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Reflexive toleration in a deliberative democracy

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Any feasible ideal of democracy must face the unavoidable social fact that the citizenry of a modern state is heterogeneous along a number of intersecting dimensions, including race, class, religion and culture. If that ideal is also deliberative, and thus requires that citizens commit themselves to making decisions according to reasons they believe are public, then such diversity raises the possibility of deep and potentially irresolvable conflicts. When conflicts do emerge, such a form of democracy requires that all citizens should have equal standing and influence in any deliberation about their resolution. In the circumstances of wide pluralism (that is, of pluralism along a number of dimensions), toleration would seem to be both part of the ideal of public reason and an important virtue for citizens to exercise in their deliberative institutions. Yet deliberation also demands more of citizens than silent toleration regarding the reasons of those with whom they disagree, especially if they accept that an important goal of public deliberation is to find the best possible mutually acceptable solution to a problem or conflict. It demands the critical engagement of citizens in a deliberative polity. How can such engagement be critical without being intolerant, and tolerant without being uncritical? That is the task of a deliberative theory of tolerance.

When is deliberative tolerance needed? In a democracy, tolerance is exercised in resolving conflicts that are motivated by differences in belief. It would seem, then, that toleration in deliberation requires that citizens adopt some impartial or neutral stance and avoid directly confronting each other on the most contentious issues. At the same time, it is also equally unlikely that citizens would be able to deliberate about the sources of their conflicts and disagreements at all if toleration entails, as Rawls holds, that 'central to the idea of public reason is that it neither criticises nor attacks any comprehensive doctrine, religious or non-religious'.¹ Rawls goes on to offer the following exception: criticism of any such doctrine is permissible 'insofar as it is incompatible with the essentials of public reason and a democratic polity'. Such a doctrine would then be criticised as 'unreason-

able', even if in the 'wider background culture of civil society' such doctrines may be criticised without the restrictions of public reason.² Is such an account sufficiently tolerant given the fact of pluralism as it is manifested today? Does it provide the correct basis for criticism that would improve the deliberative process while allowing all to participate as free and equal citizens?

Proponents of deliberative democracy might find these restrictions too weak. They might argue that the requirements of public reason are sufficient to exclude any such appeal to comprehensive doctrines at all, since those who do not accept them have no reason to accept such reasons.³ Suppose that we take the perspective of the proponent of such a doctrine instead of the critic. How else could the proponent challenge any particular law when it is just the conflict with such reasons that is salient? More importantly, citizens who seek to challenge the regime of toleration itself simply have no recourse other than to appeal to their own comprehensive doctrines if they are to show why it is unacceptable to them or to anyone else who holds beliefs similar to theirs. It would seem, then, that it would be best to make it a demand of tolerance that participants in deliberation accept any reason as public, particularly when toleration and its limits are at stake. However, public deliberation cannot be so tolerant as to make citizens unable to make any distinctions at all among better or worse reasons. All reasons must be subject to critical scrutiny, especially by those who do not believe that they are compelling. This requires that comprehensive doctrines be criticised more thoroughly and substantively than the standard of 'reasonableness' permits. It must also, following Kant, be critical of itself, of its own 'essentials', if it is not to become intolerant and violate the political equality of *all* citizens, some of whom properly challenge the current interpretation of the limits and scope of publicity and toleration. If this is the case, then there is nothing special about the essentials of public reason and democracy, since they, too, are proper subjects for deliberation, and indeed part of the continuum of forms of deliberation in public life in a pluralist society.

Even if we may challenge the essentials of any political conception of justice, toleration must still impose some limits on deliberation if it is to support rather than undermine democracy. A reflexive conception of toleration clearly pulls in two directions and reveals tensions in the deliberative ideal under the condition of pluralism. On the one hand, its ideal is democratic, and for that reason accepts that all have equal voice in an inclusive political community. On the other hand, a deliberative ideal seeks the best reasons, and can do so only if some of the reasons citizens offer will have to be revised and even rejected in public discussion. My goal here is to show that this tension can be resolved if toleration becomes reflexive, that is, only if it is an ideal that is itself open to the demands of free and open public deliberation and the qualities of public communication that make that possible. Deliberative toleration is distinctive, I argue, in so far as it is reflex-

ive in two senses at once. First, it opens up standards and regimes of toleration to public deliberation rather than removing them from debate. Second, deliberative toleration is reflexive because it is not concerned directly with freedom of expression or even with the quality of the reasons that others offer in public discussion. Rather, it is reflexive because its object is not the content of speech, but the maintenance of a free and open structure of communication in a pluralist society. Reflexive toleration still has to serve the purpose of promoting public deliberation, and it does so not only by testing its current procedures and substance, but also by being directed at a fundamental democratic value of political equality. Toleration in a deliberative democracy serves to support ‘political egalitarianism’, broadly understood as the ‘equal access for all to influence political deliberation’, especially in those decisions that become collectively and legally binding. Intolerant regimes are then rejected on political egalitarian grounds, and the proof that any regime is intolerant is that it is inequalitarian and undermines inclusive deliberation.

The public role of religious expression provides an interesting test case for reflexive toleration, especially since it is tolerated religions that typically challenge the nature and limits of religious toleration. The debate about religion and the public square has largely focused on the wrong problem: the crucial issue in a reflexive and deliberative regime of toleration is not whether religious reasons are public or not, but how it is that standards of public reason and toleration themselves can properly be challenged and widened with the expanding moral and political community. Such conflicts over toleration will be the result of specific sorts of conflicts in which intersecting dimensions and overlapping domains of social and cultural diversity become salient. The conflicts that are the object of reflexive toleration can be resolved only by creating the conditions for an inclusive deliberative community. Thus, toleration is not merely openness to others in discourse, but the capacity to treat them as free and equal members of a community of deliberation and judgement. As a regulative ideal, toleration maintains such a community; it deems intolerant those who deny that conflicts can be solved in such a way as to maintain the equal membership of all.

