which is anyway intuitive) that politics might serve as a natural locus of human sociability—a natural site at which persons might engage one another across

⁹⁷ See Bruce Ackerman, "Why Dialogue," 86 *Journal of Philosophy* 5, 6 (1989).

⁹⁸ *Id.* at 7.

sectarian difference, respectfully recognizing one another as asserting free-standing claims, based on their constituting independent points of view. But in order to succeed at defending respectful toleration, the argument must establish a tighter connection between human sociability and politics that respects sectarian diversity. The argument must demonstrate: first, that such politics distinctively supports human sociability quite generally (including outside of the political realm); and, second, that the more particular contours of government policy associated with respectful politics appropriately capture tolerant people's first-order intuitions concerning the proper treatment of sectarian deviance. The remainder of this chapter lays the groundwork for the required argument by characterizing modern politics in terms that emphasize that it occupies a place of special importance among the broader forms of human sociability.

At this point historical contingency, specifically the historically contingent character of the modern state, intrudes into the argument. The case for respectful toleration—which will turn on the claim that people can achieve the good of society, in its many forms, only if they live in a political order that pursues substantive policies that are recognizably tolerant—invokes two features of the modern state that its predecessors did not share. First, the modern state, even if it does not quite claim the monopoly over legitimate coercion that is sometimes attributed to it, asserts the authority to *overwhelm* all other forms of collective coercion within its jurisdiction.⁹⁹ And second, the modern state asserts its authority (including its authority to coerce) *directly* over

⁹⁹ This formulation recognizes (as the more familiar claims concerning monopoly do not) that the modern state often permits non-state organizations—including professions, religions, and even ethnic and cultural groups—to coerce their members. But even as it does so, the state reserves the authority to override these organizations as its own conception of the rights of citizens requires.

individual citizens of *all* sectarian moral persuasions, and thus without mediation through sub-state collectives.

States were not always like this, in either respect. Pre-modern states acknowledged a wide range of sub-state groups—including guilds, local elites, and religious and ethnic orders—as free-standing sources of political authority, which the states themselves could not simply overwhelm or override. Moreover, in connection with recognizing certain of these sub-state authorities—in particular, ethnic and religious ones—pre-modern states generally declined to assert their own political authority *directly* over their subjects across sectarian divisions. (This is particularly true of pre-modern states that included (as many did) multiple religious communities and therefore confronted the political difficulty of sustaining social cohesion, or even just public order, across sectarian difference.) Instead, they relied on avowedly sectarian (almost always religious) institutions to mediate between the state and the individual and indeed to serve as independent sources of legitimate control over their homogeneous constituencies. Although many pre-modern societies, some of them famously, achieved accommodations across sectarian difference that included a measure of protection for minorities, they did so without any universal, purely political ideal of individual citizenship and therefore without political engagement or recognition across sectarian difference at the individual level. Instead, these societies addressed the political dimension of the need for recognition purely within self-regulating inherently orthodox sub-communities.

Indeed, the pre-modern politics of sectarian difference involved accommodations between groups which succeeded, when they did succeed, insofar as the state was able to support or even enforce the boundaries that separated its sectarian sub-communities and thus prevent the strains associated with individual engagement and reciprocal recognition across sectarian difference from ever arising. In some cases, for example in the

lands of the 14th century Crown of Aragon (which accommodated Jews, Christians and Muslims in stable, if uneasy, coexistence) the state had virtually no capacity to intrude into the internal affairs of the sectarian communities that it governed in order to intervene directly in individual subjects' lives. The Crown of Aragon instead served merely as a kind of referee, monitoring skirmishes along the internal boundaries that separated its constituent communities.¹⁰⁰ In other cases, for example in the Ottoman Empire,¹⁰¹ the state entered into a more intimate relationship with its sectarian constituencies, sustaining social cohesion not just by policing the borders between them, but also by supporting the several internal mechanisms of coordination and reciprocal recognition that these communities provided their members.

In neither case did the state act directly on individual subjects or encourage (or indeed even enable) engagement and reciprocal political recognition across sectarian difference at the level of the individual subject. In both cases, the political expression of human sociability—the expression connected to the collective exercise of power—arose principally, and indeed more or less exclusively, within ethically homogeneous groups. Recognition across sectarian divides arose apart from politics—in the sense both that such ethically heterogeneous forms of society did not concern themselves with the application of collective power (at least not with its application directly over individuals) and in the sense that such centers of collective power as existed elsewhere made no claims to assert authority directly over all sides of any heterogeneous social relations that arose. Instead, the several centers of collective power asserted authority only partially

¹⁰⁰ For an outstanding account, see David Nirenberg, *Communities of Violence: Persecution of Minorities in the Middle Ages* (1996).

