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6. Can Freedom of Religion Replace the Virtue of Tolerance?

Peter Jonkers

1. Are Freedom of Religion and Tolerance Synonyms?

Against all odds, the place of religions in modern society is, more than 250 years after the end of the religious wars in Europe, at the centre of heated debates and increasing worries again. In my view, the main reason for this is that the customary way to determine the place of religion in society, namely to keep it confined to the private sphere as much as possible, has lost a good deal of its plausibility. One cannot deny religious people the right to express their views on all kinds of social issues, to manifest their convictions in public, since that would be at odds with the principle of freedom of speech.

In this contribution I want to approach this intriguing problem by examining the question whether the basic human right of freedom of religion is able to put an end to religious intolerance. (In)tolerance by itself refers to the notion of the intolerable, which can be defined as ‘what we would not want to tolerate, even though we could or even should’ (Ricoeur 1996: 176, 197). Contemporary, postmodern society, which has been confronted in the recent past with extreme forms of intolerance, is convinced that the liberal principle of freedom of religion should be the bottom line of the modern, democratic state regarding religious plurality. It refers to an attitude of neutrality towards the convictions of others, declaring them as belonging to one’s privacy, as politically indifferent. In the eyes of many, this offers the best guarantee for living in peace in a pluralistic world. The consequence of this position is that tolerance is not seen as a burden any more, the virtue of enduring the intolerable, but as an attitude of leaving each other alone with one’s convictions and practices. The adage seems to be: as long as they don’t bother me, I don’t bother them.

But, in my view, it is quite questionable whether the experience of the intolerable, which made tolerance necessary, has become a faint memory of a distant, violent past, and has, as a consequence of the privatization of religion, really been replaced by an attitude of neutrality and indifference. One only
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has only to refer to some recent examples to show that the disruptive reality of the intolerable has by no means disappeared. According to some, the publication, in 2005, of the so-called Mohammed-cartoons merely showed the cartoonist’s rightly making use of his freedom of speech, implying that the protests of the Muslim community were a violation of this basic constitutional right. To others the cartoonist had deliberately showed his disrespect of one of the most precious (religious) convictions of the Muslims, so that the latter were right to find this intolerable. Without wanting to jump to conclusions regarding this highly sensitive issue, the least one can say is that the principle of freedom of religion is by no means able to appease all controversies about the religiously intolerable. In spite of all efforts to use this principle as a means to neutralize conflicting convictions by declaring them politically indifferent, the experience of the intolerable continues to fuel various manifestations of intolerance.

What I want to examine in this chapter are the reasons why all the attempts to neutralize our and others’ substantial commitments so often do not work, or, phrased positively, why the experience of the intolerable is inevitable, and hence why the virtue of tolerance can never be replaced by freedom of religion. My basic point is that these neutralization-strategies ignore what tolerance really is and always will be: the difficult virtue, both on an individual and a collective level, of having to endure, for the sake of living together peacefully, practices and convictions that are on moral or other grounds opposed to one’s own. So, I agree with Ricoeur’s thesis that every philosophical analysis of the place of religion in the public sphere, especially in the current ‘culture of neutrality and indifference’ needs to face up to the disruptive reality of the intolerable, because it serves as a point of resistance against the erosion of tolerance (Ricoeur 1996: 189). In this chapter I first want to show why the idea of freedom of religion is unable to put an end to the reality of religious intolerance. On the basis of this negative result, I want to suggest, secondly, a minimal content for the virtue of tolerance on an anthropological level. Thirdly, I will argue that the experience of the intolerable not only cannot but also should not disappear from our minds, since it qualifies the virtue of tolerance in a crucial way.

2. Why is the Experience of the Intolerable Inescapable?

In order to answer the question why the intolerable will never stop to disrupt us, let us start with analysing the philosophical background of the idea of religious neutrality, as it becomes apparent in Rorty’s idea of final vocabularies
and their consequences. I do not claim to give a full, nuanced account of his work, but will use his idea of ‘final vocabularies’ as an expression, on a theoretical level, of some quite popular ideas about people’s (religious) convictions. Many postmodern people are impressed by the enormous diversity of religious vocabularies. They are convinced that it is impossible to weigh up their pros and cons against each other, since all vocabularies are equally contingent and incommensurable. For Rorty, religions as well as secular ideologies are examples of final vocabularies. The final character of them lies in the fact that ‘if doubt is cast on the worth of these words, their user has no noncircular argumentative recourse’, since there is no neutral, universal meta-vocabulary (Rorty 1989: 73).