Toleration, conflict and pluralism old and new

The need for toleration in any modern polity, whether democratic or not, emerges from general facts of modern societies, in particular ‘the fact of pluralism’. Just how this fact is characterised has much to do with the contours of a theory of toleration, particularly in dealing with the nature and scope of toleration. For Rawls, ‘the fact of pluralism’ is simply the diversity of moral doctrines in modern societies, a permanent feature of modern society that is directly relevant to political order because its conditions ‘profoundly affect the requirements of a workable conception of justice’.⁴ Such facts are permanent, in that modern institutions and ideals developed after

the Wars of Religion, including constitutional democracy and freedom of expression, promote rather than inhibit the development of further pluralism. This fact of pluralism alters how we are to think of the *feasibility* of a political ideal under the conditions of pluralism.⁵ Since what is established in any such ideal is a system of cooperation, the essentials of political justice concern what anyone could accept regardless of their moral doctrine. In this section I want to develop an alternative account of the need for toleration using examples of intersecting or 'deep conflicts' that characterise a new threshold of diversity that is no longer captured by the model of religious conflict. These examples show that the greatest difficulty is not the everyday challenges to principles and standards of deliberation, but rather those conflicts that intersect at various levels, dimensions and domains in extremely diverse societies. The key to their solution is subjecting the regime of toleration to the regulative principle of equal standing or non-subordination in an inclusive community.

The defining historical moment of the liberal regime of toleration is the emergence of religious pluralism and the distinctive zero-sum character of religious conflict within a particular political community. With the emergence of genuinely multicultural and even global polities, religion has lost its central place, and become only one aspect of pluralism among many. It has at the same time taken on increasing significance between societies, exacerbated today by unprecedented migration and the rise of religious fundamentalism throughout the world. In the light of this historical difference between the newer and the older situations of religious toleration, it is now important to disaggregate the fact of pluralism in two ways if we are to make sense of the need for a new regime of toleration: pluralism now needs to be distinguished according to aspects and dimensions. These distinctions will in turn suggest further differences in types of conflicts according to their complexity and degree of tractability and to the demands of toleration.

Under contemporary social conditions, the fact of pluralism has a number of different aspects having to do with different sorts of diversity. Such aspects can be defined along several axes: cultural, social, and epistemic diversity. Cultural diversity concerns the presence of different groups with different interpretations of their identities; it has been discussed in terms of multiculturalism and recent disputes about 'identity politics', including ethnic and various religious conflicts over the character of national culture. Epistemic diversity is a relatively recent phenomenon having to do with the cognitive division of labour and the emergence of scientific expertise and its claims to authority. Finally, I include social pluralism, which is not the pluralism of self-identified groups but of various social positions, as having a particular place in a structure or process, such as at the periphery of a society or as being a subordinate in a social hierarchy.

Each aspect of diversity can be measured along various deliberative dimensions: in terms of values, opinions and perspectives. These roughly

correspond to the main aspects of diversity: diversity in terms of basic moral or political norms (including conceptions of the common good); in terms of different opinions (including beliefs about the way in which beliefs are justified); and in terms of the perspectives afforded by different social positions (primarily emerging with the range and type of experience of one's society). Divergence in values, opinions, and perspectives can be quite wide, and in this way produce conflicts. Taken singly, however, such divergences need not be 'deep'; a conflict is deep only if it occurs along a number of different and overlapping dimensions. It is these deep and overlapping conflicts that best reveal the scope of toleration in pluralist societies, since democracy in general and deliberative democracy in particular is a way of settling differences of value and opinion in ways that make possible solutions that everyone could reasonably accept. Ordinary politics employs the egalitarian norms of democracy to settle disputes and to accommodate even permanent disagreements along one dimension.

Conflicts of opinion are settled in fairly standard ways, using recognised procedures and assumptions. Even when these do not work, toleration of differences of opinion can leave wide disagreements in place. In practices of inquiry, diversity of opinion is instrumentally valuable for the goal that Mill describes as 'having the truth win out in the marketplace of ideas'. But epistemic diversity also has a negative side that produces potential conflicts when it overlaps with other aspects of the fact of pluralism, such as the plurality of values. Epistemic diversity is valuable in the Millian sense only in light of shared commitments to procedures and practices of evidence. In Christian Science refusal cases or disputes about evolution in schools, the conflict is not along a single dimension but involves overlapping disagreements of values and opinion (especially beliefs about how to settle differences of opinion). Diversity of values alone is not problematic given commitments to democracy and its norms of freedom and equality; freedom defines the scope of reasonable disagreement about values, limiting the degree to which one group may impose their values on others and thereby restrict their freedom. Such ideals commit participants in democracy to finding solutions that can be agreed upon by all those affected. But once again this solution becomes problematic when the norms of democracy are called into question by moral values such as cultural self-determination (in terms of which some forms of democracy itself are seen as oppressive) or epistemic values that see little worth in dialogue or discussion (as in the case of religious fundamentalism). Similarly, differences in perspective can be overcome by shared experiences in a wider background culture that bridge the gap; commitment to other values such as democracy may make citizens willing to undergo a democratic process that entails subjecting oneself to such experiences to achieve a shift in perspectives, as was the case in the American Civil Rights Movement.

In the light of the problem of deep conflicts, a democratic pluralism might seem to be self-defeating. On the one hand, democracy seems to be directly

challenged by pluralism, since it seems to be a way of settling conflicts along a single dimension according to the single and perhaps abstract aspect of their political significance. On the other hand, democracy seems directly to challenge pluralism by pointing out its possible limits. One way out of this paradox is to eliminate those alternatives that challenge the principles of a democratic polity from the domain of public deliberation. Because such challenges are *ipso facto* 'unreasonable' and as such can be excluded from deliberation, it is hard to see how these criteria are consistent with the 'inclusive view' that Rawls wishes now to profess. While this solution is not obviously self-defeating, it does not solve the problem. The fact of pluralism can no longer be characterised in such a way that any particular conception of justice, liberal or otherwise, can be regarded as reasonable and others not. It is not possible to exclude such challenges as unreasonable, since the fact of pluralism now demands that conflicts be settled by public deliberation on the essentials of democracy themselves. Given the fact of the 'new' pluralism, the only satisfactory way out of this paradox is to offer an account of the basic norms and ideals governing democratic process based on a stronger conception of toleration consistent with wide and deep pluralism. That is, the facts of pluralism demand that we now must transform how we think about basic democratic conceptions and ideals, while preserving their normative core, if they are to be effective regulative principles for deliberation. The problem of a democratic pluralism is then to transform such norms in such a way as to be able to avoid or to resolve overlapping conflicts.