¹⁰¹ The classic treatment is Benjamin Braude and Bernard Lewis, eds., *Christians and Jews in the Ottoman Empire: The Functioning of a Plural Society* (1982). READ MORE AND FIX DATES.

and separately, each claiming whatever participants in heterogeneous relations belonged to its own, homogeneous creed.¹⁰²

These accommodations all unravelled—slowly but inexorably—over the course of the late middle ages. The breakdown of Catholic religious orthodoxy over this period, culminating in the Reformation, created a competition for individual souls that rendered the border-wars among sectarian subcultures more than the medieval model of the state could contain. In the end, the border skirmishes that had simmered steadily for centuries boiled over into the European wars of religion.¹⁰³

The Catholic Church tried, famously, to hold back the engulfing waters. Its various inquisitions were not just gratuitously aggressive—even malevolent—expressions of dogmatically intolerant religious purity. Instead, they were also worldly—and sometimes even world-weary—efforts to sustain a medieval accommodation across diversity that was coming apart at the seams. They sought not simply to enforce uniform religious orthodoxy but rather to shore up a religious and political order that included religious heterogeneity but not religious choice.

This was Shaw's point in *St. Joan*, in which the Inquisitor (whom Shaw makes the play's unlikely hero) recognizes that the true threat posed by Joan's heresy lay not in its theological error but rather in its usurpation of the Church's institutional authority—and that this threat operated not in respect of the next world but

¹⁰² IMPROVE MAIN TEXT AND GET EXAMPLE. WHAT ABOUT INTERMARRIAGE ON THE IBERIAN PENINSULA? ALSO NOTE THAT THERE IS RIGHT NOW NO FAMILY LAW ACROSS SECTARIAN DIFFERENCE IN ISRAEL.

¹⁰³ CITE.

this one. The Inquisitor foresaw that once believers, cutting out the priesthood and instead taking up direct communion with the divine, considered themselves entitled to make up their own minds about matters of faith, the divergent religious conclusions that they would draw, coupled with their natural egocentrism, would produce destructive conflict on a scale not before known. Subsequent events of course proved the Inquisitor right. In the end the Church's efforts to suppress believers' free exercise of their individual religious judgments produced more suffering than success—the Reformation came, after all. But it came with a vengeance that realized the Inquisitor's fears.

The nation-state, whose rise dominated the political history of early-modern Europe, appears in this light as the first and ultimately failed response to the breakdown of the medieval order—failed because it never made the fundamental innovations in political theory that sustaining political cooperation across sectarian competition requires. Once it became clear that weak but pluralist states could no longer referee the intensifying competition among increasingly evangelical sectarian creeds that the Reformation at once exemplified and fostered, a natural response was to reorganize Europe into a series of stronger states whose spheres of authority were limited to ethnically, culturally, and religiously homogenous populations. This approach combined a vertical integration of the medieval political order—a merger the regulative powers of the medieval kingdom and its mediating institutions into a single nation *state*—with a horizontal disintegration, in which the political spheres of heterogeneous medieval realms were divided (sometimes by territory and sometimes by populations) into homogenous *nation* states.¹⁰⁴

¹⁰⁴ GET EXAMPLES. BOTH OF GEOGRAPHIC BREAKUP OF LARGE MEDIEVAL REALMS INTO SMALLER STATES AND OF POPULATION MOVEMENTS. IS THE BASIC CLAIM RIGHT. DID THE GEOGRAPHIC TERRITORIES OF STATES DECREASE? IS THE CATHOLIC CHURCH A GREAT EXAMPLE OF A TERRITORIAL

In these ways, the nation state responded to the breakdown of the medieval model of multi-cultural integration by pursuing a strategy of *separating* the newly competitive sectarian creeds rather than developing a new integrative ideal. The nation state failed, ultimately, because the strategy of separation proved unstable. Populations did not cooperate in the project of establishing sectarian homogeneity in each geographic area. Moreover—not least because of the persistence of populations that belonged to one nation but resided, as minorities, in the territory of another nation’s state—the sectarian competition that destroyed the medieval state from within now reappeared between states. To be sure, the Peace of Westphalia purported to establish a *modus vivendi* among the competing nation states. But it is a banality that the Westphalian system did not solve the problem of nationalism—and that national competition, and in particular one nation state’s concern for its nationals living within another nation state’s territory—remained the root-cause of the many European wars of the subsequent centuries.

Indeed, even where the competition among sectarian communities remained relatively domesticated, as in the Habsburg Empire, for example, the state’s efforts to accommodate multiple sectarian sub-communities collapsed under the burdens that sectarian competition placed on the classificatory system by which it allocated changeling subjects to one community or another.¹⁰⁵ When the boundaries between sectarian subgroups ceased to be fixed by birth and tradition, accommodations of pluralism that relied on these groups’ internal controls and collective self-restraint became untenable.

BREAKUP? MAKE CLEAR THAT THERE ARE OF COURSE EXCEPTIONS TO THIS RULE.

¹⁰⁵ CITE TO JEREMY KING’S OLD BOOK AND NEW PAPER.

The modern, multi-national state's great achievement is a basic reconceptualization of the nature and foundations of political authority, which solves the problem of social cohesion in the face of sectarian difference under these new circumstances. The solution is a universal conception of citizenship, under which each subject is directly and immediately obligated to obey the commands of a state that asserts direct and immediate legitimate authority over her. The modern state thus replaces the mediated forms of solidarity and political engagement that pre-modern societies established—in which persons of different creeds interacted politically only indirectly, under the auspices of their own sectarian authorities—with a universal, and individual, politics of recognition in which citizens engage one another in a single political process that operates directly across moral and religious differences.¹⁰⁶ And this innovation of *pure political citizenship*—a state's direct assertion of legitimate authority over each of its subjects, and each subject's concomitant duty, owed directly to the state, to obey the state's commands—creates the conditions under which politics can serve as a form of reciprocal recognition, as human sociability requires, only insofar as the state respects sectarian diversity.

