Beliefs, Persons and Practices: Beyond Tolerance

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BELIEFS, PERSONS AND PRACTICES: BEYOND TOLERANCE

ABSTRACT. The central thesis of this paper is that, for most issues of multiculturalism, regarding them as a problem of tolerance puts us on the wrong track because there are certain biases inherent in the principle of tolerance. These biases – individualism, combined with a focus on religion and a focus on beliefs rather than on persons or practices – can be regarded as distinctly Protestant. Extending the scope of tolerance may seem a solution but if we really want to counter these biases, the principle of tolerance becomes so general that it loses any distinctive meaning. Therefore, we should accept the limited scope of tolerance and its biases. The principle of tolerance can still be useful for some problems where there is a clear and direct link to political or religious beliefs. Moreover, it should be cherished as a more general attitude or practice in Dutch society. For most problems of multiculturalism, however, we should appeal to broader theoretical frameworks that do justice to persons and practices.

KEY WORDS: equal recognition, multiculturalism, religious freedom, tolerance

1. INTRODUCTION

Contemporary discussions on the problems of the multicultural and so-called 'postmodern' society have many interesting parallels with debates in the sixteenth and seventeenth centuries, the time of religious fragmentation in the wake of the Reformation. The communitarian idea that we need a common national identity to keep our society together, for example, is parallelled by the belief that every nation needs one common, established religion. The fear for a 'postmodern' and multicultural society has its parallel in the seventeenth-century fear for a society with religious plurality, based on the idea that this plurality would let society fall apart in civil strife. In the older positions defending some form of religious pluralism, an appeal was often made to a principle of tolerance. A similar appeal to tolerance is now sometimes made with respect to cultural pluralism.

Tolerance is not only a cherished principle in liberal theory. The idea has a long tradition in Dutch political and social history, starting intellectually with the writings of Erasmus and institutionally with the Union of Utrecht (1579). Tolerance is so characteristic of the Netherlands, both of our political institutions and of our social culture, that we may regard it as

one of the elements of our common national identity.[1] We tend to structure many problems of political and social conflict in terms of tolerance. In the rhetoric of political and legal argument, tolerance seems one of our shared values to which we can appeal to find a common basis.[2] This general attitude of tolerance is a valuable asset of Dutch society; it would thus be easy to make a communitarian defence of tolerance.

The central question of this paper is whether problems of multiculturalism can be structured adequately using a framework of tolerance. If this were possible, it would have the obvious practical advantage of finding support in the Dutch tradition of tolerance. The answer to this question will, however, be largely negative. I will argue that, for most issues of multiculturalism, regarding them as a problem of tolerance puts us on the wrong track. The reason is that the standard framework of tolerance is biassed in various ways, and that such biases are inherent in every meaningful version of a principle of tolerance.

Before going into a detailed analysis, it may be helpful to recall the distinction between tolerance and toleration, as suggested by Preston King.[3] Tolerance, in the definition of King, means that an agent objects to an item, and yet voluntarily endures it. Toleration is a broader concept, and is defined as merely all negations of intolerance; these negations can range from attitudes such as tolerance and indifference toward the object of toleration to full support in the form of a system of equal rights. In real-life situations, it is often not clear which of the two is meant: tolerance or toleration. In references to the tolerant culture of a society, both may be involved, and they are usually intertwined.[4] For my theoretical analysis, I will begin with the more limited concept of tolerance, because the most interesting conflicts arise when someone objects to a belief or a practice,[5] and yet is supposed to have good reasons to tolerate it. I should add that

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[1] Tolerance has been characterised as an element of our national identity by almost every author who has stressed the importance of such a national identity. Cf. Scheffer (1996, pp. 26–27); Van Ree (1996, p. 89).

[2] For example, at a conference on multiculturalism in 1993, both the Minister of Justice and the Dutch member in the European Commission of Human Rights appealed to the Dutch political and legal tradition of tolerance and respect, and used it as a starting point for their analysis. Cf. Hirsch Ballin (1993, p. 30); Schermers (1993, p. 61).

[3] King (1976, esp. p. 13 and p. 21).

[4] This distinction has no equivalent in Dutch, where 'tolerantie' and 'verdraagzaamheid' are synonyms. When referring to Dutch discussions, I have translated those terms as 'tolerance', though usually a broader connotation may well be included. At the end of this paper, I will argue, however, that the more recent Dutch tradition can be better regarded as a tradition of toleration in the broader sense.

[5] I will use the term practice in this article in a broad, non-technical sense, as any coherent and complex form of socially established co-operative human activity.

I will focus on tolerance as a normative principle for political and legal institutions, though much of what will be said may also apply to tolerance as a principle for individual action.

2. THE DUTCH TRADITION OF TOLERANCE

The Dutch history of tolerance has not only been a matter of pragmatic politics. It has a theoretical basis in the writings of authors like Erasmus, Coornhert and Grotius. It is not surprising that both Locke and Bayle wrote and published their works on toleration in the Netherlands; not only did they find a social climate of tolerance here, but also intellectual inspiration.[6]

The practice of tolerance in the Netherlands began in the final decades of the sixteenth century and fully flourished during the seventeenth century, the Dutch Golden Age. Tolerance, as guaranteed in the Union of Utrecht, initially meant freedom of conscience and freedom to hold private religious ceremonies in the seclusion of one's private house rather than a full freedom of religious practice.[7] We should not mistake the character of this tolerance; Protestant dissenters and Catholics did not have equal rights. Catholic priests and Arminian ('Remonstrant') ministers were prosecuted in the first half of the seventeenth century. Until the French occupation in 1795, there were serious impediments for those who did not belong to the public Dutch Reformed Church. They were usually not eligible for public office, and they could only practice their religion in relative secrecy, in so-called 'schuilkerken' – buildings that were not recognisable as churches from the outside.[8] Nevertheless, as long as their religious practices remained relatively private affairs, Protestant dissenters, Catholics and Jews were tolerated. Moreover, the Netherlands offered a refuge for religious

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[6] For example, Locke's *Letter on Toleration* was dedicated to his friend, the Arminian professor Philippus van Limborch, who had defended tolerance in various publications.

[7] The freedom of conscience as formulated in the French Edict of Nantes (1598) or the Treaty of Westphalia (1648) only guaranteed freedom for two or three religions, respectively. The Union of Utrecht (1579), which gradually acquired the status of a constitution for the Netherlands, was broader, because it guaranteed a general freedom of conscience, also applicable to minority groups like the Mennonites and the Jews. Vermeulen (1989, p. 57), therefore regards the Union of Utrecht as the first legal formulation of the freedom of conscience.

[8] The strictness of restrictions on church buildings gradually decreased in the seventeenth and eighteenth centuries, but the restrictions on eligibility for public office became stricter. Van Rooden (1996, p. 26).

minorities from many countries, such as French Huguenots and Portuguese Jews.[9]

The practice of tolerance in the Dutch Golden Age has a specific character. The primary objects of tolerance, the paradigm case, were religious beliefs and the individuals that hold them. Religious practices were only tolerated in the private sphere and if they were directly connected with the religious beliefs. The limits of tolerance were constituted by what is perceived as the public order. The justifications for tolerance were multiple; we can find both pragmatic arguments and theoretical arguments such as an appeal to individual freedom or to the idea that belief is internal and can therefore never be acquired as the result from external pressure or force.

In the next centuries, this pattern gradually evolved and expanded. The scope of tolerance was broadened considerably. Already in the seventeenth century, tolerance was not restricted to religious beliefs, but also applied to political and philosophical ideas. This tolerance was extended to guarantee a relatively free press, because printing a book is something which can easily be related to sincere convictions.[10] Consequently, many books appeared in the Netherlands that could not be published in other countries.