The first task of a democratic pluralism that is at the same time deliberative is to rethink what it means to resolve a conflict in the light of possibly permanent disagreement, even while retaining the ideal of a deliberative community. Such conflicts seem less trenchant once the goal of deliberation in a tolerant democracy is not to resolve disagreements into consensus, but rather to maintain ongoing public communication and egalitarian social relations. Even this more feasible goal requires rethinking basic ideals of publicity, impartiality, and the rule of law. What guides this transformation? Here it is necessary to consider more closely why citizens should be tolerant of each other in a deliberative democracy. The reason why they ought be tolerant is not to avoid conflict by excluding contentious reasons, but rather to provide for respect for all as equal members of a deliberative community. They can do so only if all groups may participate in such a community without domination or subordination. Because of the central roles of political egalitarianism and deliberative responsiveness, such an account of toleration is also able to redraw the limits of toleration consistently by resolving deep and overlapping conflicts that liberal toleration cannot. This alternative can be developed by showing how it solves the paradox of toleration in a democracy while permitting mutual and critical exchange among citizens. I consider the liberal and deliberative views of religious toleration as the test case.

Toleration: liberal or deliberative?

As the product of the specific historical situation of religious pluralism, many now argue that liberal toleration is increasingly inadequate to deal with pluralism along more than one dimension at a time. Depending on the target, critics argue that liberalism is either too thin or too thick. For some critics, liberal toleration is purely negative, having to do with prohibiting arbitrary interference with others rather than with engaging them morally. These critics argue that thin liberal neutrality leads to a 'dynamic of toleration and oppression, sustained by the morally minimal and instrumental nature of liberal toleration'.⁶ Instead, a positive or 'liberating' conception of toleration is not based on discovering the functional requirements for stability in a democracy from some observer's perspective, but rather upon taking up the perspective of the citizen who seeks redress from forms of subordination that inhibit her ability to give effective voice to her dissent.⁷ Other critics take the opposing side, seeing liberal toleration as based on the culturally specific conception of autonomy and thus as imposing liberal norms and a comprehensive moral doctrine on those deemed intolerant.⁸ A deliberative conception is not liberal, in that it too rejects toleration based on neutrality and autonomy. But, like the liberal conception, it asks how it is that toleration could be morally justified to free and equal citizens, each from his or her own point of view.

It has historically been the case that those who are tolerated, rather than those who are tolerating, more often challenge regimes of toleration. For example, current challenges to the liberal regime of toleration now in place come from religious groups, which from the liberal perspective seem to be merely 'the recurrence of sectarian and cultic religiosity and of fundamentalist theologies'.⁹ Contrary to the liberal view, such a religious challenge could very well be legitimate in a deliberative context. More often than not, it takes the form of the contestation of certain regulative principles guiding deliberation. Consider Gutmann and Thompson's principle of reciprocity.¹⁰ The constraint of reciprocity, they claim, putatively undermines claims such as those of religious fundamentalists in Tennessee decided in *Mozert v. Hawkins County Board of Education* not to have their children read various books because they violate their religious beliefs: 'The parents' reasoning appeals to values that can and should be rejected by citizens of a pluralist society committed to protecting the basic liberties and opportunities of all citizens.'¹¹ In excluding religious reasons as 'non-reciprocal' or 'unreasonable', the substantive principle of reciprocity begins to look very much like either the liberal conception of autonomy or a principle of neutrality that simply eliminates religious reasons even when they are the condition for meaningful participation by some parties in discussion of the issue at hand.

This example raises several issues. Granted that democratic discussion takes place under some constraints, are these sorts of constraints proper

and deliberation-promoting? Should citizens (especially religious ones) rationally accept such *ex ante* constraints in order to participate in public deliberation? Reciprocity cannot be invoked as the overriding constraint if the issue is to treat all parties in the deliberation as equal members of the same deliberative community. Joshua Cohen makes the same point about the constraint of reasonableness: 'If one accepts the democratic process, agreeing that adults are, more or less without exception, to have access to it, then one cannot accept as a reason within that same process that some are worth less than others or that the interests of one group are to count for less than others.'¹² If the reasons of some are not to be worth less than those of others, and if we accept that reasonableness as a norm is constrained by such larger democratic requirements, then the parents in Hawkins County, even if unreasonable in Rawls's sense, are owed a justification for the practice they are challenging. Not to offer a justification to the unreasonable is to exclude them from the community of judgement and thus to violate the democratic commitment to political egalitarianism.¹³ Thus, even if we may say that the parents' doctrine was unreasonable or non-reciprocal, or even if certain citizens do not themselves engage in tolerant perspective-taking, these facts in no way undermine their reflexive challenge. A second-order challenge is legitimate only if it shows that the regime of toleration as practised is indeed exclusionary, as when public reasons are considered secular or when religious reasons have no worth in the context of democratic deliberation. Gutmann and Thompson's substantive criterion of reciprocity is exclusionary in just this sense, to the extent that it violates the principle of political egalitarianism.

Such a criticism of criteria such as reciprocity or reasonableness is quite common in any theory based on deeper democratic commitments. The guiding ideal of deliberative democracy shows that fair procedures are insufficient by themselves if democracy demands all participants be given equal standing and have their particular reasons taken seriously. In this way, citizens could justifiably contest a deliberative regime of toleration even if it is based on principles of reciprocity and reasonableness. Religious citizens could argue on egalitarian grounds that these principles are interpreted in such a way that (other things being equal) they could not expect their reasons would have any influence on important issues regarding political liberties. When excluded from the community of judgement, citizens can appeal to democratic principles to urge that the regime be revised. In this case it cannot be justified to them as participants in public deliberation, all of whom as citizens are owed a justification whether they are reasonable or not. According to this argument, then, toleration in a deliberative democracy is based on the commitment to the principle of political egalitarianism: that is, the equal access to political influence of all citizens over all decisions that affect them.¹⁴ When the issue being contested is that important reasons are being excluded on some disputable epistemic ground or judgement of the nature of the reason, whether citizens are reasonable or unreasonable is irrelevant

prior to deliberation on this very point. Thus, even to say that justification is owed to the unreasonable person *qua* citizen does not quite capture the demanding requirements of deliberative toleration.