Indeed, politics proper turns out, at least under the conditions of modernity, to be an immensely important expression of sociability. The modern state, I shall argue is a special locus of society—which threatens, if it is badly managed, to undermine

¹⁰⁶ None of this is to deny that the modern state may, and indeed should, accommodate sectarian forms of solidarity, including by giving religious and ethnic subcultures some measure of collective self-control. (The importance of respecting such cultural interests is emphasized, for example, by Will Kymlicka. See, e.g., Will Kymlicka, *Liberalism, Community, and Culture* (____) and *Multicultural Citizenship* (____). I assert only (and much more modestly) that the modern state must ultimately insist on its direct authority over all citizens, so that whatever autonomy it grants sectarian sub-communities must be respect the conditions of its own legitimacy. Kymlicka would not, I think, disagree. See, e.g., *Liberalism, Community, and Culture* ____ (____).

society quite generally. The structuring and management of politics proper has implications not just for whether control of the state is *in itself* a form of respectful recognition but also for the extent and even the very *possibility* of social relations *in other arenas*. I shall argue that, at least in a modern state, if politics proper is *not* practiced as a form of sociability—as a site for overcoming egocentrism and engaging other persons’ points of view as free-standing constraints on one’s own conduct—then sociability becomes quite generally *impossible* within that state. An egocentric politics, I shall argue, deprives its citizens of all three forms of the good of society—transcendental, hypothetical, and categorical. Insofar as it succeeds, this argument establishes intimate—if highly abstract—connections among sociability in general, pro-social politics in specifically, and respectful toleration. Finally, I shall argue that—again under specific the conditions of modernity—these connections penetrate into the particular details of political life, so that human sociability, as mediated through pro-social politics, requires the particular policies and practices that are associated with true toleration in the intuitions of tolerant people.

A First Step Towards Toleration—Against Absolutism

Morality, in its natural egocentrism, countenances only indulgence but never deference towards moral deviance. But persons are sociable by nature—they have an inner need to engage one another in reciprocal recognition—and satisfying this need requires that they abandon egocentrism and respect other persons as independent points of view. Moreover, the human instinct in favor of society expresses itself in the narrower arena of politics proper—that is, in connection with the administration of collective power. Political actors experience an inner need for the administration of collective power itself to achieve the good of society, in all its three forms. Furthermore, as is always the case, politics can achieve a society among its participants, and frame a form of sociability, only if the participants retreat from egocentrism and accept constraints on the exercise of collective power that involve retreating from their several moral commitments, all-things-considered. The argument in favor of toleration as respect and not just indulgence is therefore well on its way.

But completing the argument requires taking another step. In particular, it requires showing that the retreat from egocentrism necessary for politics to constitute a form of reciprocal recognition establishes a pattern of respect for moral deviance whose substantive metes and bounds plausibly describe a distinctively tolerant approach to sectarian difference. It remains is to show that—at least under the conditions that characterize modernity—the political expression of human sociability will, in appropriate circumstances, require that collective coercion be constrained according to principles, for example requiring respect for the free exercise of diverse religious practices, that are immediately recognizable as principles of toleration. The required argument will proceed in stages. The first stage will demonstrate that the logical extreme of egocentric politics renders it completely

impossible for citizens to realize the good of society, including even in its transcendental form. The next stage develops an analogous argument against egocentric politics that, although it abandons the logical extreme contemplated in the first stage, nevertheless refuses to embrace sectarian heterodoxy in any meaningful way. The argument's third and final stage proposes that a fully adequate development of human sociability requires a politics that does not just recoil from the extremes of egocentrism but also actively embraces the forms political engagement across sectarian difference associated with toleration as it is ordinarily understood.

The first step in this path of argument—which proposes that the normative structure of modern politics makes rejecting egocentrism's logical extreme and thus taking the first step towards toleration into a condition for realizing human sociability, *tout court*—is most starkly illustrated by taking up Hobbes, who was the modern state's first great theorist.

Hobbes recognized the appeal of the egocentrist idea that rationality requires a person single-mindedly to pursue her own ideals as effectively as she can. He wrote, in this vein, that “[t]he Right Of Nature . . . is the Liberty each man hath, to use his own power, as he will himsele . . . and consequently [that it confers on each man the right] of doing any thing, which in his own Judgement, and Reason, hee shall conceive to be the aptest means thereunto.”¹⁰⁷ Hobbes tended to think of persons as egoists and inclined towards treating moral opinions as merely laundered accounts of persons' self-interest,¹⁰⁸ whereas I have been taking

¹⁰⁷ Thomas Hobbes, *LEVIATHAN* 189.