What are the consequences of this radically contingent plurality of vocabularies? Because people are constantly confronted with alternative vocabularies and are impressed by their attractiveness, they run the risk of becoming overwhelmed by doubts about the value of their own vocabulary. They constantly ask themselves if they have not been raised in the ‘wrong’ vocabulary, and are tempted to give it up in favour of another. However, the awareness of the contingency of all final vocabularies should not prevent us from being attached to the one we are most familiar with. A permanent doubt about whether or not our familiar vocabulary is the ‘right’ one would even make us completely insane, and should be avoided at all cost. Hence, ethnocentrism, which Rorty defines as the attitude that there are limits to what one can take seriously, is the consequence of the contingency of our vocabularies. So we are fully entitled to be attached to specific convictions and practices of a religious, cultural and ethical nature, as long as we realize that the reasons for this attachment are only of a psychological, not of a rational nature.

However, precisely because all divinity is only a contingent product of the religious imagination of our local club or community, our attachment to our sacred cows should remain confined to the private sphere, and should not have any consequences in the public domain, which is radically plural. This implies that, when our postmodern individual enters the public sphere, he has to exchange his personal attachment for an attitude of complete neutrality: he has to leave everybody else alone with their commitments, just as he wants to be left alone with his. Hence, not only the state, but also every individual has to respect a strict neutrality with regard to all religions and philosophies of life in the public domain. This means that postmodernity has ‘upgraded’ the modern principle of the separation of Church and state to that of the separation of religion and society. To many people, this situation is the apex of tolerance: because all opinions and convictions are equally contingent, they
can be accepted, tolerated, almost unreservedly, at least as long as they remain confined to the private sphere. The great advantage of this situation is that the intolerable has disappeared from the public scene completely. Tolerance thus has become a pragmatic way of avoiding conflicts with others by taking an attitude of neutrality or indifference towards them. If this happens, the virtue of tolerance, of tolerating the intolerable, has become superfluous and is replaced by freedom of religion.

However, Ricoeur warns us that, in a culture without precise reference points, implying that all differences have become indifferent and the intolerable has evaporated, one can expect a reawakening effect from the intolerable (Ricoeur 1996: 197). In the following, I want to substantiate Ricoeur’s claim by showing why Rorty’s postmodern individuals and the clubs they belong to are likely to make such an unexpected, dialectical turn.

First of all, it is important to notice that the loyalty and devotion of these individuals are not based on stable, culturally embedded reference points, let alone on an idea of ‘objective or absolute truth’, but are simply the result of the subjective decision that one cannot take everything seriously. This reveals a basic characteristic of contemporary, postmodern humans: they combine an awareness of the contingency of everything with taking themselves radically seriously. They take their own selves as the only points of reference in order to determine their attitude towards any vocabulary, which entitles them to follow their own subjective preferences, and to use the substance of our culture as raw material for an endless re-description to their own liking. Hence, an awareness of the radical contingency of all vocabularies in the public domain and a dogmatic holding on to the familiar ones in the private sphere do not exclude each other, but are, paradoxically, two sides of the same medal, which characterizes postmodern people.

However, one can ask whether humans are really able to perform the ‘mental acrobatics’ of a complete straddle between the private and the public domain. Is it possible to separate one’s attachment to a familiar vocabulary in the private sphere from how it is valued in the public sphere? Actually, we do not at all want to be left alone with our convictions, nor are we prepared to leave others alone with theirs. The reason for this is that people find the weight of the purely subjective choice for a specific vocabulary too much to carry, and cannot rely any more on the order of things or on eternal, objective truth, as in premodernity. Hence, their only option is to strive for public recognition for their convictions and practices. By doing so they enter the public sphere, not as a neutral, detached individuals, but with their own commitments and agendas. Reversely, they cannot fence themselves off hermetically from the disturbing intrusion of others, who want their convictions to be recognized
as well. Our dependence on the recognition of others makes it clear that, on a very fundamental level, we are extremely vulnerable in our individuality: we feel humiliated when others find our deepest convictions completely irrelevant or even ridiculous. The postmodern attitude, combining the awareness of the contingency of our universe of values with a total individual autonomy to determine one’s attachment to either one of them, paradoxically only increases this vulnerability, because it negates this fundamental dependence.