How might we think of the *Mozert* case given a different account of the fact of pluralism and reflexive toleration based on political egalitarianism? The solution that takes seriously the parents' concerns would seek some form of accommodation consistent with the deeper democratic principles on which the parents implicitly rely. In this way, school officials could seek a principled compromise from a list of mutually acceptable books.¹⁵ While these parents continue to participate in the wider set of economic, social and political practices, groups like the Amish or indigenous peoples seek less cooperation with the wider society and warrant the widest possible accommodation on this issue (as the Court has already decided in many cases). It is not unreasonable for them to adopt a stance toward the terms of social cooperation that they do not believe others will hold. This attitude is not that of 'mere toleration' that Gutmann and Thompson fear will 'leave social divisions intact' and fail to provide 'a positive basis for resolving moral disagreement in the future',¹⁶ since it still regards these groups as members of the inclusive deliberative community. Those groups that deny the deeper democratic principles upon which a reflexive challenge is based will not receive uptake and accommodation, since they reject rather than seek to modify the regulative framework for common deliberation, nor do they seek any positive basis for resolving moral disagreement. Thus, the deliberative conception of tolerance is not less tolerant than the liberal one, just tolerant in a different and more engaged way.

With these debates about reciprocity and reasonableness in mind, the main difference between a liberal and deliberative conception of toleration can then be put this way: those tolerated in a democracy have to be addressed as equals rather than subordinates, however fairly they are treated when they have no capacity to influence decisions. Furthermore, those tolerated in a deliberative democracy must be able to see that their deeply held convictions, when expressed as reasons for others, have the same public worth as the reasons of others. The recognition of their value does not mean that those reasons will or should carry the day, since they, too, must be reflexively acceptable to those for whom they are offered as a justification without subordination. This justification cannot merely be a matter of the self-expression of a sincere belief; nor can it be justified to the community from a third-person perspective as a requirement of social stability or the common good. Neither of these attitudes establishes sustained critical engagement with the reasons of those to whom one has addressed the justification of a regime of toleration.

Why call such a justification reflexive? A deliberative regime of toleration is 'reflexive' precisely because the appeal to a free and open process of public deliberation is able to make sense of and to countenance just such challenges in ways that a liberal regime cannot. It is reflexive in a stronger

sense as well; it connects toleration to norms and obligations of public communication, as the medium in which toleration as a standard of critical engagement is contested and deliberated upon. Deliberative toleration is connected to communication in three ways. First, it is an attitude toward the reasons of others; they must be taken seriously, even as they are criticised or rejected. That is, they must be understood and taken up in discussion in a way that the original speakers cannot reject. Second, it is an attitude toward the speakers, who are equals without subordination only if their communication is treated in such a way that it may be effective. Third, it must also be a communicative attitude toward the *perspectives* of those to whom one is attempting to justify a decision in deliberation. In a deliberative context, toleration requires the capacity not merely to let the other person or group alone regardless of our negative attitudes, but to take up their perspective. Intolerance is thus a failure of perspective-taking, so that the limits on the scope of toleration may not be sufficient to maintain the free and open public communication needed for deliberation inclusive of all citizens. Neither demanding that citizens exercise virtues of civility nor prohibiting uncivil speech legally is sufficient to maintain the structure of communication necessary for deliberation among equals.

Toleration, democracy and communication

Depending upon the practices, attitudes of toleration have various potential objects. At the most abstract level, toleration ought to be extended to all persons as bearers of human rights, including rights of self-expression. This may be expressed in duties not to interfere with or to prohibit such expression. But these negative, perfect duties may not be the most appropriate level of description for democratic contexts in which citizens are already engaged in practices of deliberation. The language of rights, permissions and prohibitions is not sufficient, in that we do not violate the rights of others to self-expression when we fail to consider seriously their reasons in deliberation. In order to capture the obligations of public deliberation, Onora O'Neill correctly argues that it is communication itself that is 'the proper object of toleration' in a democracy.¹⁷ In deliberative settings, citizens manifest their equality with each other not only by refraining from interfering with each other's acts of expression; they also do so by sustaining the conditions for communication. How do they do this? They do so reflexively, in their communication with each other in public deliberation and in their attitudes towards others as participants in a public process.¹⁸ This concern of participants with the publicity of communication has special importance when the inclusive character of both discussion and reason-giving are themselves the special object of deliberation. Toleration in this sense is discursive openness.

If publicity is the more general norm and attitude of concern for the structures and processes of communication in a democracy, then toleration

demands that citizens be concerned with the structural features of public debate and discussion through which deliberation takes place. Two aspects of such communication are the more specific objects of toleration. First, toleration in a weak sense is directed towards the reasons that others offer in communication: they must be taken seriously and not disqualified *ex ante* (either in principle or in fact). Toleration is needed in the public process aimed at discovering whether a reason is a publicly acceptable one or not. Publicity is in this sense historical rather than formal. If the public character of a reason in this sense is better seen as an outcome of an actual process of discussion, then it is not necessarily significant if the reason is religious or secular.¹⁹ When communicating with an audience as heterogeneous as the citizens of a large and pluralistic polity, such disqualification threatens the public character of political communication in which reasons are considered on their own merits. However, taking a reason seriously does not entail that we refrain from criticising it (even if we think it is reasonable in Rawls's sense). Indeed, the opposite is true: no reason can be expected to receive uptake by others unless it passes their critical scrutiny; that is, a criticism must be addressed to them as one that they could accept. Being tolerant thus does not exclude criticism; it in fact demands it, since without it others will not form the expectation that their reasons as publicly expressed shaped the course of the debate. Toleration is directed both towards policies that might accommodate a minority view and also towards the minority's reasons put forward in deliberation. This inclusion of other citizens' salient reasons, such as they are, is a means toward preserving the public character of communication and the inclusive character of the democratic community of citizens.

This brings us to the second feature of communication that is the object of toleration. Taking reasons seriously is not all that deliberation requires. Toleration in the strong sense does not extend directly to the reasons as such but to the perspectives that inform these reasons and give them their cogency. Before a reason can first be seen as a reason and then potentially as one that passes the critical scrutiny of all citizens, the perspectives of others and the experiences that inform them must be recognised as legitimate; in the light of this inclusion of their perspective, groups recognise themselves as contributing to democratic decisions. The toleration of others' perspectives is then part of recognising them as equal members of a political community, where membership is recognised despite the potential for persistent disagreements and deep conflicts. As Scanlon puts it, what toleration expresses is recognition of common membership that is deeper than these conflicts, recognition of others as 'just as entitled as we are to contribute to the definition of our society'.²⁰ A regime of toleration is illegitimate if it denies such an entitlement by falsely generalising the perspective of the tolerating group so that they can reject the claims and reasons of the tolerated group. Toleration in this sense is a property of a regime; a regime of toleration is just if it permits citizens to fulfil their obligations to justification to all and respects

the entitlement of each to contribute to the definition of their society. The toleration of perspectives is not only a matter of first-order communication, but of the second-order properties of the regime that aim at protecting the integrity of communication and deliberation.

