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Jeremy J. Waldron
NYU School of Law, jeremy.waldron@nyu.edu

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TOLERATION: IS THERE A PARADOX?
Jeremy Waldron

I
Is there a paradox involved in toleration? Many philosophers think there is. Though they don’t all express it the same way, a number of the distinguished authors in David Heyd’s collection, *Toleration: An Elusive Virtue* say that the very idea of toleration, properly understood, involves something approaching a pragmatic if not a logical contradiction.¹ We tolerate a practice when we judge it to be wrong but nevertheless refrain from acting against it in ways that would normally be thought appropriate for things of which such an adverse judgment has been formed. After all, judging X wrong is supposed to be a practical matter; it is a matter not only of what we think about X but what we do about X. That a given practice is to be tolerated—that it is not to be coercively suppressed—seems to many people to represent a diminution of the practical force of the judgment that it is wrong.

This view of the matter is best known from Susan Mendus’s book, *Toleration and the Limits of Liberalism*, quoted by John Horton in his essay in Heyd’s collection. Mendus writes: “[W]here toleration is based on moral disapproval, it implies that the thing tolerated is wrong and ought not to exist. The question which then arises is why … it should be thought good to tolerate.” The view is echoed in Bernard Williams’s contribution, “Toleration: An Impossible Virtue.” Toleration appears impossible, said Williams, “because it seemingly required someone to think that a certain belief or practice was thoroughly wrong or bad, and at the same time that there was some intrinsic good to be found in its being allowed to flourish.”

David Heyd in his “Introduction” to *Toleration: An Elusive Virtue* seems sympathetic to the “paradox” view, at least to the extent that he thinks that nothing but a “perceptual shift”—a change in one’s way of seeing things—can make sense of toleration. I don’t want to deny the interest of Heyd’s view: I think it is a most welcome addition to our understanding of tolerance—which is the ethical presence

¹I mean “pragmatic,” not in the sense of loosely consequentialist, but in the sense that is sometimes contrasted with “semantic” and “syntactic.”
of something like toleration in personal life. But I don’t believe that this perceptual shift is necessary in our understanding of toleration as a political principle. (Heyd agrees: but that’s because, unlike me, he doesn’t think toleration is a political principle.) I shall argue that at the political level there is no paradox that needs displacing with a perceptual shift like this.

Nor, I want to suggest, is there any need for talk of a prima facie reason for suppression being overbalanced by other stronger reasons having to do with autonomy and respect for persons. That is not the logic of the situation. No doubt if something thinks he does have reasons for suppressing, say, a religious practice, we might want to put to him reasons concerning respect of or the autonomy of the persons who would be the victims of such suppression. But the most important part of the argument for toleration involves reminding the potential suppressor that the judgment that a practice is wrong does not in itself generate even a prima facie reason for suppressing that practice.

So: my aim in this paper is to argue that there is nothing paradoxical in the concept of toleration. One can set up an appearance of paradox: that’s what I did in my first paragraph. But I believe the appearance of paradox is very easy to dispel, and the dispelling of it is bound up with a perfectly sensible, broad, coherent, and attractive understanding of what toleration involves. In short, I shall argue that concern in the recent literature about the paradox of toleration is artificial and somewhat over-wrought.

II
Dispelling the appearance of paradox can take either of two forms, each in its way sufficient.

The first way of dispelling the appearance of paradox calls in question what is seen (by those who talk of paradox) as the practical upshot of a moral judgment. They say that a judgement that X is wrong provides a reason for suppressing X; I shall show that this is mistaken.

The second way of dispelling the appearance of paradox calls in question the philosophers’ insistence on focusing on a very narrow range of cases of “pure” toleration and putting aside some evidently non-paradoxical cases that they say don’t really involve toleration at all, despite being (in Brian Leiter’s phrase) “superficially similar” to the central cases. Some of these “superficially similar” cases involve a claim that the object of toleration ought not to have been the object of a full-blooded moral assessment at all, certainly not by the entity—usually the state—on which the duty of toleration is normally said to be incumbent. I think

2Unlike David (at p. 17n1 of the Elusive Virtue volume), I don’t think “toleration” and “tolerance” are interchangeable. The first is a political principle; the second is a personal virtue.
arguments of this kind are more central to the tolerationist tradition than many who talk of “paradox” suppose.