As for the postmodern idea of a neutral or indifferent tolerance, this explains why it is so ambivalent and can so easily degenerate into a militant intolerance. Especially when the strange ideas of others threaten to disrupt us, thereby showing our vulnerability, the absolutist flipside of his contingency crops up: we experience whatever makes us aware of our vulnerability as intolerable, and, hence, as a justification for militant intolerance. In other words, the current evaporation of the virtue of tolerance for the benefit of freedom of religion explains why our seemingly so tolerant postmodern times often give rise, against all odds, to a militant intolerance. When the self-centred individual, in spite of all his defence mechanisms aimed at being left alone, realizes the threat of being disrupted by the intrusion of a strangeness that he cannot integrate, his natural reaction is to maximally secure his own private individuality by setting his face against the other, and qualifying every unwanted intrusion of the other into his individuality as intolerable. This explains why the religious indifference of postmodernity can turn so easily into xenophobia, racism and tribalism: it offers no solution to the test of our inherent vulnerability by the intrusion of others.

As for the virtue of tolerance this implies that, not only in the private sphere, but also in the public domain we are never neutral with regard to our own convictions and those of others; we are always involved, a party to the dispute about having to tolerate what is actually intolerable to us. This shows that religious tolerance is not identical with the idea of freedom of religion, consisting in leaving everybody alone with their individuality: ‘The essence of tolerance is not (and never has been) to abolish “us” and “them” (and certainly not me), but to take care for their lasting peaceful coexistence and interaction’ (Walzer 1997: 92). The reality of this interaction implies that we have to recognize its possibly conflicting nature, which becomes manifest in the phenomenon of intolerance. One does not solve the problem of intolerance by declaring nothing to be intolerable any more, since such a solution negates the reality of the disruptive effect of the intrusion of the real other, in all his strangeness, in our world, and the possible clash resulting from it. This leads to the conclusion that, however important the idea of freedom of religion or neutrality in a democratic society is, it is unable to replace the virtue of
tolerance, which presupposes an active commitment to the convictions and practices of oneself and others, both in the private and the public sphere.

3. How to Tolerate the Intolerable?

The result of the previous section is mainly a negative one: the virtue of tolerance cannot be replaced by the idea of religious freedom, because this erroneously creates the impression that the intolerable could cease to exist and no longer be able to disrupt us. But this negative result urges us all the more to answer the question of tolerance in a positive way.

First, I want to analyse the phenomenon of militant intolerance a bit further. I will start with a quote from the famous autobiographical novel If This Is a Man? by the Italian author Primo Levi. In this book he describes his confrontation with doctor Pannwitz, who is responsible for the selection of the people taking part in the chemical commando in the concentration camp of Auschwitz:

Pannwitz is tall, thin, blond; he has eyes, hair and nose as all Germans ought to have them, and sits formidable behind a complicated writing-table. I, Häftling 174517, stand in his office, which is a real office, shining, clean and ordered, and I feel that I would leave a dirty stain whatever I touched.

When he finished writing, he raised his eyes and looked at me.

From that day I have thought about Doktor Pannwitz many times and in many ways. I have asked myself how he really functioned as a man; how he filled his time, outside of the Polymerization and the Indo-Germanic conscience; above all when I was once more a free man, I wanted to meet him again, not from a spirit of revenge, but merely from a personal curiosity about the human soul.

Because that look was not one between two men; and if I had known how completely to explain the nature of that look, which came across the glass window of an aquarium between two beings who live in different worlds, I would also have explained the essence of the great insanity of the third Germany.