The distinction between reasons and perspectives in deliberation and thus between toleration as an attitude in communication and as a property of a regime is central to understanding the nature of disagreements among free and equal citizens. In the case of conflicts or disagreement, deliberation cannot simply be guided by toleration in the weak sense common when we say ‘those are their reasons’, any more than we might expect that saying ‘these are my reasons’ will add any weight to them. First-order conflicts and disagreements about whether this or that reason is best are the normal business of public deliberation, and public communication over such first-order disagreements is preserved by respectful and mutual criticism and scrutiny. In order to do so, the variety of perspectives as such is not the subject of debate. When we say that all are equally entitled to shape deliberation in a democracy, then the clear pragmatic implication is that each perspective must be considered even if the particular reasons tied to it on particular issues do not pass critical scrutiny.²¹ In this respect, toleration is a second-order property of the framework that creates the deliberative community: whether the deliberative framework includes enough reasons to grant all citizens equal standing as members of a community that makes binding judgements.

In this section, I have argued that public communication requires a complex set of attitudes of toleration. First, deliberative democracy requires the ‘weak’ toleration of reasons to make communication possible, as the give and take of reasons in dialogue and their possible uptake by an audience. Second, it is an attitude toward any perspective as necessarily included in a community of all citizens who are all equally entitled to shaping the definition of their society. Thus, the inclusion of reasons requires attitudes of toleration by participants in communication; the inclusion of perspectives requires the justice of the deliberative framework (including its regime of toleration) that creates an inclusive political community. Next, I argue that the traditional ‘paradoxes of toleration’ themselves have reflexive form: they state that practices of toleration may themselves be intolerant. Far from undermining deliberative toleration, this sort of claim makes perfect sense in a deliberative democracy: democratic deliberation permits formal and informal regimes of toleration to become the topic of public communication and criticism and thus to test its explicit standards of inclusion for reasons and its implicit exclusion of perspectives.

Toleration and participation in a deliberative community

For all its open, inclusive and reflexive character, deliberative toleration still must be able to distinguish the tolerant from the intolerant. Such a dis-

tion might paradoxically be deemed intolerant, especially in the light of the democratic standard of the inclusion of all perspectives in deliberation. What if some citizens refuse to adopt the perspectives of other citizens they deem immoral or simply false? This suspicion might be further reinforced by the fact that while all reasons are admissible in discussion, only those reasons that are able to withstand public scrutiny appear to be favoured. Those reasons will be just those favoured by the views that I have criticised. Even if I have failed to rid such accounts of their inherent difficulties, it is clear that a deliberative procedure clearly ought not to favour intolerant attitudes of whatever kind that undermine the obligations and entitlement of political egalitarianism. In this section, I want to argue that reflexive toleration can solve another paradox of toleration, the need to tolerate what one finds to be false or wrong in some instances. Toleration is an attitude that is for something: for participation in an inclusive and pluralist political community.

Even with such attitudes of toleration so specified, we could still ask why citizens should adopt them in their democratic deliberation, as the fact of the 'new pluralism' suggests that they should.²² Here the tension in the deliberative ideal could emerge once again. Should they be adopted just because they make it more likely that decisions will be acceptable to more citizens under the circumstances? Or do we have independent reasons to accept such standards, such as fairness or the epistemic value of such procedures? These sorts of second-order questions have to be raised precisely because they must be answered in order that a deliberative regime not be self-defeating. It is not self-defeating given that the aim of a deliberative regime of toleration is to provide the framework for an inclusive democratic community. We tolerate what is wrong and false because it is part of our justificatory obligations to fellow members of a deliberative community. The regime promotes wide toleration because of the entitlements of members as political equals to shape the course of deliberation. Such a regime does not undermine itself, since reflexive challenges to it are legitimate only if they reflexively appeal to the political egalitarianism on which these obligations and entitlements are based, that is, only if the expansion of the limits of toleration advocated makes it such that all members of the society have greater access to political influence and for that reason continue to cooperate.

From the participants' perspective, deliberation begins when there is a commonly perceived problematic situation, such as a conflict or a problem to be resolved. In deliberation these conflicts or problems may be manifested in a variety of ways, such as in disagreements over the cogency of various reasons. Deliberation under democratic constraints is not simply about which reasons are better or more likely to be correct; it is rather the attempt to find a solution that is best and acceptable to all those involved. From an observer's perspective, we could always say that some type of reason is better than another, perhaps because it is stated in a general

fashion and thus is more likely to be acceptable to a broader audience or perhaps because it takes certain facts into account that others do not. Even if true, this feature does not mean that any particular universal reason or appeal to facts will be acceptable to everyone in the discussion. The same could be said for epistemic properties: for example, some reasons might be better because they support a policy that experts agree is more likely to achieve commonly accepted goals. For some participants will reject defining the problem as a matter for experts. In the face of such conflicts, David Estlund argues that a deliberative procedure must take the epistemic 'quality' of the reasons into account rather than simply egalitarian considerations such as equal access or availability of influence over a decision.²³ Despite his proper insistence that such a standard should not be based upon 'invidious comparisons', I argue that it is still intolerant of the diversity of citizens' perspectives, and any principle that justifies considerations of epistemic quality over equal access to influence is open to the same sort of reflexive objections as I raised earlier to Gutmann and Thompson's use of the principle of reciprocity.

A closer look at Estlund's argument shows that it is based on the claim that all citizens could accept that 'the epistemic advantages of wider discussion might outweigh the disadvantages of some degree of unequal influence'.²⁴ This concern seems to resemble reflexive toleration in that maintaining the structure of public communication is its main object. Does extensiveness alone capture the requirements of toleration? Since it is doubtful that extensiveness alone ensures that all in fact share the advantages of wider discussion, it is reasonable for some to reject it (as might be argued in unlimited private campaign finance in the United States). Nor does extensiveness capture 'the epistemic value of equality', since a discussion is more extensive in quantity even if the same messages are repeated over and over. Quantity then is insufficient to capture the epistemic value of diversity. It is only when more speakers are included that more discussion increases the epistemic value of deliberation. *Pace* Estlund, there is, then, no conflict between epistemic quality and political egalitarianism, since both depend on the quality of communication in a society. The corrective value of diversity is essential particularly in the case of second-order questions concerned with the effectiveness of participation in a political community.