An attitude of tolerance is also visible in the way in which conscientious objections were recognised. Probably because of the existence of a relatively well-integrated Mennonite minority, the recognition of religious objections against military service was a first step – made in various cities, even as early as at the time of the Eighty Years' War. Conscientious objection against military service was legally recognised in 1923 (twenty-five years after general conscription was introduced); soon this idea was extended to other objections.[11] As a result, there are many legal arrangements to recognise such objections. There is a broad variety of issues, from social security and vaccination to swearing and animal experiments. If, in the Netherlands, someone submits an objection against a specific legal obligation as a matter of conscience, this will usually be a good reason for legal authorities (judges and legislators) to look seriously for some form of exemption.

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[9] An interesting detail is that, according to Van Rooden (1996, pp. 24–26), Jews and Lutherans had more freedom than Mennonites, Catholics and Arminians. The reason was that the latter were regarded as alternative Dutch religions and as such posed a threat to the public order based on the dominance of the Dutch Reformed Church. Jews and Lutherans were considered 'foreign' religions, and could therefore be tolerated more easily. A different ethnic identity was thus a ground for more tolerance rather than for less, quite opposite to what is usually the case nowadays.

[10] It was only relatively free, because writing or printing heretic opinions, especially Socinian ones, was sometimes cause for prosecution.

[11] A good overview of all legal arrangements can be found in Vermeulen (1989).

The scope of tolerance has broadened even further. I think that the easy acceptance of civil disobedience as a legitimate element of a lively democracy can be partly explained by the Dutch attitude of tolerance. The Rawlsian theory of civil disobedience was introduced in the Netherlands in 1972 by a dissertation of the sociologist Kees Schuyt.[12] Within a short time, almost every political party and the public at large had accepted the idea that civil disobedience could be legitimate. Compared to countries like the USA or Germany, this is remarkable. The main reason for this easy acceptance seems to be that both John Rawls and Kees Schuyt regarded civil disobedience as a form of political protest, in other words, as the voicing of a sincere conviction. As soon as illegal actions were perceived in such a way, they fitted into the framework of tolerance, and the discussion shifted to determining the limits of tolerance for such actions.

The scope of tolerance thus progressively extended from beliefs to religious practice and a free press, to the recognition of conscientious objection and civil disobedience. Liberal attitudes towards euthanasia and abortion should also be mentioned in this context, because those defending that abortion or euthanasia can, under certain circumstances, be justified, appeal to their sincere ethical convictions, and thus can be easily fitted into the framework of tolerance. In recent years, the scope of tolerance has increased even further, and it is now connected with practices where the relation with beliefs is much farther fetched. We may think of alternative lifestyles in the wake of the sixties revolt, and especially those that involve the use of various types of drugs. Other examples are the liberal attitude towards homosexuality and towards various other issues in the field of sexuality, like prostitution, pornography and cohabitation.

In the past centuries, the scope of tolerance was not only expanded through a weakening of the link with beliefs but also by a more restrictive interpretation of the limits of tolerance. The public order is considered much less vulnerable than it used to be. Until quite recently, the public practice of Catholicism in the form of religious processions was considered a danger to the public order.[13] Nowadays it is mainly the direct harm to others, or the fact that a controversial activity conflicts with tolerance itself (e.g., by being undemocratic or racist) that sets the limits for tolerance. Some damage to public order and even to third parties has to be accepted in the name of tolerance.

This broadening of the scope of tolerance is connected with a shift in the arguments that are used, and especially with a shift towards more general

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[12] Schuyt (1972).

[13] Cf. Labuschagne (1994, pp. 131–140), on the history of the formal prohibition on religious processions, which lasted until 1988.

and more pragmatic arguments. If the objects of tolerance are religious beliefs, very specific – even theological – arguments can be relevant. If, however, tolerance can be a principle applying to almost every activity, the arguments must be more general. Furthermore, if tolerance is a matter of tolerating strong, principled convictions, the problem is easily perceived as one in which both sides, the citizen and the state, should appeal to such principled normative arguments. If someone holds a principled conviction, the state should reply in a similar principled way. But if the connection of the controversial activities to such strong beliefs is looser, the principled arguments become less important. If someone merely argues that the use of soft drugs is pleasant and harmless, then the state's attitude can also be discussed in pragmatic terms of how possible excess can be prevented. In such cases, pragmatic arguments gain in relative importance.

As a result, in many current discussions the arguments for tolerance have become so general that the appeal to tolerance almost becomes obsolete, because the arguments ultimately boil down to a simple appeal to freedom or the value of pluralism, or to pragmatic considerations. Especially in political debates, pragmatic arguments dominate. Which policies on drugs will be most effective? How can we best protect prostitutes against exploitation and guarantee an effective control on prostitution, by making brothels legal or rather by keeping them illegal? How can we effectively control medical practice concerning euthanasia?

This rough sketch of the Dutch practice may suffice. Even if it is extremely general, it will be enough to indicate a threefold pattern of tolerance and the developments in that pattern. Firstly, the initial objects of tolerance were religion and, more specifically, beliefs, persons holding these beliefs and activities closely connected with beliefs. I will call these characteristics the primacy of religion and the primacy of beliefs. There has been a development to broaden the focus to activities that have a weaker connection with such beliefs and, thus, give tolerance a broader scope. Secondly, the initial limits of tolerance were that the beliefs or activities were harmful to the public order. There has been a development to narrow the conception of what constitutes such a harm which has also led to a broader scope of tolerance. Thirdly, the justification for tolerance was and is multiple. It is not deduced from one fundamental value but it is an interstitial principle based on various fundamental ideals and supported by pragmatic and epistemic arguments. Here we can discern a development in which the focus has shifted from specific arguments connected with religious beliefs to more general arguments and to pragmatic arguments.

3. The Standard Framework of Tolerance

On the basis of this historical sketch we can reconstruct, what I shall call, the standard framework of tolerance. The uncontroversial core of this framework consists of a quite narrow idea of religious tolerance, focussing on religious beliefs rather than on religious practices. We can formulate this as a basic normative principle of tolerance. Using this basic principle as a common starting point, successive attempts can be made to extend the idea of tolerance beyond its original confines. These attempts are based on two rules of extension; one extending the scope of the objects of tolerance, the other narrowing the exceptions. Using these two rules of extension, many normative problems can, in principle, be structured as a problem of the limits of tolerance.

Basic Principle of Tolerance

Religious beliefs, the persons holding those beliefs and the practices directly connected with these beliefs should be tolerated as long as they do not constitute any harm to the public order.

First Rule of Extension

Beliefs, persons, and actions, to which the Basic Principle of Tolerance does not apply directly, should also be brought under an extended principle of tolerance if, in relevant aspects, they are analogous to the beliefs, persons and actions covered by the Basic Principle.

Second Rule of Extension

The concept of public order should be interpreted as restrictive as possible, especially by focussing on concrete harm to others and to (the moral basis of) tolerance itself.

My suggestion is that this framework offers a reasonable description and explanation of the developments that have occurred in the Dutch practice of tolerance. Moreover, the framework still influences the way in which many new problems are perceived and structured. A strong commitment to this framework, as Dutch society still has, implies a tendency to structure normative problems in such a way that they can be brought under an extended principle of tolerance, with the help of the two mechanisms of extension.

The principle and the two rules of extension are quite vague. Crucial issues, such as how to interpret the concept of harm, or what is to be

regarded as analogous in relevant aspects, are left open; it is only a frame-
work. Every theory of tolerance tries to specify these concepts and thus to
formulate a modified principle of tolerance. It is precisely the vagueness of
these concepts which enables a social dynamics in the practice of tolerance
and a further elaboration of theories of tolerance, so that they can (perhaps)
address new problems, like those of the multicultural society.