One felt in that moment, in an immediate manner, what we all thought and said of the Germans. The brain which governed those blue eyes and those manicured hands said: ‘This something in front of me belongs to a species which it is obviously opportune to suppress. In this particular case, one has to first make sure that it does not contain some utilizable element.’
And in my head, like seeds in an empty pumpkin: ‘Blue eyes and fair hair are essentially wicked, No communication possible.’ (Levi 1987: 111)

In this passage, Levi describes masterfully the mechanism that lies at the bottom of intolerance. Intolerance results from a radical separation of individuality and strangeness, symbolized by the image of the glass window of an aquarium. In fact, this window serves as a defence mechanism against the disruptive effects of the stranger on the self, in order to dissimulate the latter’s vulnerability. The race policy of the Third Reich can be characterized as an attempt to separate its own individuality as radically as possible from the stranger, and to give both sides an opposite value-sign, the Aryan a positive one, the Jew a negative one. By doing so, any contamination of the former by the latter is excluded, so that any disruption of the Aryan’s individuality is excluded. The glass window completely separates Pannwitz from Levi, so that they become totally heterogeneous beings, one belonging to the element of the earth, the other to that of water.

Levi’s story offers a striking illustration of intolerance, of zooming in on the strangeness of the other (in this case, the Jew) in order to annihilate him. For the Nazi the Jew figures as the incarnation of the disturbing strangeness as such. In order to defend his individuality against the threat of the stranger, and to keep it completely sound, he covers the Jew with all kinds of negative stereotypes, especially with the unhealthy counterpart of the healthy individuality of the Third Reich. The healthy, that with which the Nazis unambiguously identify themselves, is seen as the positive, the reassuring, while the unhealthy is split off from it completely and appears as its negative, disruptive counterpart, which ought to be annihilated completely. This shows why the policy of intolerance of the Nazi authorities was so appealing to Pannwitz and many of his compatriots: placing an impermeable glass window between their own individuality and strangeness has a deeply reassuring effect, since it keeps any disruption of their identity at bay. The glass window enabled the Nazis to spare themselves quite a lot of disturbing questions about the strange, unhealthy sides of their own individuality, and, above all, about their vulnerability.

The above example shows why the intolerable is intolerable: it threatens our individuality, and, thus confronts us with our basic vulnerability, not only as corporeal, but especially as spiritual and cultural beings. This is the reason why the intolerable is recognized by the passion that detects it, that it to say indignation. It is in this capacity that it breaks with the dominant apathy of a society ready to accept everything as equally insignificant (Ricoeur 1996: 197). The cropping up of the intolerable starts with the fact that we
have strong commitments to substantial values, be they religious or secular, not only in the private, but also in the public domain. But this inevitably implies that they may clash with the equally strong convictions of others, which appear strange and even disturbing to us. This clash excites a feeling of indignation, which is often expressed through a scream: this is intolerable. It is an illusion to think that this strangeness could ever stop disturbing our individuality, so that there would be no clashes any more between diverging strong commitments, implying that the reality of the intolerable would cease to exist. Although the stranger incorporates a lot of my individuality and vice versa, he and I are two irreducible individualities.

Moreover, I can only become conscious of my individuality while distinguishing myself from others and through being recognized as such by others. Someone who is Catholic cannot be at the same time Protestant, Islamic, Buddhist, however valuable he finds certain elements from these traditions and however aware he is of the contingent factors that made him being a Catholic. As far as the intolerable is concerned, this means that the reality of the clash between individuality and strangeness can never be superseded, or, phrased positively, that my individuality will always be confronted with a strangeness that disrupts me. If one denies this, the real problem of tolerance, of tolerating the intolerable, is reasoned away by an anticipation of an eschatological future, in which all people will be unified, so that the intolerable, disturbing strangeness has ceased to exist. But then, the need for tolerance has evaporated as well. So, paradoxically, the intolerable is both a threat to and essential for my individuality.