It is not clear that those whose perspective has been excluded would accept either 'the epistemic value of quantity' ('a greater quantity of input at the same level of equality') or 'the epistemic difference principle' (which permits each to gain 'more input' at the price of inequality).²⁵ The increase is in overall input, and thus without the correlative expectation that such extensive discussion also increases the opportunity for being heard and hence for the equal exercise of influence. Otherwise, participants are asked by Estlund's epistemic difference principle to accept not only the dispersal of influence in a wider body of citizens but also that some quantity of 'epistemic compensation' is sufficient for them to exchange for the lesser worth

of their political liberty. But this difference principle can no more pass the reflexivity test than could reciprocity, since it would demand that some citizens surrender their potential influence without any process of collective authorisation. Such authorisation usually depends on a prior agreement about what counts as a good reason in a particular context. Citizens could then enjoy the same epistemic gains through authorising experts without any loss of access to influence, particularly if they can challenge the appropriateness of the authorisation of experts in some given cases, as often occurs in issues of risk and safety.

In this way, any consideration of epistemic quality either rides piggyback on the diversity of perspectives or is acceptable to all only if each could reflexively endorse the division of labour from their own point of view, not by some independent standard identified from an observer's perspective. As is the case with average utility, such standards do not respect the differences among persons. Whatever the intrinsic merits of some independent standard or intrinsic value (whether it be reasonableness, reciprocity or epistemic value), it may be reflexively challenged as intolerant from the participants' perspective of disadvantaged citizens.²⁶ The difference principle does not apply when disadvantaged participants have no reason to accept the justification that they have benefited from the inequality, except through the illicit and intolerant generalisation of the perspective of those who do exercise influence. This dependence of any application of the difference principle on the perspective of those disadvantaged by it does not leave us without standards. Those standards are rather the regulative ideals of a democratic community.

With these resources it is possible to solve another potential paradox of toleration. It is not only equal membership, but also the regulative ideal of an inclusive democratic community that provides the basis for tolerating those whom we judge to be wrong or immoral.²⁷ But this community is not the actual political community, in which the tolerated and the tolerator may stand in a social relationship of inequality or subordination. Rather, such a democratic community has a just regime of toleration to the extent not only that it promotes the proper attitudes of communication, but that it also organises a framework for deliberation that makes possible participation in a pluralist political community. Although Rawls accepts that each can accept such ideals for their own reasons, he sees such a framework as 'essentials', as having a special place that then becomes the basis for all further deliberation. Habermas makes deliberation more open and dynamic by arguing against Rawls that citizens cannot employ norms of publicity determining in advance what reasons are likely to be accepted in deliberation. Nonetheless, he insists that mutually acceptable reasons will have to be impartial and general such that 'the consensus brought about through argument must rest on identical reasons that are able to convince the parties in the same way'.²⁸ Both either suggest a more substantial unity than a deliberative community requires or are insufficiently robust to solve the prob-

lems of deep conflict. Instead, it is better to appeal to the regulative ideal of an inclusive community in both challenging and setting the limits on deliberative toleration.

The central place of the deliberative community points towards another sort of case that evades this reflexive solution and thus falls outside the deliberative ideal of toleration. Some tolerated groups may even ask not to be tolerated in the sense that they do not wish to be part of an inclusive community, as is the case for the Amish and many indigenous peoples. Here the appeal is to some other ideal, such as the recognition of their equal freedom to pursue their definition of their own society. Such groups are accommodated though the right not to be included in the common life of a community in which they do not wish to have the entitlement to define and in this way change the dynamic away from tolerant inclusion to the differentiation of citizenship. How might such differentiation enter into a just regime of toleration?

I argued earlier that the Amish and indigenous groups do not enter into a close cooperative relationship with the larger tolerating community and thus accept being democratically unequal in influence over some decisions, in exchange for the maximum degree of non-interference possible. It is important to see that this is an exception. The existence of such groups does not challenge the ideal of toleration, but presents limits to its capacity to solve problems of difference in a highly heterogeneous society. They attempt to create a different sort of social relationship of non-subordination outside rather than within a democratic society. In contrast, intolerant groups cannot claim to offer a reflexive challenge, since the purpose of the regime of toleration is precisely to protect the integrity of communication in the deliberative process and in doing so to create a pluralistic community. Challenges to toleration and its legal regime are constrained by the regulative ideal of an inclusive deliberative community that informs the regime of toleration, as one might imagine in the case of certain demands of moral constraint on expression proposed by some non-accommodationist fundamentalist religious groups or by racial or ethnic separatists. Such groups violate the demands of toleration, since they cannot intelligibly be construed as widening the deliberative community. As opposed to the Amish, they do not gain their own religious or cultural non-subordination for the toleration of the larger community's democratic ideals. Multiple memberships of a certain kind are thus consistent with citizenship.

The second-order character of toleration, the proper object of which is public communication, is in this way sufficient to accommodate reflexive challenges to the ideal and regime of toleration without falling into contradiction or paradox. But because it seeks to expand the democratic community of equal citizens and maintain its structures of free and open communication, it is pluralist without being morally neutral. Because it permits the mutual criticism of reasons offered in deliberation, it is also not epistemically abstinent. Neither the standards of public reason nor those of

toleration are themselves fixed points beyond critical scrutiny. Indeed, public reason can improve deliberation and reliably perform its role of solving problems and conflicts 'only when it is itself subject to revision and correction in light of public standards that are open, accessible and available to all'.²⁹ The possibility of such self-correction itself requires not only public standards, but also the openness and accessibility demanded by the normative attitudes and instituted in egalitarian practices of toleration. The practices in which such attitudes are exercised require the regulative framework of an expansive deliberative community.

Conclusion: challenging toleration, extending political community

The superiority of the deliberative over a liberal regime of toleration consists in its ability to deal with the main problems of wide pluralism: second-order challenges and overlapping and intersecting deep conflicts. In a deliberative democracy, debates about the basic principles of governance and shared political life belong on one end of the continuum of deliberative problem-solving. Far from being avoided, appeals to the interpretation of fundamental principles are an everyday occurrence in a deliberative democracy, especially when pluralism produces conflicts along a number of dimensions (as is the case in debates about the wall of separation of church and state and the accommodation of religious minorities in schooling). Such debates can become pitched conflicts, whose constant recurrence indicates a lack of problem-solving capacity in the current deliberative framework. The community that this framework creates is not one that is pluralistic across sufficient dimensions. Spurred by persistent deep conflicts (and not merely everyday persistent disagreement), debates about the framework for deliberation and the ideal of democratic community can lead to a period of 'constitutional politics' such as was the case in the Reconstruction period and the New Deal in United States history, when the deliberative framework of rights and powers had to shift to solve problems and conflicts.³⁰ The deliberation that occurs in periods of constitutional politics is much more fundamental than the development of acceptable exemptions and privileges typical of current calls for 'differentiated citizenship'. Rather, it demands rethinking the normative framework that operates in the background of democratic deliberation and provides the basis for deciding to which reasons institutions must be responsive. The regulative ideal of an inclusive political community is the basis for deliberating about such a transformation of the obligations and entitlements of citizenship.