¹⁰⁸ CITES? I'M BEGINNING TO DOUBT THIS CLAIM ABOUT HOBBS. IT DOESN'T MATTER FOR THE ARGUMENT. THERE IS ANOTHER INTERPRETATION OF HOBBS ON WHICH PERSONS' RIGHT OF NATURE IS TO PURSUE THEIR MORAL COMMITMENTS.

for granted that persons accept moral ideals that exert pressure towards impartial concern for the interests of all. But this difference—whether egocentrism applies to partial or impartial ends—does not affect the sweep of the larger argument.¹⁰⁹ In particular impartiality does not cure the threat that egocentrism poses to public order. The tendency towards egocentrism (even when it operates in the service of impartial ideals) throws persons into competition with one another, and, as Hobbes observed, persons' natural capacities and powers are sufficiently evenly matched so that no person, relying solely on his own powers and by force alone, can ever achieve secure success in this competition.¹¹⁰ Accordingly, Hobbes thought, egocentrism reduces the natural—which is to say, pre-political—state of human relations to an interminable “warre, as is of every man against every man.”¹¹¹ Hobbes believed this war of all against all to be devastating and thought the state of nature commensurately desolate, saying, in perhaps the most famous remark in all political

¹⁰⁹ To be sure, re-casting each person's preferences to include a concern for the other persons' payoffs can sometimes sustain stable cooperative equilibria that are unavailable in interactions involving purely self-interested players. See, e.g., Matthew Rabin, *Incorporating Fairness into Game Theory and Economics*, 83 *AMERICAN ECONOMIC REVIEW*, 1281 (1993). But this path to cooperation requires that persons all want the same things for others. As I argued earlier, when there is moral disagreement, then persons' concern for one another itself becomes a source of intractable conflict. The competition among moral views under conditions of pluralism is no less intense than the competition among interests under conditions of scarcity, and persons' capacities to promote their moral views are no less evenly matched than their capacities to promote their interests. Egocentrism among moralists therefore generates a conflict among impartial ideals whose inexorable destructiveness matches, burden for burden, the awfulness of the war of all against all that Hobbes discovered in the conflict among persons' interests.

¹¹⁰ Here it may be helpful to contrast the competition among persons to the competition between persons and non-human animals, in which a natural equilibrium of human hegemony exists.

¹¹¹ Thomas Hobbes, *LEVIATHAN* 185.

thought, that life in the state of nature is “solitary, poore, nasty, brutish, and short.”¹¹²

Hobbes, as is familiarly said, cast competition among egocentrists as a prisoners’ dilemma, in which each person’s rational response to the actions of others produces an outcome that is worst for all. He concluded, equally familiarly, that persons might avoid the war of all against all only by subjecting themselves to a sovereign—a “visible Power too keep [persons] in awe”¹¹³—capable of enforcing cooperation. He believed, in other words, that “Peace without subjection”¹¹⁴ is impossible. Moreover, because Hobbes thought persons’ appetites and capabilities almost perfectly destructively arranged—the former, insatiable; the latter, precariously equal—he believed that not just any power to enforce cooperation is sufficient to sustain peace, but insisted that the only way to stave off the war of all against all is for the sovereign to concentrate force in the most extreme way imaginable, namely for the sovereign to direct force against his subjects free from every legal and political limitation. Hobbes

¹¹² Thomas Hobbes, *LEVIATHAN* 186. Hobbes’s keen sense for the horrors of the war of all against all was no doubt fostered by his own experience of the English Civil War. As he wrote:

I have known cleernesse of Judgment, and largenesse of Fancy; strength of Reason, and gracefull Elocution; a Courage for the Warre, and a Fear for the Laws, and all eminently in one man; and that was my most noble and honoured friend Mr. Sidney Godolphin; who hating no man, nor hated of any, was unfortunately slain in the beginning of the late Civill warre, in the Publique quarrel, by an undiscerned, and an undiscerning hand.

Thomas Hobbes, *LEVIATHAN* 718.

¹¹³ Thomas Hobbes, *LEVIATHAN* 223.

¹¹⁴ Thomas Hobbes, *LEVIATHAN* 225.

believed, in other words, that the minimal solution to the problem of social coordination is also the maximal solution.¹¹⁵

This is the *absolute* state—the state whose control over its subjects faces *no restrictions at all*. (Hobbes’s sovereign need not be purely self-interested and might even embrace an impartialist morality: Hobbes insisted only on the formal point that the absolute sovereign is unconstrained by anything besides his own judgments, whatever they are; that his egocentrism is unfettered.) Hobbes acknowledged that the absolute state might of course itself impose burdens on its subjects, but he argued that no matter how burdensome this unconstrained and intrusive absolute state might be, it is better, for everyone, than the only other feasible alternative, namely the war of all against all. As he said, “the greatest [incommodity], that in any forme of Government can possibly happen to the people in generall, is scarce sensible, in respect of the miseries, and horrible calamities, that accompany a Civill Warre; or that dissolute condition of masterless men, without subjection to Lawes and a coercive Power to tye their hands from rapine, and revenge.”¹¹⁶ In this way, Hobbes gave a theoretical expression to the first of the two features that, I observed in the last chapter, distinguish the modern state from its pre-modern predecessors—namely, the capacity to overwhelm all sub-state

¹¹⁵ I owe this expression to Bernard Williams.

¹¹⁶ Thomas Hobbes, *LEVIATHAN* 238.