What does all this mean for the problem of tolerance, and can it help us to give it a positive content? If intolerance consists in placing an impermeable glass window between my individuality and the stranger in order to secure the former hermetically from any disruption by the latter, then one can conclude that tolerance is the attempt to construe this glass window in such a way that it allows for a kind of contact between individuality and strangeness, without leading to a complete assimilation or integration. Concretely, this means that the virtue of tolerance minimally consists in refraining ourselves from demonizing the stranger by excluding any communality with him and from disqualifying him as absolutely worthless, however odd or even repulsive we may find his convictions or practices. A tolerant person does not cover the stranger with all kinds of negative stereotypes in order to put him at the opposite side of his individuality in order to annihilate him afterwards. Although certain ways of life may disturb us and even fill us with repulsion, they nevertheless do not differ totally from our own experiences and history. One can even say that, sometimes, the virulence of our reactions is caused by
the fact that these ways of life refer to hidden or repressed experiences of our own, with which we haven’t been able to come to terms. In any case, their strangeness should not prevent us from interpreting them as human ways of life, and not demonizing them. This shows that tolerance really is a virtue, presupposing an active commitment both to our own individuality and that of the stranger. Hence, it cannot be identified with an attitude of neutrality or indifference. It is also a difficult virtue, since one has to withstand the all-too-human tendency of covering the other with all kinds of negative stereotypes. In sum, the virtue of tolerance, of tolerating the intolerable, implies minimally a strong consciousness of one’s individuality, coupled with a refraining from demonizing the stranger as one’s absolute counterpart.

4. The Intolerable and the Limits of Tolerance

Which are the consequences of the minimal content of tolerance on an anthropological level for the question of tolerance on a societal level? I want to concentrate on one aspect of the current debate on this issue: does the essence of the virtue of tolerance – namely to endure what is intolerable for me – imply that there are no limits to tolerance out of fear of intolerance? In the eyes of many, the only really intolerable is intolerance itself. Intolerant people are seen as belonging to a pre-enlightened, violent era, and as a danger to peaceful coexistence. But in my view, however important the virtue of tolerance is, and however much sense it makes to oppose old and new forms of intolerance, an unlimited tolerance cannot serve as the final answer to the threat of intolerance. More specifically, reducing every outcry that something is intolerable as such to an expression that it is only intolerable for me and, hence, that I should endure it, cannot be the final solution to this problem. It is too easy to interpret the question of the intolerable as such only as an ideological upgrading of what is intolerable for me. Moreover, by ignoring this question one risks staying blind to the reality of the intolerable, and thus remaining incapable of making the crucial distinction between what I reasonably should and should not tolerate. The final result of this attitude is, paradoxically, the erosion of the virtue of tolerance.

So, my basic point in this section is that the intolerable not only cannot be superseded, because it is a fundamental anthropological reality, but also should not disappear, because it is a point of resistance against the erosion of tolerance. Ricoeur focuses on the principle of harm in order to show that, even in a situation in which tolerance is identified with postmodern indifference, this principle serves as a widely accepted limit to tolerance. He
summarizes this kind of neutral tolerance as: ‘I approve of all ways of life as long as they do not manifestly harm third parties’ (Ricoeur 1996: 199). In this context, he mentions examples like paedophile murderers, manifestations of racism, disguised returns of slavery etc. The fact that these phenomena are qualified as harm to third parties shows that our culture (still) has an awareness of the intolerable as such, and, hence, of the limits of tolerance. According to Ricoeur, the widespread indignation to which these kinds of harm give rise refers implicitly to a common morality in ruins. More importantly, this indignation has for him a heuristic function, since it alerts moral vigilance to the immense front of the fragile, that is of vulnerability to harms. Phrased positively, it refers to the forgotten roots of our culture, which must be able to block moral indifference. For Ricoeur, it is essential that these harms or expressions of the intolerable as such remain plural, and should not be considered as a stepping stone towards reconstituting an univocal moral objectivity that is at odds with the pluralist character of contemporary society (ibid.).