4. THEORIES OF TOLERANCE

After this historical sketch of the practice of tolerance, it is now time to
go to philosophical theories. In most sixteenth- and seventeenth-century
theories of tolerance, a similar threefold pattern may be discerned as in the
practice of the Dutch Golden Age.

Firstly, tolerance has a restricted scope, characterised by the primacy
of religion and the primacy of beliefs. The paradigm case of tolerance is
religious tolerance. The objects of tolerance are beliefs, persons holding
those beliefs and religious practices directly connected with those beliefs.
In some theories, the scope of toleration is extended to political and philo-
sophical beliefs, but even in these broader theories, the primary focus is on
beliefs.

Secondly, the limits of tolerance are constituted by a broadly conceived
public order. The public order argument may be found in authors like
Locke, who partly on that ground argues that atheists and Catholics should
not be tolerated. This illustrates that public order is interpreted broadly and
that it can therefore justify many restrictions on tolerance.

Thirdly, tolerance is usually regarded as an interstitial principle, which
may be based on a plurality of arguments.[14] Consequently, the precise
meaning of the principle and its limits tend to vary, as a freedom-based
argument leads to a slightly different version than one which cherishes
diversity as a means to truth. Many arguments are specific for religious
toleration; there are even directly theological arguments, for instance argu-
ments that Christianity demands tolerance.[15] One of the central arguments
refers to the importance of individual freedom in religious matters. Reli-
gion is usually individualised; it is not the church or sect which can claim
tolerance, but the individuals belonging to it.

The Basic Principle of Tolerance is thus characteristic of sixteenth-
and seventeenth-century theories of tolerance. Differences between the
various authors usually concentrate on which beliefs should be tolerated

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[14] Waldron (1993, p. 107), calls it a 'promiscuity about justifications'.
[15] Waldron (1993, pp. 89–90), refers to such arguments in Locke.

and how the criterion of harm to the public order should be conceived. Some authors only tolerate the beliefs of specific Protestant churches, and exclude Catholics, Christian sects, Jews and Muslims. Others take a more liberal view and do not merely want to tolerate all religious beliefs, but even political and philosophical ideas. Some authors take a broad view of public order, in which atheists are too dangerous, others construe it more narrowly. The dynamics of the two Rules of Extension may explain some of this variation.

In later theories, the Basic Principle is extended further. Firstly, the primacy of religion and the primacy of beliefs gradually become less strong. Starting with religion, toleration is extended to politics, and finally to almost every possible activity.[16] In most modern theories, there is, nevertheless, still a focus on religion and on beliefs.[17]

Secondly, the idea of a public order has been interpreted in an increasingly less restrictive way. J.S. Mill has made an important contribution with his introduction of the harm principle. In modern liberal theory, the main ground for limiting tolerance is harm to concrete individuals. Threats to public order as such, apart from harm to concrete individuals, are usually taken rather lightly. The other ground for restricting tolerance is tolerance itself or the normative basis on which it rests.[18] Thus, one of the standard problems in modern theories of tolerance is that of 'toleration of the intolerant'.

5. JUSTIFICATIONS OF TOLERANCE

Extending the basic principle of tolerance beyond its original core is not without problems. The principle of tolerance is an interstitial principle, which means that it depends on other, more fundamental principles and arguments. But if we extend the scope, we usually also have to modify the justificatory arguments, either implicitly or explicitly. An extension of the scope thus requires an extension of the justificatory arguments. This is indeed what has happened (and still is happening). I will try to show this

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[16] "Thus, the debate on toleration moved over the centuries from religion to politics to society", Fotion and Elfstrom (1992, p. 80). They argue that "the arena of toleration has changed from belief to speech to action."

[17] An example is Macedo (1996), who restricts his encyclopaedic article on 'Toleration and Fundamentalism' to religious tolerance, and does not even mention the possibility of a broader scope. An illustration of the primacy of beliefs is King (1976, p. 75), who mentions 'behavioural tolerance', but regards it as a catch-all formula which is not of crucial importance and therefore is excluded from consideration in his book.

[18] Cf. Hirsch Ballin (1993, p. 22).

by briefly discussing each of the major arguments for toleration that have
been brought forward since the sixteenth century.

In the theoretical discussions on tolerance, we find five basic types of
arguments why we should value tolerance.[19] Tolerance is usually morally
justified by arguments that refer to respect for individual autonomy or
freedom, to the value of a lively, democratic society or to a principle of
neutrality. It is also defended on pragmatic grounds or on the basis of some
variety of scepticism. Each of these arguments has gone through a certain
development in interpretation during the last centuries, which corresponds
with the extension in the scope of tolerance. I will discuss each of them
briefly to illustrate my point. I will not attempt to evaluate the validity
of the arguments;[20] my only purpose is to explore what the implications
of extending the scope of tolerance would be for the justification needed,
assuming that someone is convinced that the original justification is valid.

5.1. *Freedom and Autonomy*

One standard argument for religious tolerance connects it with freedom.
Seventeenth-century authors, such as Bayle and Locke, argue that religious
beliefs as internal attitudes can only be acquired in freedom.[21] External
force or the threat of prosecution can never lead to sincere beliefs.

When the scope of toleration goes beyond religion, this argument is
no longer adequate. A secular variety is the argument developed by Joseph
Raz in favour of autonomy. His argument strongly resembles the older ver-
sion, but religious beliefs are replaced by conceptions of the good life. The
good life has only value if it is (at least partly) chosen autonomously, and
therefore autonomy is constitutive of the good life.[22] This means that we
should leave individuals free to choose their own conception of the good
life and that we should tolerate their choices. The more common version
in modern liberal theory is simply based on the idea that autonomy (or

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[19] There are more than these (and all of them have numerous versions), but I think
that these are the major ones. Mendus (1989, pp. 154–162), e.g., develops an interesting
'socialist' (I would rather call it communitarian) argument for tolerance: tolerance will
promote the integration of minorities into the political community.

[20] A nice overview of the weaknesses and limitations of various arguments can be found
in Macedo (1996).

[21] Cf. Vermeulen (1989, p. 49), who also refers to various sixteenth-century authors, like
Coornhert, and traces the idea back to Tertullianius and Lactantius.

[22] Raz (1986, p. 407 and *passim*).

freedom) as such is valuable.[23] Tolerance is thus a requirement of respect for autonomy.

The problem with both versions is that respect for autonomy or freedom is then almost co-extensive with the interstitial principle of tolerance that is supposed to be derived from it. If freedom as such is valuable and should be protected, it means that there is no need any more for an interstitial principle of tolerance.

Respect for individual autonomy is one of the basic principles of a liberal-democratic society, and obviously a good ground for tolerance, whether one chooses Raz' version or the more general, liberal one. But why should we invoke an interstitial principle of tolerance, if it is completely based on the value of autonomy and if the limits of tolerance are determined by general, liberal-democratic theories of freedom, such as those based on the harm principle? A principle of tolerance is superfluous if we attempt to generalise its scope and, correspondingly, generalise its justification.

5.2. *Diversity and Pluralism*

A second argument is that tolerating religious diversity rather than enforcing what is to be considered the true religion, is the best method of attaining true beliefs. Only if we allow open discussions on religious controversies, can we hope to distinguish heretic beliefs from true opinion. This idea can easily be extended beyond religious beliefs to political, moral or scientific beliefs. In this general form, it has been defended by J.S. Mill and has later been repeated by Karl Popper, but it has much older roots.[24] For this basic idea there are many metaphors, such as the free marketplace of ideas. Tolerance guarantees that this marketplace remains free.