The suggestion that repression can never be more damaging to personal security than unrest seems, in light of the experience of modern tyranny, dubious at best. Moreover, it can be shown formally that an absolute state leaves the populace more vulnerable than anarchy. See Benjamin Polak and Boaz Moselle, *A Model of a Predatory State*, 17 *JOURNAL OF LAW, ECONOMICS AND ORGANIZATIONS* 1 (2001). Finally, the argument in these pages suggests that when the human need for society is taken into account, the scales tip still more dramatically against the absolute state, which (as the argument will show) renders society quite generally impossible.

organs of collective power and the refusal to acknowledge any such institutions as sites of independent political authority.

Hobbes's political philosophy also incorporates the second distinctive feature of the modern state—the assertion of political authority *directly* over every subject, across all sectarian divides. The idea of direct political authority over each subject established the general background against which Hobbes wrote—beginning from his ambition to develop a justification for its authority that the state might address *too* each subject. Moreover, the immediacy of the authority-relation between state and subject also works its way into the interstices of Hobbes's argument. Specifically, Hobbes believed that persons' individual appetites are so destructively arranged that no purely external or in any way mediated power, no matter how great and how unconstrained, can ever secure social stability. He therefore insisted that the absolute state must not only rule without restriction but must also penetrate the practical personalities of its subjects, so that they do not just conform to the sovereign's commands (perhaps because of his overwhelming power or because of his connection to mediating political institutions) but also comply with them. Hobbes insisted that all subjects accept the sovereign's absolute authority, or right to rule, and moreover that they do so in the particularly intimate sense of associating themselves with the sovereign by allowing the sovereign, as Hobbes says, to "Personate" them,¹¹⁷ that is, to act not just with their acquiescence but *directly in their names*, so that, as he said, "every subject is by this Institution [of absolute sovereignty] the Author of all the Actions, and Judgments of the Sovereigne Instituted."¹¹⁸

¹¹⁷ Thomas Hobbes, *LEVIATHAN* 217.

¹¹⁸ Thomas Hobbes, *LEVIATHAN* 232. This reveals that it is a mistake to read Hobbes's approach to political authority as reductively strategic, adopted by independently motivated persons whose interests converge on the absolute sovereign. (An example of this reading appears in Thomas Nagel, *Moral Conflict and Political Legitimacy*, p. 219.) That reading underestimates the

Hobbes proposed, in this way, to overcome the egocentrist threat against social solidarity by persuading each subject not just to obey the sovereign but to internalize the sovereign's commands, so that the sovereign acts on her behalf even when he acts in ways that do not seem best when judged from her own sectarian point of view. The subjects, on Hobbes's view, do not just accept their sovereign's commands but are systematically deprived of any ground upon which they might stand in objecting, so that under Hobbes's argument, it is strictly speaking *impossible*, and indeed *incoherent*, for the absolute state to act illegitimately. As Hobbes observed, because "every man is Author of all the Sovereigne doth" any subject that "complaineth of injury from the Sovereigne, complaineth of that whereof he himself is Author," so that "whatsoever [the sovereign] doth, it can be no injury to any of his Subjects; nor ought he to be by any of them accused of injustice."¹¹⁹ Moreover, because the absolute sovereign's legitimate power extends without limits, the sovereign's capacity

maximalist character of the authority that Hobbes envisioned. Hobbes rejected the idea that political authority might be sustained as a strategic compromise, and indeed for reasons much like those canvassed in my earlier discussion of prudential arguments for toleration. Hobbes insisted that persons who enter into such a compromise and accept a political order as a *modus vivendi* have not created political authority but, as he says, "are still in Warre; and their condition [is] not Peace, but only a Cessation of Armes for feare of one another; and they live as it were, in the precincts of battaile continually." Thomas Hobbes, *Leviathan* p. 233 (C.B. MacPherson, ed. 1968). This is, of course, just a reprise of the form of argument that I earlier levelled against the various forms of indulgent toleration.

¹¹⁹ Thomas Hobbes, LEVIATHAN 232. Hobbes believed that "to do injury to ones selfe, is impossible." Id. BE CLEAR. HOBBS DOES NOT MEAN THAT THE SOVEREIGN CANNOT DAMAGE HIS SUBJECTS' INTERESTS. "INJURY" FOR HOBBS IS "IN JURE," THAT IS WRONGFUL DAMAGE. THAT'S WHAT'S IMPOSSIBLE FOR HOBBS. THE SOVEREIGN CANNOT ACT AGAINST HIS SUBJECTS' RIGHTS, OR INDEED AGAINST THEIR INTENTIONS.

to draft his subjects into his service in this way also knows no limits. The characterization of Hobbes's view as "absolutist" and earlier suggestion that Hobbes adopts the "maximalist" solution to the problem of social cohesion should thus be understood quite literally. Hobbes takes the modern idea of political authority to its logical extreme.