I want to use Ricoeur’s analysis as a starting point to argue that the intolerable is, paradoxically, necessary for tolerance. I will illustrate this through an analysis of religious slander, which, in the eyes of many religious people, illustrates the limits of tolerance. The notion of religious slander covers a whole range of utterances, from benign jokes about the peculiar habits of Jews, Catholics, Muslims etc. to deliberate attempts to offend them in their deepest religious convictions. In order to discuss this issue adequately it is first of all necessary to realize that religious slander, especially if it is meant to offend other people, indeed is a form of harm. This notion should not be restricted to physical harm, as Ricoeur’s examples erroneously suggest. Hence, it is incorrect to downplay religious slander a priori, and disqualify the people resisting against it as oversensitive. Secondly, it is important to distinguish slander from religious criticism. Religious slander can be defined as a way to put the members of a religious community in a poor light by covering them with all kinds of negative stereotypes. Precisely because of this, slander increases and hardens the oppositions between ‘us’ and ‘them’, and inevitably fuels hatred between (groups of) people. Furthermore, it admits of no rejoinder, because this would only result in a further escalation of the quarrel, as the victims of slander know all too well. The fact that one cannot put the person who slanders in his place – namely, on the same footing as the person who is being slandered – marks the crucial difference with religious criticism. The latter uses reasonable arguments instead of stereotypes, is fair and respectful towards the other instead of disdaining his beliefs, and always allows for an answer. Hence, although religious criticism does not necessarily
result in a better mutual understanding of each other’s convictions, it at least respects religious people’s sense of dignity.

Many recent incidents have regenerated debates about the acceptability of religious slander. In this context, some politicians even spoke of the ‘right to offend’ in order to make an issue of it. It is common knowledge that, in all democratic states, the human right of religious freedom and that of free speech are not absolute. They are limited by prohibitions against libel, defamation, obscenity etc., being concretizations of the harm that words can do to individual people and (religious) communities. Apparently, the legislator recognizes that (religious) slander is really a form of harm, and therefore is considered as something intolerable, even though the concrete application of this general principle to concrete cases always requires a careful weighing up of the pros and cons, and, hence, can only result in fragile compromises. But the juridical recognition of the possibility of religious slander anyhow hints at the point that it makes sense to distinguish between what is only intolerable for me and what is intolerable as such, or, at least for a larger community.

In my view, it is essential that the juridical prohibitions against libel etc., including those aimed at religious people and communities, remain in force, not only as a protection of the latter, but, paradoxically, also in order to safeguard tolerance, and to prevent it from eroding. The awareness that the right of free speech is not absolute, or, in other words, that slander is prohibited by law, is a means to make people aware of the fact that they cannot demonize other people unpunished. Tolerance is not only the virtue of enduring what is intolerable for me, but also the virtue of refraining from inflicting spiritual or cultural harm on other people. The asceticism of conviction and power, which Ricoeur defined as the essence of tolerance, is not only meant to protect the slanderers from the (violent) reactions of others, but also requires from the slanderers the virtue of not deliberately harming other people. In a time in which people sometimes feel entitled to abuse their fundamental right of freedom of speech as a licence to offend others, it is important to realize that the virtue of tolerance applies to the former as well.

Secondly, for the victims of (religious) slander it is important to know that they do not have to endure the slander, which they consider intolerable, indefinitely, but can file a complaint to an independent juridical instance, which decides whether their claim is justified or not. Both in the religious (e.g. anti-Semitism) and in the secular (e.g. slandering homosexuals) domain there is ample jurisprudence to illustrate that this way of dealing with (religious) slander is, indeed, a guarantee for a careful weighing up of the pros and cons, and avoids the pitfall of imposing moral absoluteness in a plural society, as Ricoeur has argued. Moreover, the fact that some words, expressions and
practices are publicly recognized as intolerable helps people to endure those things which are considered as being just intolerable for them. Examples of this are the satirical jokes about the peculiarities of specific religious communities. It would be a poor thing if nobody, out of political correctness or juridical constraint, would make jokes about Jews any more, except the Jews themselves. But, at the same time, the public recognition of the intolerable helps them to realize that, if these jokes were to become more and more hostile and turn (again) into anti-Semitism, they can try to influence the public debate by showing that this specific form of slander causes unnecessary harm, and, in any case, is a manifestation of bad taste. Eventually, they can take the matter to court in order to demand that what is intolerable for them be recognized as intolerable for society as a whole. In other words, the public recognition, however fragile it may be, that there are utterances that are intolerable, and, thus, should not be tolerated, is an important means to discourage people from demonizing each other, or, phrased positively, to create a tolerant society. So, in the end, the intolerable is not only a threat to tolerance, but, paradoxically, also a means to safeguard it.