An attempt to generalise this argument even further, beyond tolerance of beliefs, is to argue that diversity or pluralism as such is valuable.[25] In modern celebrations of multiculturalism we can often find such arguments. The value of pluralism or diversity is certainly a strong argument for tolerance. There is, however, one crucial problem with this generalised version, resembling the problem of the generalised autonomy arguments:

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[23] I leave aside the distinction between autonomy or freedom here, because I only want to refer to a broad cluster of arguments, which sometimes use concepts like freedom or liberty and sometimes the concept of autonomy.

[24] Cf. Jenkinson (1996, p. 315), quoting Bayle, who compares religious plurality with the harmony in a town where the several types of artisans give one another mutual support.

[25] Cf. Jenkinson (1996).

it is too strong. It goes beyond tolerance.[26] If one regards pluralism as valuable, there is no reason to restrict the normative implications to the moderate requirements of tolerance; the stronger claim for equal recognition can then be made. An appeal to a principle of tolerance, if based on the value of diversity and pluralism, is thus not only superfluous, as with the generalised versions of the autonomy argument. It would even imply that one prefers the weaker claim above the stronger claim on which it is based. Such moderation may be strategically wise under specific historic circumstances, but as a matter of theory it is not only superfluous but even counterproductive.

5.3. *Scepticism*

A third type of argument for tolerance is based on doubts whether political institutions can know religious truth and enforce it. This is an argument on the basis of limited scepticism. There need not be doubt about religious truth in general; the argument is merely that no person or institution can pretend to have objective knowledge about it. Therefore the state should not side with any of the parties in a religious conflict. Versions of this argument can be found in the work of various sixteenth- and seventeenth-century philosophers.[27] If limited to religious views, it seems a strong argument for tolerance.[28]

It is only a limited scepticism, on religious truth as the object of knowledge. Once we abolish this restriction, and generalise this argument to a general relativist or postmodernist thesis that the state cannot know whether certain beliefs are true and therefore should refrain from acting on the basis of these beliefs, we get into serious problems.[29]

The most general form of scepticism is, as has been noted by various authors, not a good argument for tolerance at all.[30] If you are really sceptical about beliefs, you should also be sceptical about the belief that one should be tolerant, and thus you cannot justify tolerance. But even the more restricted form of scepticism (which we may call role scepticism), implying that it is only the state which cannot claim knowledge, is self-

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[26] This is in line with Margalis (1996, pp. 176–180), who regards a tolerant society as a weaker alternative to a pluralist society.

[27] Vermeulen (1989, p. 52), refers to Bodin, Coornhert, Locke and Bayle.

[28] Gutmann and Thompson (1990, p. 126 ff.), however, argue that it is not even a strong argument if restricted to religious toleration.

[29] Extending it even further, beyond beliefs to practice, is even impossible. This argument is inherently linked to tolerance of beliefs, and cannot be extended to include practices.

[30] Cf. Mendus (1989, pp. 76–77).

contradictory as an argument for tolerance. If the argument is that the state can never know that some views are correct (or at least more likely) and others wrong (or at least less likely), and therefore should not act upon such views, it is absurd. It would bar the state from any action, if only one citizen (e.g., a person who committed a serious crime) argues that he has a different opinion. It would also bar the state from defending tolerance, because the belief that tolerance is justified is as much open to normative counter-arguments as any other position.

Here we have a different problem than the problems we encountered before. There the problem was that there is no longer any need for a specific principle of tolerance once we have generalised the arguments at the level of respect for autonomy or the value of pluralism. Here the problem is that we can no longer justify tolerance, because the generalised arguments, when applied to themselves, are self-defeating.

5.4. *Neutrality*

The idea that the state should be neutral towards different religions offers a strong argument for tolerance.[31] Religious neutrality is a very limited form of neutrality, especially in the older theories of authors such as Locke. The state need only be neutral towards those religious issues on which the various churches disagree but not on every issue, not even on all religious issues.[32]

As soon as we try to extend this argument beyond the field of religious beliefs, we get into problems that resemble the problems just discussed. If the state should be neutral towards every normative issue on which there is a controversy, it would soon cease to exist. If a state should be neutral on the issue whether men and women are equal or not, whether tax dodging is wrong or not, and so on, it would have no basis for action. So, a general or so-called 'fundamental' neutrality is a self-defeating argument for toleration, because it would rule out a state policy of toleration as soon as it became controversial.

The alternative option is that neutrality, in a limited version, is based on more fundamental political ideals, such as respect for autonomy or the value of pluralism. But this alternative makes tolerance superfluous (or even counterproductive) again. If the state should cherish plurality or

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[31] I leave aside the question why it should be neutral – neutrality can be based on each of the other arguments, but also on more general theories of justice, especially contractarian ones. Cf. Mendus (1989, esp. at p. 85 ff. and p. 113 ff.), for various ways of connecting toleration and neutrality to other arguments.

[32] For example, Socinianism and Spinozism were often regarded as proper objects of intolerance.

respect autonomy, it should not merely tolerate minorities but treat them with equal respect. In fact, neutrality is even too strong a basis for the original principle of religious tolerance, because the justificatory principle goes further than the principle we derive from it. There is then no need for a weaker, interstitial principle of neutrality.

5.5. *Prudence*

The last type of argument has a pragmatic character. It simply maintains that a tolerant policy will have better results than intolerance. The classical argument in the period of the religious wars was that tolerance is the only feasible alternative to devastating civil strife. It may be the only acceptable social compromise to ensure peace.

With the extension of the scope of tolerance, the range of pragmatic arguments (both for and against tolerance) becomes almost boundless. A broad variety of reasons why tolerance has better consequences can be found in the modern literature. Intolerance can sometimes be too costly, ineffective and even counterproductive or impossible.[33] Other pragmatic arguments for tolerance may be that it is economically effective, because it stimulates a free market, or because it provides a place for foreigners to live. Thus, the economic wealth of the seventeenth-century Netherlands can partly be attributed to its tolerant climate, which attracted wealthy Flemish merchants, French Huguenots and Portuguese Jews.

The arguments of prudence are thus no longer specific arguments for tolerance. They are merely pragmatic arguments for and against state intervention, which may vary with the issue on which state intervention is under consideration.

6. THE DILEMMA OF TOLERANCE

The result of our analysis so far is simple. The more we broaden the scope of tolerance, by going beyond religious beliefs and by narrowing our concept of public order, the more general the arguments for tolerance have to be. In their most general form, some of those arguments become self-defeating; others coincide with more general arguments in liberal theory. In the end, the principle of tolerance loses any distinctive meaning, and

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[33] Especially the sociological literature on legal moralism suggests many pragmatic arguments. Cf. various publications by Skolnick, e.g., (1968). In Dutch discussions on euthanasia and drugs policies, pragmatic arguments are often pivotal.

we are merely discussing the grounds and limits of state intervention in society.[34]

So, if we want to insist on a distinct role for a principle of tolerance, we must find some way to restrict its scope. The process of extension with the help of the first and second rules of extension should be stopped somewhere. Only when we restrict its scope, may we hope to construe a useful principle of tolerance. The question then is how we can best restrict the scope.

The standard framework of tolerance suggests one way out. We should start with the core of religious beliefs and then somewhere along the process of extension try to construe a defensible line. But this approach will partly retain the original bias inherent in the basic principle of tolerance. To see whether this can be a justified choice, we should try to analyse in which way the standard framework is selective, and thus biassed.