In embracing this extreme, Hobbes fundamentally transforms the character of politics, however, in a fashion that undermines sociability. At least within the sphere of his authority, the absolute sovereign does not so much defuse or constrain his subjects' egocentrism as overcome, or commandeer, their points of view entirely, so that the subjects no longer possess any distinctive and independent points of view about politics at all but are instead, always deferring, simply subsumed into the sovereign's point of view.¹²⁰ At the same time, and unlike his subjects, the sovereign retains his egocentrism totally unchecked. Moreover, all of this occurs entirely regardless of the ends that the sovereign happens to adopt—regardless of whether the sovereign pursues only his own interests or, for reasons that his business alone, chooses to pursue some or other impartialist principle. The frontispiece of the first edition of *Leviathan* illustrates this feature of Hobbes's view—the absolute state's total dispossession of its subjects' political personalities in the service of bolstering the sovereign's—most vividly: the many subjects are literally drawn together and swallowed up, faceless, into an image of the awesome sovereign.¹²¹

¹²⁰ Although the sovereign is created by the subjects, this is a case in which the agent swallows up his principal.

¹²¹ Note that Hobbes thought that even the absolute sovereign must rule by law, which is publicly announced. "It belongeth therefore to the Office of Legislator, (such as in all Commonwealths the Supreme representative, be it one Man, or an Assembly) to make reason Perspicuous, why the Law was made; and the body of the Law it selfe, as short, but in as proper, and significant terms, as may be." *Leviathan*, Tuck 1996 ed. p. 240. Hobbes's point is that if law is not public—if it doesn't form the substrate for a shared point of view—then it

This approach to politics sustains solidarity only at the cost of abandoning its *social* element—that is, of eliminating any sense of engagement or reciprocal recognition from politics. Hobbes’s subjects cannot engage one another politically as points of view because the intrusiveness of Hobbes’s absolute sovereign causes the subjects to be subsumed within the sovereign, so that they cannot retain any independent political points of view to engage. Hobbes’s absolutism therefore reprises, on a broader stage, the development of Hegel’s dialectic of lordship and bondage. The point of Hegel’s presentation of the dialectic, after all, is precisely to illustrate the effects on the social foundations of moral personality of eliminating all politics in favor of unrestricted combat which ends only with unconstrained power in one and total capitulation in all others. And as in Hegel, so also in Hobbes, the total dominion of one participant unpersons the others and so deprives them of the capacity to participate in reciprocal recognition.

Moreover, Hobbes’s absolutism attacks sociability not just in the expression associated with politics proper, but quite generally. This is because the absolute sovereign does not just supplant his subjects’ personalities wherever he acts, he also asserts an unfettered prerogative to act *everywhere*. The subjects of an absolute sovereign therefore retain no sphere of moral personality for themselves—their subsumption into the sovereign is complete, allowing no remainder. Accordingly, these subjects never, not in any aspect of their lives, act fundamentally on their own behalves but rather act always, even in their most intimate moments, in principle only on the sufferance and therefore in the name of their sovereign. And, when they so act, they interact only

cannot avoid the danger that conflict over justice will bring down the state. Hobbes’s believes, mistakenly, that a point of view can be shared where all but one are subsumed into one person’s point of view. But he sees the need for shared-ness.

with other subjects who are also acting in this way inauthentically. Finally, the subjects' interactions have this degenerate character no matter what ends the sovereign pursues.

The absolute state therefore puts the exact lesson of Hegel's dialectic of lordship and bondage into play: the subjects of an absolute state are closed off (completely) from even the transcendental good of society. This way of speaking may sound implausibly abstract and even mysterious. But it should be taken quite literally: it is just a metaphysical expression of the familiar, and intuitive, republican idea that persons can achieve their full personalities only if they are capable of acting and interacting politically as *independent* citizens. Anything less than the requisite independence introduces deformations not just into politics but also into the moral personalities of the citizens who engage in it. The republican tradition, at least in the American expression that glorified the small free-holder, insisted on a strong conception of independence and emphasized the relations of dependence associated with economic subjugation to an employer. The metaphysical account presented here works with a much less demanding ideal of independence, which is appropriate because the threat posed by Hobbesian absolutism is so much more extreme and its consequence so much more damaging. The comparison serves to render vivid that subjects living under an absolute sovereign could not possibly—not even in the relations that substitute for their “private” lives—develop into fully functional moral persons.

In this way, Hobbes's absolutism undermines the basic element of persons' practical experience of one another—the need to engage one another as points of view—out of which politics arises.¹²² The key to this argument lies in the interaction between

¹²² Hobbes himself was sensitive to this form of concern, although he gave it a much more limited range of expression. In particular, Hobbes insisted that in spite of the sovereign's absolute authority, all persons retain the right forcibly to resist every attempt by the sovereign to kill them, including even where the

the character and the scope of the authority that Hobbes sought to give the state. Hobbes sought to sustain public order not only through threats or sanctions but also by inducing citizens to accept the state's legitimate authority. Only legitimate power (and not raw power) threatens to deprive its subjects of the practical personality necessary to sustain reciprocal recognition, because only legitimate power (and not raw power) can supplant its subjects own judgments and so penetrate their moral personalities. The modern state's central innovation—its claim to exercise legitimate political authority directly over all citizens, without mediation through sectarian sub-communities—therefore *creates* the risk that politics will undermine engagement among citizens and betray their sociability. The risk is realized when the scope and character of that authority becomes excessive—when the state's authority leaves subjects with no ground on which to stand and interact in their own names.