Religious toleration has played a crucial role in the emergence of modern citizenship. It became the basis for a distinctly universal identity within the political community of a modern nation-state that united citizens across social and cultural differences. Both multiculturalism and cosmopolitanism challenge the adequacy of this universal identity. Deliberative toleration

looks at the problem of inclusion from the other way around. Precisely because of the successful inclusion of ever more citizens in a non-naturalistically or culturally based community of principle, the conflicts inherent in wide pluralism challenge the institutional framework that made this inclusion possible. Once again, current religious conflict over toleration provides a ready example. The emerging challenges to the liberal regime of toleration even in its expanded multicultural form are increasingly transnational, given the fact that global migration has spurred new levels of pluralism in liberal democratic societies. This migration will call into question the requirements of citizenship, as people no longer live their lives within the boundaries of a particular nation-state. Here we might consider the extent to which traditional liberal and republican conceptions can provide the basis for mutual toleration among diverse citizens. As Rawls put it, liberal toleration applied in the international sphere 'asks of other societies only what they can reasonably grant without submitting to a position of inferiority or domination'.³¹ Given the fact of wide pluralism, cosmopolitanism begins at home. It may well be that the deliberative framework in societies characterised by migration and wide pluralism will have to incorporate interactions among many different inclusive communities. The laws of an inclusive community would have to protect and regulate a variety of different statuses surrounding citizenship.

By now it should be clear exactly how reflexive toleration is different from other conceptions. Broadly understood, it belongs to a family of conceptions related to the standards of justification in a deliberative democracy. In this way, it bears family resemblances to many of the views criticised here, such as those of Rawls, Gutmann and Thompson, and Habermas. The differences emerge in response to the various levels of the challenges entailed by the deep conflicts engendered by the fact of the new pluralism. At the level of the joint activity of common deliberation about such conflicts, reflexive deliberation has the integrity of communication as its main object, where each perspective is given a full hearing without prior constraints on the publicity of a reason. Intolerance is evidenced in the inability of citizens to raise vital and significant concerns in deliberation, by excluding them as acceptable reasons or by illicitly generalising the dominant or majority perspective. Second, reflexive toleration establishes a different ideal, not merely of mutually granted rights and immunities from interference, but of a shared community of deliberation and judgement. In justifying toleration, a deliberative conception of political community not only provides for the nature and limits of challenges to the regime of toleration, but also provides toleration with its aim or purpose. Guided by its practical orientation to successful public communication and the ideal of an inclusive community, reflexive toleration is both a means and an end for furthering democratisation in a situation of undiminished pluralism. If such ideals are to be maintained, then the contemporary facts of pluralism require a more reflexive understanding of norms that guide deliberation and a wider variety of

institutional settings in which citizenship is exercised and conflicts are resolved.

Notes

- 1 J. Rawls, 'The idea of public reason revisited', reprinted in *Collected Papers* (Cambridge, MA: Harvard University Press, 1999), pp. 573–615, at p. 574.
- 2 Rawls, 'The idea of public reason revisited', p. 576.
- 3 J. Habermas, 'Reconciliation through the public use of reason', *Journal of Philosophy*, 3 (1995) 109–32, at p. 124.
- 4 J. Rawls, 'The idea of an overlapping consensus', in *Collected Papers*, p. 424.
- 5 Rawls, 'The idea of an overlapping consensus', p. 425.
- 6 B. Herman, 'Pluralism and the community of moral judgment', in D. Heyd (ed.), *Toleration: An Elusive Virtue* (Princeton, NJ: Princeton University Press, 1996), pp. 81–105, at p. 61; on 'positive tolerance' as distinguished from the repressive character of purely negative toleration, see H. Marcuse, 'Repressive tolerance', in *A Critique of Pure Tolerance* (Boston, MA: Beacon, 1965); specifically, a positive or liberating conception has for Marcuse an epistemic connotation, since 'the telos of toleration is truth' (p. 90). Marcuse's criticism of liberal toleration makes one of the points that I am stressing here, that toleration need not be sceptical or even non-epistemic. For an epistemic criticism directed at Rawls's idea of 'toleration extended to philosophy', see D. Estlund, 'The insularity of the reasonable: Why political liberalism must admit the truth', *Ethics*, 108 (1998) 252–75. Estlund's criticism also relies on a reflexive argument, to the effect that political liberalism must admit the truth of its own view. This argument is insufficiently reflexive, however, because it does not make clear that the necessity of admitting truth and overcoming insularity is from the participants' point of view. In contrast, my argument accepts reflexivity in order to show that both the constraints and the insularity of the reasonable are inconsistent with the inclusive conception of public reason that Rawls now endorses. Toleration by public reason requires that we may publicly criticise others' doctrines, or they ours. The limits of toleration are rather the limits of an inclusive deliberative community.
- 7 Marcuse, 'Repressive tolerance', p. 95. The 'liberating' feature of democracy is not mere or 'pure' toleration, but 'the chance it gave to social dissent' to change circumstances.
- 8 See Rawls's criticism of arguments for liberal neutrality based on autonomy as a moral doctrine; for Rawls, liberalism as a moral doctrine itself 'fails to satisfy the criterion of reciprocity'. See J. Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), pp. xlv–xlv; also pp. 77ff. Such a form of autonomy-based liberalism would include Kymlicka's arguments for the basis of toleration.
- 9 M. Walzer, *On Toleration* (New Haven, CT: Yale University Press, 1997), p. 71.
- 10 Just as he criticises Kymlicka's autonomy-based argument for toleration, Rawls criticises Gutmann and Thompson's view of deliberative democracy for treating reciprocity as a substantive norm in the sense of a 'comprehensive doctrine'. See Rawls, 'The idea of public reason revisited', p. 578.
- 11 A. Gutmann and D. Thompson, *Democracy and Disagreement* (Cambridge, MA: Harvard University Press, 1996), p. 65.