The central biases are what I have called the primacy of religion and the primacy of beliefs – religious beliefs are the primary object of tolerance. Extending the scope of tolerance beyond religion, in a first step of extension, cancels the bias of the primacy of religion, but not the primacy of beliefs. A further bias is that, even if it goes beyond beliefs to persons, the framework is highly individualistic: the basic principle of tolerance focuses on individual persons holding certain beliefs. The objects of tolerance are not collective entities like organisations, churches, cultures, languages, but they are the individual members of those organisations, churches and cultures, or the individual speakers of the language. Finally, this individualism is also reflected in the strong emphasis on individual autonomy and freedom in most theories.

I think that these biases of the standard framework can be regarded as a distinctly Protestant bias.[35] The primacy of beliefs is clearly Protestant; not the religious practices and rituals, not the good works, are primary, but the beliefs (*sola fides*).[36] Orthodoxy is more important than ortho-

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[34] My argument here has, not surprisingly, a strong resemblance with Vermeulen's central thesis. He argues that, because of the secularisation of the concept of conscience in Dutch law, freedom of conscience has become boundless and, consequently, has lost its specific meaning. I argue that, when we dissociate the concept of tolerance from its original core, religious beliefs, tolerance becomes boundless and, consequently, the principle of tolerance loses its specific function.

[35] These characteristics have close affinity with the Calvinist tradition in Protestantism, but are not exclusively connected with it. For example, the individualist tendency and the emphasis on freedom seems stronger in the Mennonite and Erasmian traditions within Dutch Protestantism.

[36] Waldron (1993, pp. 109–111), criticises, what he calls, the 'Protestant' emphasis on sincere beliefs in Locke's argument.

praxis.[37] In concrete discussions of tolerance, we can sometimes see an even more distinctly Protestant emphasis when religious beliefs are reduced to the doctrinal contents of sacred texts (*sola scriptura*). It is also distinctly Protestant in its individualism because in the Protestant tradition the individual's relation with God has absolute primacy; there is no mediatory role of priests, the Church or any other organisation. The emphasis on individual conscience and on individual responsibility and freedom is also characteristic of most Protestant traditions.[38]

7. MODERN PROBLEMS OF TOLERANCE

Theoretically, the Protestant bias of the standard framework is clear. But in order to evaluate it, we must know whether this bias has unacceptable consequences in real cases or not, and whether there are alternatives that can do better. Therefore, we should test it on a number of problems that Dutch society is currently struggling with and in which an appeal to tolerance can be made. I will list six cases that have come up in the last decade.

> Case 1. Should racists and anti-democratic extremists be allowed to organise and hold meetings, to march in public and to participate in elections?[39]
>
> Case 2. Should Muslims and Jews be allowed to perform ritual slaughterings?[40]
>
> Case 3. Should a Protestant school be allowed to discharge a lesbian teacher?[41]
>
> Case 4. Should the SGP (a small orthodox Protestant party) be allowed to exclude women as members?

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[37] Cf. Barry (1990, p. 48), for a critique on this bias.

[38] Even if in the theology of some varieties of Calvinism, human autonomy may be a suspect idea if applied to the relation between God and man, in most Calvinist political theories about the relation between the individual and the political institutions, freedom has usually pride of place.

[39] We need not only think of autochthonous groups, such as the Dutch 'Centrumdemocraten' or the French 'Front National'. Other examples are Turkish fascist organisations or Kurdish extremists.

[40] Comparable case: Should Hindus be permitted to perform ritual cremation ceremonies? Cf. Labuschagne (1994, pp. 211–212).

[41] Cf. Van der Burg (1992). Leader (1996, p. 47), mentions the comparable case of a homosexual sacristan in France, who successfully contested his dismissal by the Catholic Church. Another comparable example is that of a Muslim organisation which (unsuccessfully) contested the location of its quarters next to those of a gay group.

Case 5. Should Muslim girls be allowed to wear headscarfs at school? Should they be exempt from physical education?[42]

Case 6. Should female circumcision by African immigrants be allowed?[43]

The first two cases fit perfectly into the standard framework of tolerance. The central issue is whether the political or religious beliefs of a minority, and practices and activities directly connected with those beliefs, should be tolerated. The biases inherent in the standard framework do not constitute any serious problems here. In case 1, we have to extend beyond religion to politics, and in both cases we have to extend beyond beliefs to those practices and activities that are directly connected with these beliefs. But these are only relatively minor extensions.

The most important question is whether all relevant dimensions of the case can be formulated in terms of the framework of tolerance. The answer is affirmative. The principled arguments for tolerance are that we should not interfere with the autonomy of citizens and respect their religious or political freedom, and that in a pluralist political culture racist feelings should be expressed rather than suppressed, because only then can they be exposed to criticism. Apart from these, there are various pragmatic arguments. The limits of tolerance (i.e., the arguments against tolerance in these concrete cases) can be framed either in terms of the harm principle (and perhaps the offence principle) or in terms of the protection of tolerance and the values behind tolerance.

The latter point should perhaps be explained, especially for case 1, because there is an ongoing controversy in the Netherlands about the issue whether we should prohibit the activities of extremist organisations such as the 'Centrumdemocraten'. The standard framework of tolerance suggests clear and, in my view, adequate criteria that are also central in this debate. There are two main controversial issues in the debate, corresponding with the two criteria for limiting tolerance. One criterion is the harm to individuals and to the public order. As soon as these groups harm concrete individuals, they should be actively prosecuted, for instance when they use violence or insult (members of) minorities. More controversial is the

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[42] Cf. Galeotti (1993). Comparable examples: Should a Sikh be allowed to wear a turban at school (cf. Scarman 1987, p. 55) or at work (cf. Labuschagne 1994, pp. 204–206)?

[43] Cf. Rood-de Boer (1993). Comparable case: Should we allow male circumcision by Jews? It is interesting to see that this case is almost never seriously discussed – even though male circumcision is much more invasive than the lightest, symbolic form of female circumcision. Perhaps we simply take this practice for granted. Another reason could be that it is strongly linked to religious belief because there is a religious text, shared by Jews and Christians, which contains a clear injunction for male circumcision.

question whether we should also prohibit their activities because of risks for the public order, especially when these risks are the result of threats by anti-fascist groups.[44] Whatever opinions one may have on this issue, it is clear that the rights of third parties and the interest of the public order thus are the grounds for limiting tolerance.[45] The other criterion is that these activities threaten tolerance or the values behind tolerance. In one view, these groups are quite marginal and therefore do not constitute a serious threat to the political institutions of our society that guarantee pluralism and freedom. Therefore, the values behind tolerance do not justify intolerance. Other parties in the debate argue that these extremists do constitute a serious threat and should therefore be prosecuted. Both parties thus remain within the standard framework by appealing to the normative basis of tolerance.

For case 2, the limits of tolerance can be determined with a reference to harm to others and to the public order. Harm to others should be broadly interpreted to include harm to animals (by amateurish slaughtering); the interests of public hygiene can be brought under the public order reference. These two arguments do not justify a general prohibition but they suggest regulation. We should tolerate these practices under supervision and control of veterinarian authorities so that unnecessary suffering of the animal is avoided and public hygiene can be guaranteed.[46]

For cases 3 and 4, the standard framework also dominates the public debate in the Netherlands. At first sight, it may seem adequate. In both cases, there is a direct appeal to religious beliefs. They can be structured as varieties of the well-known problem of whether to tolerate the intolerant, if this intolerance is based on religious conviction. This problem is usually analysed along one of the two following lines of argumentation, depending

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[44] This is currently the ground on which many mayors prohibit right-wing manifestations, although it is arguable that this is not a valid legal ground.

[45] A good argument may be that the limits of tolerance should be higher in the case of anti-democratic than in the case of racist activities. In the latter case, there may be concrete victims that deserve protection, whereas the institutions of democracy are currently less vulnerable for minor disruptions by small groups.