Hobbes's absolute state therefore illustrates that Hegel's lesson applies to politics also, at least at politics' logical extreme. In order to be itself a site for the expression of human sociability, and indeed in order to allow for human sociability to be expressed

killing is just punishment for crimes they have committed. See Hobbes, *LEVIATHAN* 198-99, 268-69. Hobbes believed that persons must obey the sovereign only insofar as "refusal to obey, frustrates the End for which the Sovereignty was ordained," *id.* at 269, and that they retain their liberty to disobey whenever disobedience serves these ends. And because he believed that persons' "onely end of laying down" their right of self-defence and subjecting themselves to a sovereign is to save themselves from harm and, quintessentially, from death, *id.* at 199, Hobbes concluded that the covenant that establishes the sovereign cannot commit his subjects to acquiesce in the sovereign's death sentence.

Hobbes's argument here is formally analogous to the argument pursued in the main text. The constraints on absolutism that Hobbes's argument generates are more limited because Hobbes did not share the substantive premise—that persons have an inner need reciprocally to recognize one another including in a political setting—on which the argument in the main text relies, so that he did not accept the constraints that this premise imposes.

at all, the modern state must, in some measure, accept limits on its own authority. The state must step back from the egocentric pursuit of its own sectarian ideals to respect, and therefore also (at least sometimes) to defer to, its subjects' independent judgments. The first stage of the argument for toleration is therefore complete

This first step towards toleration is the most important conceptually speaking. The central challenge for a philosophical theory of toleration is, as I have repeatedly said, to get the idea of respecting any heterodoxy at all off the ground—to make any retreat from the egocentric pursuit of orthodox opinion plausible to the orthodox. Moreover, the account just developed takes this step much more securely than the several arguments for indulgent toleration of heterodoxy that I rehearsed earlier. Unlike those arguments, the analogy between Hegel and Hobbes is not brittle: it does not depend on the vagaries of orthodox opinion but instead applies, equally forcefully, against the egocentric pursuit of every sectarian point of view.

Nevertheless, the conceptual demonstration that respectful toleration is coherent and has an adequate normative foundation leaves practically important questions concerning respectful toleration unanswered, including many questions—concerning the metes and bounds of toleration—that figure prominently among the intuitive concerns of tolerant people. This makes it natural to ask just how the powers of a modern state should be restricted in the service of human sociability. Precisely what deference must heterodox opinion be given in order to sustain politics proper as a social relation or indeed to prevent an asocial politics from encroaching on other aspects of human sociability? The form of argument pursued here may be adapted to answer this more applied question also, although the answers that it generates will be less clear-cut than what has been said so far. That is to be expected, since the arguments to come will appeal increasingly to considerations that involve the good of society less in its

transcendental and more in its categorical and even hypothetical varieties.

8

A Second Step towards Toleration—Against Totalitarianism

The absolute state, as envisioned by Hobbes, is of course an ideal type only. Although the historical record perhaps contains examples of sovereigns who asserted authority over their subjects on more or less the Hobbesian model (one thinks of Louis XIV's literal identification with the state or perhaps Stalin's pursuit of pure power¹²³), absolutism in a pure and open form has not figured prominently in the world's political history. Instead, even rulers who acknowledge no external constraints on their legitimate authority over their subjects have typically cast themselves not as overt despots, openly and notoriously claiming authority to pursue purely contingent and even selfish ends, but rather as trustees charged to realize a higher goal not of their own choosing or making—a conception of moral perfection, for example, or divine grace. Such *totalitarian* rulers—totalitarian because they render political power the exclusive property of some moral or religious ideal that overwhelms, without boundary, every aspect of their subjects' lives—may exercise power less capriciously than Hobbes's absolute sovereign. But they continue, as in Hobbes, to assert unconstrained authority over the totality of their subjects' lives and in determining what the totalizing ideal that they serve requires (they continue to recognize no perspective besides their own in deciding how to exercise their authority). And they therefore threaten to undermine human sociability just as completely and surely as happened in Hobbes. As does the absolute state, so the totalitarian state also destroys its subjects' practical personalities and so extinguishes every form of society—including even the transcendental good of society—among them.

This isomorphism between absolutism and totalitarianism is most complete, and easiest to see, when a totalitarian state remains the personal possession of a single, overwhelming,

¹²³ CITES AND DISCUSSION.

unchallenged (and unchallengeable) leader. An example, offered only to fix ideas, is Hitler's Germany (at least on the account in which Hitler viewed himself as the unchallengeable trustee of the German *Volk*).¹²⁴ Such a leader is just a Hobbesian absolute sovereign who casts himself (as Hobbes recognized that he might do) as beholden to some or other impersonal ideal rather than to his purely personal and capricious preferences. And the fact that the *content* of the totalitarian's pursuits is viewed by him as non-discretionary does not render the *form* of totalitarian politics any more interpersonal than the *form* of absolute politics. The totalitarian leader, on this model, continues to acknowledge only his own opinions concerning the moral or religious ideal that he serves, so that even if he casts himself merely as its trustee, the ideal becomes a purely internal constraint on his power. The totalitarian therefore continues the absolutist's refusal to engage any subject's point of view as an independent constraint concerning the management of any aspect of life in his state. And he therefore continues to subsume his subjects' moral personalities in a way that makes social relations among them completely impossible, on any terms. Indeed, this effect is prominent even in the imagery of totalitarian politics—specifically in the totalitarian's cult of personality, given its purest expression in Orwell's Big Brother, an image that presents a direct analogue to the frontispiece of Hobbes's *Leviathan*.