- 12 J. Cohen, 'Procedure and substance in deliberative democracy', in *Democracy and Difference*, ed. S. Benhabib (Princeton, NJ: Princeton University Press, 1996), p. 101. Note that for Cohen this is a matter of freedom of expression, not a matter of entitlement to contribute to the common definition of a society. Freedom of expression permits religious reasons to be used in public discourse as acts of testimony; this is a defence of toleration as non-interference.
- 13 E. Kelly and L. McPherson, 'On tolerating the unreasonable', *The Journal of Political Philosophy*, 9 (2001) 38–55. However 'strong' their conception of toleration, it leads Kelly and McPherson to the opposite conclusion to that I defend here: 'Our position in favour of extending public justification to the unreasonable implies, however, that philosophical discussion in the public sphere should ideally be kept to a minimum' (p. 51). This is because they defend and extend a liberal notion of non-interference with clearly anti-deliberative consequences. Second, the argument in favour of extending justification to the unreasonable continues to hold that the category is relevant to discussions of toleration. The proper conclusion is that since justification is owed to the reasonable and the unreasonable alike for exactly the same democratic reasons, judgements of reasonableness are simply irrelevant to the aims of toleration.
- 14 Views that endorse political egalitarianism as essential to deliberative democracy include Joshua Cohen, Thomas Christiano, Jack Knight and James Johnson, and myself. See the essays in *Deliberative Democracy: Essays on Reason and Politics*, ed. J. Bohman and W. Rehg (Cambridge, MA: Massachusetts Institute of Technology Press, 1997); I shall consider David Estlund's argument against political egalitarianism below. To the extent that his epistemic alternative is based on principles that can be reasonably rejected, it results in political intolerance.
- 15 The parents actually accepted such an accommodation, but some school officials rejected it. See W. Galston, 'Diversity, toleration and deliberative democracy: Religious minorities and public schooling', in *Deliberative Politics*, ed. S. Macedo (Oxford: Oxford University Press, 1999), pp. 39–48. Galston defends 'mere toleration', limited only by 'the minimum necessary social unity'. A deliberative theory does not defend such a minimum unity, since it locates toleration within the regulative ideals of a democratic community.
- 16 Gutmann and Thompson, *Democracy and Disagreement*, p. 62.
- 17 O. O'Neill, 'Practices of toleration', in *Democracy and the Mass Media*, ed. J. Lichtenberg (Cambridge: Cambridge University Press, 1990), p. 167.
- 18 On the variability of norms of publicity as related to their problem-solving capacity, see J. Bohman, 'Citizenship and norms of publicity: Wide public reason in cosmopolitan societies', *Political Theory*, 27 (1999) 176–202.
- 19 Robert Audi has long identified public with secular reasons. See his initial article and subsequent ones thereafter, 'The separation of Church and State and the obligations of citizenship', *Philosophy and Public Affairs* XX (1989) 259–96. For Rawls's criticisms of this view, see 'The idea of public reason revisited', pp. 587ff.
- 20 T. M. Scanlon, 'The difficulty of toleration', in Heyd (ed.), *Toleration: An Elusive Virtue*, p. 231.
- 21 On the distinction between reasons and perspectives, see I. Young, 'Difference as a resource for democratic communication', in *Deliberative Democracy: Essays on Reason and Politics*, ed. J. Bohman and W. Rehg (Cambridge, MA:

- Massachusetts Institute of Technology Press, 1997). Young argues that the primary resource that such differences offer for democratic communication 'is not a self-regarding identity or interest, but rather a perspective on the structures, relations, and events of a society' (pp. 393–4).
- 22 W. Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995), pp. 174ff. It is interesting to note that most proponents of such citizenship are implicitly cosmopolitan, in that the differentiation of citizenship is modelled on the mutual recognition by states of each other's legitimacy and rights to determine membership.
 - 23 D. Estlund, 'Political equality', *Social Philosophy and Policy*, 17 (2000) 127–60. The conception of toleration that I am defending here is precisely a species of the 'political egalitarianism' that Estlund is criticising there: deliberative toleration requires the 'equal availability of power or influence over collective choices that have legal force' (p. 127). This form of substantive political equality follows from the basic requirement of toleration that everyone is equally entitled to shape the definition of the society in which they live. Epistemic obligations follow from this entitlement, as citizens who attempt to influence this definition open their reasons to public criticism.
 - 24 Estlund, *ibid.*, p. 132.
 - 25 For 'the epistemic value of quantity', see *ibid.*, p. 144; the 'epistemic difference principle' is formulated on p. 147. More input is valuable from the participants' perspective only if it increases the possibility of each perspective being heard. Increasing input would be justified to the worst off only by increasing the number of perspectives in discussion. For the difference principle to apply, the relevant epistemic value is diversity, not quantity.
 - 26 S. Mendus, *Toleration and the Limits of Liberalism* (Atlantic Highlands, NJ: Humanities Press, 1989), pp. 8–9. Mendus sees these circumstances as having to do with various relations between the tolerator and the tolerated, given diverse and potentially conflicting ways of life. Whatever they are, the circumstances of toleration hold whenever there is democracy, in which the social relationships among diverse citizens are defined by ideals of freedom and equality.
 - 27 On the impact of the fact of pluralism on the way 'regulative principles constitute a community of moral judgment', see B. Herman, 'Pluralism and the community of moral judgment', p. 69. While Herman discusses her Kantian account of moral community in terms of 'engaged moral judgment', my account owes more to Habermas's conception of an inclusive communication community. Both are inadequate in the face of deep pluralism and must be supplemented by reflexive challenge to the deliberative framework.
 - 28 J. Habermas, *Between Facts and Norms* (Cambridge, MA: Massachusetts Institute of Technology Press, 1996), p. 339. For a such a theory of toleration, see R. Forst, 'Toleranz, Gerechtigkeit und Vernunft', in *Toleranz*, ed. R. Forst (Frankfurt: Campus Verlag, 2000), pp. 118–43.
 - 29 D. A. J. Richards, 'Toleration and the struggle against prejudice', in Heyd (ed.), *Toleration: An Elusive Virtue*, p. 135.
 - 30 B. Ackerman, *We the People, Vol. I* (Cambridge, MA: Harvard University Press, 1991).
 - 31 J. Rawls, *Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), p. 121.