[46] This is indeed the approach which has been chosen in the Netherlands. In a comparable case, however, in which a Hindu deposited sacrificial rests in the water, the primacy of beliefs, and especially the focus on written texts, led to a strong bias in a decision by a lower court (ktr. Zevenbergen, 3-2-1982). The judge argued that Hinduism does not have strict cultic obligations and that, therefore, there was no *force majeure* which might justify breaking environmental regulations. The cultic practice was not enough reason to assume a religious obligation; had the Hindu referred to some articles of faith or religious texts, it would probably have led to a different outcome. For this case, see Labuschagne (1994, pp. 211–212 and pp. 285–286); Vermeulen (1989, p. 200, n. 311).

on whether one emphasises autonomy-based tolerance or pluralism-based tolerance.

Autonomy-based tolerance implies that groups should have the right to organise themselves on the basis of political and religious ideas. This right extends to groups that have discriminating opinions on women or on homosexuality; they should be allowed to establish their own organisations, whether they be political parties or schools. Women or gays and lesbians with different views have a similar right to establish organisations on the basis of their beliefs, so they are not seriously harmed. Women can go to various other parties that will accept them as members, or otherwise they may establish a new party. Gays and lesbians can teach at many other schools, so they have no right to demand that this specific school accepts them as teachers. As long as free choice and particularly free exit options are guaranteed, we should tolerate such intolerant groups because this balances the claims to respect for autonomy of all parties involved. Only if there is no free choice (e.g., the discriminating organisations have a monopolistic position), or if the discriminated persons are somehow harmed in their vital interests,[47] should we be intolerant towards the intolerant.

Pluralism-based tolerance implies not only that the state, or society as a whole, should be tolerant towards minority groups, but also that these groups and their organisations should be tolerant towards their members. These groups should therefore not be allowed to discriminate against their own members. Here the appeal to the value behind tolerance, pluralism, leads to a prohibition of intolerant behaviour because that undermines pluralism.

These two lines of argument tend to dominate the public debate on those issues in the Netherlands. However, they misrepresent the real issues at stake because the standard framework of tolerance blinds us to crucial dimensions of the conflicts.

If we look at these conflicts from the perspective of those who are discriminated against, they are not about tolerance, but about a struggle for recognition as equals. Women, or gays and lesbians, respectively, want to be recognised as persons with equal rights. Tolerance is not enough, because it still has the connotation that those who are tolerated are not completely equal. Therefore, we should go beyond tolerance of beliefs, to equal recognition.

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[47] The harm criterion may lead to a different judgement on the two cases. The harm of losing a job that one has had for some time may be considered greater than the harm inflicted when one does not get a new job or when one cannot become a member of a specific political party. Therefore, according to this line of argument, there may well be good grounds to prohibit the discharge of a lesbian teacher, but not to prohibit the exclusion of a woman as a member of a political party.

These conflicts, moreover, do not focus on autonomy. The fact that someone is a woman or that she is lesbian is not a matter of free choice. It is not respect for autonomy that is at issue for her, but the recognition of the person she is. Autonomy is only one aspect of what we should value in human persons. This is, indeed, an important aspect for those who claim the right to discriminate on the basis of their religious or political beliefs. But for the victims of discrimination, there are other aspects of their human personality that are at stake: for example their gender, their sexual orientation or their ethnic and cultural identity. Therefore, we need a broader concept of the person, in which it is not only the autonomous individual, but the concrete individual with his specific identity that deserves equal respect. This identity includes dimensions such as gender and sexual orientation. Therefore, we should go beyond respect for autonomy to respect for the full person.

Conceptions of personal identity should also take into account the fact that someone may be embedded in social groups (or subcultures). If people are part of a group or subculture, they often have a strong sense of belonging, which constitutes part of their identity. It is this specific group to which they belong and by which they want to be recognised as full members. Usually, claims to recognition are addressed to the state or to society as a whole, by demanding voting rights or equal opportunities on the job market. But in cases 3 and 4, the claim to recognition is made directly to a specific social group – in both cases to an orthodox-Protestant group. The individualist bias of the standard framework of tolerance makes it insufficiently sensitive to this social aspect of personal identity. If someone's identity is partly constituted by belonging to a group, she may have a prima facie claim that it is also this group which recognises her as an equal, not only society at large. Therefore, we should go beyond individualism, to a view which recognises the social aspect of personal identity and the importance of belonging to a larger group or subculture.

The last bias to be mentioned is specific for case 4. The focus on tolerance of beliefs misrepresents the meaning of the practice involved. The standard framework reduces the conflict to a conflict of beliefs about the legitimacy of competing practices. The orthodox-Protestant practice that condemns homosexuality as immoral is directly connected with beliefs: the beliefs are the reasons for the practice. In the competing practice, the relation between beliefs and practice is different. It is not because of their beliefs that gays and lesbians want to live a homosexual lifestyle, it is because they happen to be who they are and have this sexual orientation. The beliefs are not the reasons for the practice. They do not want to claim recognition of their alternative practice because of its connection with

respectable beliefs, as the opposing group wants. It is rather the reverse; because they are homosexual and want to live accordingly, they regard it as justified. The practice is primary here, and the beliefs come with it.

By reducing practices to expressions of beliefs, the standard framework of tolerance takes a biassed perspective on the conflict. The values at stake in protecting the gay lifestyle are not that of autonomy or that of a plurality of beliefs. It is rather the value of that lifestyle for concrete persons enjoying it and that of the diversity of available lifestyles. Therefore, we have to go beyond the primacy of beliefs to a view which recognises the possibility of a primacy of practices.

The biases of the standard framework of tolerance thus lead to serious inadequacies for those two cases. It is biassed in favour of beliefs; we should go beyond that to equal respect for human persons and to recognition of the importance of practices in their own right. It is biassed by its individualist focus on autonomy; we should go beyond that to respect for the full human person with a specific identity, which may include a sense of belonging to social groups. In both cases, however, these biases are no reason to replace the standard framework with an alternative framework of tolerance. The reason is obvious: we have to go beyond tolerance as such to a framework of equal recognition.

My argument here is a very modest one which can easily be misunderstood. I claim that we need a framework of equal recognition to structure certain problems adequately, that is, to give due attention to all relevant normative aspects of the case. I do not, however, present a normative theory of equal recognition which can solve these problems. On the contrary, I suspect that many of such problems have a tragic character and cannot be solved theoretically (cases 5 and 6 may be examples).[48] We can only hope that somehow we learn to live with them, but we can only do so when we have structured them adequately without neglecting important aspects of the case.

For cases 5 and 6, the standard framework can also often be encountered in the public debate. There is a tendency to reduce both problems of multiculturalism to a problem of tolerance of religious beliefs. One of the central issues in that debate seems to be whether female circumcision or wearing a headscarf should be seen as a religious duty or 'merely' as a cultural tradition. Some participants in the debate, who are often not Muslims themselves, even make a major point of the fact that these duties are not explicitly mentioned in the Koran. The implicit presupposition is that we only have a duty to tolerate cultural practices if they have a firm basis in a respectable creed, and for this firm basis we have to look at

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[48] Cf. Van den Brink (1997).

written texts. If, however, certain practices are merely cultural, there is much less reason for tolerance.

Such a focus on the core of religious doctrinal beliefs in those cultural practices completely misses the point. The biases are similar to those in cases 3 and 4, so I will only briefly discuss them.