Moreover, the assault on human sociability is only slightly more modest in totalitarian states that abandon purely personal rule by a single supreme leader. In these states, a totalizing ideal is administered jointly by some political *vanguard*¹²⁵—a politbureau, revolutionary council or cadre, theocratic class, or other ruling elite. The vanguard is charged with fixing—finally, unchallengeably, and entirely without recognizing the outside

¹²⁴ CITES.

¹²⁵ This use of the word *vanguard* borrows from Lenin. GET CITE.

perspectives of ordinary subjects—the content and proper application of the totalizing ideal that the state serves. Although there may be vigorous, and even free and open, debate among the elite in vanguard totalitarian states, from a point of view outside the elite, vanguard totalitarianism is experienced as indistinguishable from the previous version, involving purely personal rule by a single individual. Ordinary subjects remain completely excluded from deliberations concerning how to employ the power of a state that asserts untrammelled authority to interfere, in the service of the totalizing ideal that it affirms, in every aspect of their lives. Accordingly, totalitarian politics that allows for engagement among the members of a ruling class enables social relations *only* within that class (which typically constitutes, moreover, a vanishingly small proportion of the whole population). The remaining subjects remain deprived, by the state's alienating and yet totalizing assertions of authority, of any ground on which to construct their own, free-standing, moral personalities and thus continue to be cut off from the good of society, even in its transcendental form.

These observations merely repeat, in an abstract register, an idea whose more contract expression belongs to the mainstays of the political psychology and imaginative literature of modern totalitarianism: that totalitarian state's assault on every form of intersubjective recognition among its (non-vanguard) subjects—including even in their most intimately personal relationships—makes it impossible for them to achieve a fully adequate moral personality. This idea finds a prominent expression in the familiar totalitarian insistence that children betray their parents and that lovers betray each other. The totalitarian state employs this means to demand that its subjects, even in their most intimate relations, reduce one another (and hence themselves) to instruments of a politics in which they do not participate. And in this way, totalitarianism reduces its subjects, even in their own minds, to

being merely its means, so that they seek merely, as Arthur Keostler once observed, “to be useful without fuss.”¹²⁶

Totalitarianism simply reprises the political form associated with Hobbes’s absolutism and wages an entirely analogous assault on the good of society, including even in its transcendental form. That should not, in the end, come as a surprise. Human society, after all, arises out of the inclination to engage others as free-standing points of view—as an expression of human sociability and its concomitant instinct to overcome *egocentrism*. The difference between absolutist and totalitarian states, however, concerns only *egoism*: unlike the absolute sovereign, who might happily serve only her own interests, the totalitarian state insists on promoting an other-regarding (and perhaps even impartial) ideal. And insofar as the totalitarian renunciation of egoism, borrowing its form from the sectarian morality that it adopts and serves, remains entirely egocentric, totalitarianism inherits all the defects of its absolutist cousin.

Finally, it is important to distinguish this account from more familiar arguments against totalitarianism which, however great their force where they apply, proceed in the wrong modality to sustain any general objection to totalitarianism, in all its forms. To be sure, totalitarianism as it has actually existed in the world has tended (in almost every case) to abandon impartiality entirely: totalitarian vanguards have tended either to become kleptocrats (whose professed sectarian ideals serve only to camouflage purely self-regarding conduct) or to become chauvinists (whose egoism is kept in check only by a shared malevolence towards some excluded group). These tendencies have (rightly) contributed to totalitarianism’s poor reputation in conventional political thought. But totalitarianism’s tendencies to produce self-dealing or chauvinistic vanguards invoke its political psychology rather than

¹²⁶ CITE. IMPROVE WITH A LONGER DISCUSSION OF ACTUAL TOTALITARIAN PRACTICE.

its normative structure, which remains perfectly consistent with a vanguard's fidelity to a genuinely impartialist sectarian moral ideal. And the familiar arguments therefore address perversions of totalitarianism rather than its normative core.

The present argument, by contrast, never invokes totalitarianism's tendency to abandon impartiality, and it therefore applies even when a totalitarian vanguard, overcoming the political psychology described above, manages honorably to direct its efforts towards promoting a genuinely impartial concern for all its subjects' good. (Here note the parallel to the last chapter's argument against absolutism, which also applies no matter how noble the ends that the absolute sovereign pursues.) Even when it pursues impartial ends, totalitarian politics quite generally deprives all but the vanguard of any independent say in politics and therefore undermines citizens' sociability. And the argument against totalitarianism therefore applies even to the most benign and idealized totalitarian politics (just as the earlier argument against absolutism applies even when the absolute sovereign happens to pursue his subjects' common good).

Achieving the good of society, including even in its transcendental form, therefore requires rejecting totalitarianism (including even in its idealized, impartial form) alongside absolutism. And with this rejection, the second step towards true toleration has been taken.