Firstly, wearing a headscarf is often an expression of cultural identity and implies a claim to recognition of this cultural identity.[49] From the perspective of Muslim women wearing headscarfs, the central issue is not whether society tolerates their religious beliefs, but whether society accepts these women as equals, as full members, rather than as second-rank citizens. (This issue can only be fully understood, of course, against the background of existing socio-economic inequality.) The standard framework is blind to this claim to recognition. Therefore, we should go beyond tolerance of individual beliefs and replace it with a framework of equal recognition for all persons, taking full account of their social, cultural, religious and sexual identities.

Secondly, the standard framework reduces a traditional, cultural practice to explicit religious beliefs, to normative statements preferably based on authoritative texts. The belief has priority, the practice is only to be tolerated in so far as it is a direct expression of that belief. This means that cultural practices without such an explicit religious basis are taken less seriously. If we want to correct this, we have to go beyond the primacy of beliefs and construe a framework that can fully take account of the meaning and value of practices.

To avoid misunderstanding: I do not argue that this shift to different frameworks implies that we must uncritically accept these cultural practices. I think that there are good grounds to, for example, prohibit female circumcision. I am, however, not interested in the normative outcomes here, only in the way we structure the problems. The point I want to make is simply that discussing certain problems within a framework of tolerance leads to unacceptable biases. Only in a broader and richer framework can we hope to address adequately all relevant aspects of the cases, including themes I have not mentioned so far, such as the right to bodily integrity and the (un)equality in relations between men and women.

For cases 5 and 6, the standard framework of tolerance thus has serious biases. The primacy of religious beliefs leads to a neglect of the cultural, social and sexual identities of persons and to a relative neglect of cultural practices. But again, this does not imply that we should replace the standard framework with an alternative framework of tolerance. We should go beyond tolerance altogether and switch to a framework in which equal

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[49] Cf. Galeotti (1993).

recognition is central, and in which practices are taken seriously also if they do not have an explicit religious basis.

8. BELIEFS, PERSONS AND PRACTICES

The conclusion of the last section is that the standard framework of tolerance is adequate for structuring issues in which religious or political beliefs are central. For cases in which the recognition of the full religious, cultural, social and sexual identities of persons are at stake, or for cases in which practices cannot be easily reduced to beliefs, it is less adequate. In those cases, the Protestant bias of the standard framework of tolerance leads to serious distortions and to a relative neglect of important aspects of the problems. In other words: tolerance is useful when applied to beliefs but it is inadequate when applied to persons or to practices. Rather than trying to construe an alternative framework of tolerance, however, I concluded that we should make a more radical step and go beyond tolerance to a different normative framework.

Multiculturalism raises many problems for which the standard framework of tolerance is not adequate, though cases 3 and 4 have illustrated that this is not exclusively connected with problems of multiculturalism. At a more fundamental level, at least two themes should be addressed in a profound normative analysis of multiculturalism. One is how normative theory should deal with the struggle for recognition by persons who want to be treated as equals, but still are recognised in their differences. The other is how normative theory should deal with cultural practices and other activities which are not directly connected with beliefs.

Usually discussions of multiculturalism focus on the first theme, the struggle for recognition.[50] Authors like Taylor, Kymlicka and Raz have developed normative theories in which the person and her cultural identity are taken more seriously than in the framework of tolerance. These theories remain largely within the modern liberal tradition, which has always regarded respect for the person as a central value; they only develop a richer view of the person than liberalism has usually done. (In this respect, the standard framework of tolerance with its focus on beliefs is atypical for the liberal tradition; perhaps it should be regarded as a partly premodern focus?) I think this shows that the challenge of construing a normative framework that can do justice to struggles for recognition is taken up seriously.

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[50] Cf. Taylor (1994), Honneth (1992).

The second theme has received much less attention in the recent liter-
ature. My suggestion is that practices as such can have specific meanings
and values that cannot be reduced to the meanings and values of beliefs
implicit in those practices or of persons participating in the practices. The
standard framework and most liberal theories are, however, reductionist in
their approach towards practices. They assume that beliefs are the founda-
tion of practices or that practices can be completely analysed in terms of
the individual persons participating in them.

I think that the relation between beliefs and practices is more com-
plex than the reductionist approach of the standard framework suggests
(and similarly, the relation between persons and practices is more complex
than traditional liberalism suggests.) On the one hand, sometimes beliefs
are completely central, and the practice is indeed nothing more than an
expression of or trying to live up to those beliefs.[51] This is most nicely
exemplified in orthodox Calvinism. On the other hand, in some cases the
practice is central, and the beliefs – if there are any – are mainly attempts
to construe a rational basis for the practice or are merely statements im-
plying that the practice is justified. Speaking a minority language and
sticking to certain cultural traditions may be an example of this.[52] In most
cases, the relation between practice and beliefs is more dialectical.[53] I think
that many cultural practices establishing certain roles for men and women
are of this kind; partly they are merely cultural traditions, partly people
construe a rational basis for them.

In recent theories, especially those with a communitarian inspiration,
there have been various attempts to deal with this deficiency, for example
by regarding culture as a non-reducible collective good.[54] But so far, I have
not yet seen satisfying theoretical frameworks that really do justice to the
importance of practices and that can deal adequately with those problems
of multiculturalism where the recognition of cultural practices is central.

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[51] This corresponds with the standard phrase used by the Dutch Supreme Court that
Article 9 of the European Convention on Human Rights only protects "those practices
that, according to their nature, somehow give expression to religion or conscience" (my
translation). These practices should have 'confessional quality'; cf. Vermeulen (1989, pp.
198–202).

[52] It is telling that in the Netherlands we could cope with religious pluralism much earlier
than we could cope with cultural pluralism. Whereas the main issues of religious pluralism
were politically settled around 1920, it was not until the fifties before serious attention
was given to the existence of a second native linguistic culture, that of the Frisians, in our
country (let alone to the existence of non-native cultures).

[53] I have sketched a similar dialectical relation between morality and law as propositions
or products, and morality and law as practices, in Van der Burg (1997).

[54] I discussed such attempts in Van der Burg (1995).

9. CONCLUSIONS: BEYOND TOLERANCE

The result of my analysis is disappointing. The standard framework of tolerance is not adequate for dealing with most of the problems of modern multiculturalism. Tolerance can be useful for some of these problems where there is a clear and direct link to political or religious beliefs. Examples are ritual slaughtering, alternative cremation ceremonies, the funding of imams in prisons and in the army, the recognition of Muslim schools, Muslim political organisations, and so on. In most cases, however, the Protestant bias of the standard framework leads to a neglect of essential aspects of the problems of multiculturalism. Therefore, we should go beyond tolerance and replace it by broader frameworks.

Does this negative conclusion mean that we have to abandon the idea of tolerance completely? Is tolerance merely a once valuable relict from the times of religious wars we can now do without? I do not think so. One reason has already been mentioned. The principle of tolerance can still be useful in those contexts where the Protestant biases are not problematic because they do not lead to significant distortions in structuring or solving a problem. In most of these cases, we probably could structure them also on the basis of the broader framework of equal recognition. The framework of tolerance has nowadays largely become a subset of the framework of equal recognition; a claim for equal treatment is often connected with claims for tolerance. Nevertheless, the more specific framework of tolerance has certain advantages. It is much more concrete and simple (because fewer aspects of the case are considered relevant) and it includes a specific normative principle which is strongly embedded in most liberal cultures. For these reasons, it may be better to stick to a framework of tolerance in those situations where it leads to acceptable results.

A more fundamental reason is that it would be a mistake to infer from the conclusion that there is no meaningful general principle of tolerance that tolerance is not relevant to problems of multiculturalism. If we were to do this, we would be liable to the very Protestant bias which I have analysed in this paper, the primacy of beliefs. That we cannot formulate a general principle does not mean that there is no valuable general attitude as a characteristic of a society or a political system, or that there is no valuable general practice of tolerance in that society and that political system. Practices or attitudes need not be reducible to principles. The absence of a principle thus does not imply that there is no valuable attitude or practice.

I think we can indeed find such a more general attitude of toleration and a corresponding practice in Dutch society. The attitude and the practice of toleration are definitely valuable characteristics of the Netherlands,

both of Dutch society and of its political institutions. This attitude can loosely be formulated as a general reluctance to interfere with the lives and the lifestyles of (fellow) citizens, even if one strongly disapproves of it.[55] Only if there are really strong arguments for interference, interference is considered. Corresponding with this general attitude, there is a general practice of toleration, which can loosely be characterised by this reluctance to interfere. The broader concept of toleration is at issue here rather than tolerance, because in the definition of attitude and practice I have not presupposed a negative judgement on the object of toleration.

It may seem strange or even irrational to say that a practice or an attitude is justifiable when we cannot formulate a defensible general principle that corresponds with that practice. But I think it is not. To make a parallel, I would submit that an attitude of optimism is generally valuable because it helps persons to overcome difficulties. Yet, I do not see how we can formulate a corresponding moral principle of optimism. Attitudes or practices can thus be valuable and justifiable without an explicit appeal to a moral principle corresponding with these attitudes or practices.

As I have illustrated in section 2, this general attitude and this practice of toleration have been very valuable in the Netherlands. It has been helpful in dealing with religious pluralism in the past and it has also had a positive effect on the way in which more recent problems of pluralism have been handled. This is an important asset of Dutch culture that should be preserved. Therefore, we should cherish the attitude and practice of toleration, even if we cannot find a corresponding general principle.

Such an attitude and practice of toleration can be especially helpful in the cases to which I referred in section 7, which cannot be theoretically solved within a broader liberal framework. In some cases, there is no convincing theoretical argument in favour of one of the parties in a conflict. Liberals, e.g., strongly disapprove of illiberal religious practices that discriminate against women; yet, they also strongly disapprove of state intervention in religious matters. Here an attitude of toleration may help us to come to terms with this tragic conflict. We can then legitimately express the liberal value of equality and try to convince others of this value, while being reluctant to directly interfere with this practice. This attitude of tolerance may be the only way to prevent divisive strife between the minority and the liberal majority.

The main conclusion of this paper is that, in order to address most problems of multiculturalism adequately, we should go beyond tolerance.

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[55] We should not make the mistake that Dutch society is not moralistic or judgemental – I think it often is strongly moralistic. It is only less prone to interfere with the freedom of its members on the basis of these judgements.

We should go beyond tolerance in two ways. We should appeal to more general theoretical frameworks that do justice to persons and practices. And we should not restrict ourselves to a principle of tolerance, but also be sensitive to the importance of toleration as a general attitude, and as a general practice.

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REFERENCES

Barry, B., "How Not to Defend Liberal Institutions", in R. Douglass, M.M. Gerald and H.S. Richardson (eds.), *Liberalism and the Good*. London: Routledge, 1990, pp. 44–58.
Fotion, N. and G. Elfstrom, *Toleration*. University of Alabama Press, 1992.
Galeotti, A.E., "Citizenship and Equality: The Place for Toleration", *Political Theory*, 21(4) (1993), pp. 585–605.
Gutmann, A. and D. Thompson, "Moral Conflict and Political Consensus", in R. Douglass, M.M. Gerald and H.S. Richardson (eds.), *Liberalism and the Good*. London: Routledge, 1990, pp. 125–147.
Hirsch Ballin, E.M.H., "De positie van minderheden in ons rechtsbestel", in N.J.H. Huls and H.D. Stout (eds.), *Recht in een multiculturele samenleving*. Zwolle: W.E.J. Tjeenk Willink, 1993, pp. 21–30.
Honneth, A., *Kampf um Anerkennung. Zur moralischen Grammatik sozialer Konflikte*. Frankfurt am Main: Suhrkamp, 1992.
Jenkinson, S.L., "Two Concepts of Tolerance: Or Why Bayle Is Not Locke", *Journal of Political Philosophy*, 4(4) (1996), pp. 302–321.
King, P., *Toleration*. London: George Allen & Unwin, 1976.
Labuschagne, B.C., *Godsdienst en niet-gevestigde religies*. Groningen: Wolters-Noordhoff, 1994.
Leader, S., "Three Faces of Toleration in a Democracy", *Journal of Political Philosophy*, 4(4) (1996), pp. 45–67.
Macedo, S., "Toleration and fundamentalism", in R.E. Goodin and P. Pettit (eds.), *A Companion to Contemporary Political Philosophy*. Oxford: Blackwell, 1996, pp. 622–628.
Margalit, A., *The Decent Society*. Cambridge, Mass.: Harvard University Press, 1996.
Mendus, S., *Toleration and the Limits of Liberalism*. Atlantic Highlands: Humanities Press, 1989.
Raz, J., *The Morality of Freedom*. Oxford: Clarendon 1986.

Ree, E., van, "Tolerantie: het 'Osmaanse' versus het moderne model", in K. Koch and P. Scheffer (eds.), *Het nut van Nederland: Opstellen over soevereiniteit en identiteit*. Amsterdam: Bert Bakker, 1996, pp. 85–101.

Rooden, P. van, *Religieuze Regimes: over godsdienst en maatschappij in Nederland 1570–1990*. Amsterdam: Bakker, 1996.

Rood-de Boer, M., "Een verkenning vanuit het personen-, familie- en jeugdrecht", in N.J.H. Huls and H.D. Stout (eds.), *Recht in een multiculturele samenleving*. Zwolle: W.E.J. Tjeenk Willink, 1993, pp. 49–60.

Scarman, L., "Individual and Collective Aims", in S. Mendus and D. Edwards (eds.), *On Toleration*. Oxford: Clarendon, 1987, pp. 49–62.

Scheffer, P., "Land zonder spiegel: Over de politieke cultuur in Nederland", in K. Koch and P. Scheffer (eds.), *Het nut van Nederland: Opstellen over soevereiniteit en identiteit*. Amsterdam: Bert Bakker, 1996, pp. 10–39.

Schermers, H.G., "Uniformerende tendensen in het recht", in N.J.H. Huls and H.D. Stout (eds.), *Recht in een multiculturele samenleving*. Zwolle: W.E.J. Tjeenk Willink, 1993, pp. 61–65.

Schuyt, C.J.M., *Recht, Orde en Burgerlijke Ongehoorzaamheid*. Rotterdam: Universitaire Pers, 1972.

Skolnick, J.H., "Coercion to Virtue", *Southern California Law Review*, 41(3) (1968), pp. 588–641.

Taylor, C. et al., *Multiculturalism. Examining the Politics of Recognition*. Princeton, N.J.: Princeton University Press, 1994.

Van den Brink, B., *The Tragedy of Liberalism*, PhD dissertation. Utrecht: University of Utrecht, 1997.

Van der Burg, W., "Equality versus religious freedom", *Archiv für Rechts- und Sozialphilosophie*, 78(2) (1992), pp. 211–218.

Van der Burg, W., "Reflections on Collective Rights and State Sovereignty", in T. van Willigenburg, F.R. Heeger and W. van der Burg (eds.), *Nation, State and the Coexistence of Different Communities*. Kampen: Kok Pharos, 1995, pp. 221–246.

Van der Burg, W., "Bioethics and Law: A Developmental Perspective", *Bioethics*, 11(2) (1997), pp. 91–114.

Vermeulen, B., *Vrijheid van geweten, een fundamenteel rechtsprobleem*. Arnhem: Gouda Quint, 1989.

Waldron, J., *Liberal Rights*. Cambridge: Cambridge University Press, 1993.

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