Put this way, it looks as though the second way of dispelling the appearance of paradox is prior to the first. We begin by questioning whether cases of tolerating X necessarily presuppose a judgment that X is wrong. And then we argue that, even if they do, such a judgment does not have any practical implications that would conflict, even in a prima facie way, with what toleration normally requires. But actually I want to consider matters the other way round. For many of the arguments that are used to blunt the practical force of the judgment that X is wrong also end up being arguments that show that certain sorts of entity—like the state—have no business forming such judgments.

So, in what follows, I shall pursue the first way of dispelling the appearance of paradox in section III and the second way of dispelling the appearance of paradox in sections IV and V.

III
The appearance of paradox turns crucially on a sense that a moral judgment—such as that a given practice is wrong—must have certain practical consequences. It must not be, so to speak, practically inert. The idea is that among the practical consequences that such a judgment must have are actions that are prohibited by toleration. For example, Bernard Williams implies that a strong condemnation of a certain belief will normally generate a strong desire to suppress the belief in question and drive it out. In his book Toleration: The Liberal Virtue (p. 9), Bican Şahin suggests that moral values that lead one to condemn a practice also “strongly urge” one to prohibit, hinder, or coercively interfere with it. Joseph Raz seems to think that the moral disapproval presupposed by toleration generates “an inclination or desire to persecute, harass, harm or react in an unwelcome way” to a person who holds the beliefs or engages in the practices that are disapproved of. Toleration surely prohibits all these things—suppressing other people’s beliefs and driving them out, prohibiting, hindering, and coercively interfering with other people’s religious practices, and persecuting, harassing, and harming those who hold the beliefs or engage in the practices. But they are all said to be within the range of the ordinary practical upshot of the judgment that the beliefs in question are incorrect and the practices in question are wrong. It is this view—about the practical upshot of a judgment that something is wrong—that I want to consider.

Let’s focus more closely on “practical upshot.” What is the connection supposed to be? Three possible connections seem to be in play. (They are not

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3 I use the term “generates” advisedly. For reasons I explain below, I think Raz denies that this is a matter of logical implication.
mutually exclusive.) (A) There may be a psychological connection between judging X wrong and doing or wanting to do something suppressive or coercive about X. (B) There may be a logical or conceptual connection, whereby acting against X seems part of what is (literally) implied by judging X to be wrong. Or (C) the connection may be purely moral, mediated by an independently grounded moral principle.

(A) Psychological connection. There may be a psychological connection between judging X wrong and doing or wanting to do something suppressive or coercive about X. This is undeniable. Taken on its own, however, the psychological connection might be regarded by the proponent of toleration as fair game for attack. Such attack will undermine the talk of paradox by undercutting its premise.

After all, there are all sorts of psychological urges that we believe people should abandon or suppress. For some unreconstructed male chauvinists, the judgement that woman is beautiful generates an urge to whistle at her or harass her. The connection is common and, in a sexist society, ordinary or normal. Members of such a society might doubt the sincerity of P’s acknowledgement that a given woman was beautiful if P was not prepared to act in that way. But there is no “paradox of sexual restraint” in relation to people’s attempts to alter this. Feminists and the men who support feminism are just trying to change what is the “normal” course of behavior.

The same is true of supporters of toleration. They are trying to change what for many people are or have been the psychological consequences of judging others’ religious beliefs and practices wrong. Such judgements issue or used to issue in a great deal of anger and hostility, as John Locke remarked, much more so than in other areas of life:

In private domestic affairs, in the management of estates, in the conservation of bodily health, ... [n]o man complains of the ill-management of his neighbour's affairs. No man is angry with another for an error committed in sowing his land or in marrying his daughter. ... But if any man do not frequent the church, if he do not there conform his behaviour exactly to the accustomed ceremonies, or if he brings not his children to be initiated in the sacred mysteries of this or the other congregation, this immediately causes an uproar.

On this account, the aim of the proponent of toleration is to break this emotional link. This is something we do all the time, in processes of social, cultural, not to mention legal change. What’s paradoxical about that?
To put it another way: The problem is not in the idea of toleration. The problem seems to be in the philosophers’ apparent endorsement of the urges and inclinations that the tolerationist is trying to reform. The philosophers are undermining the process of emotional reform by reinforcing the urges and inclinations of those to whom the case for toleration is being addressed. They are like chauvinists trying to undermine feminism. “Don’t worry about what John Locke says about not getting angry at things you disapprove of,” they say. “Getting angry at things you disapprove of is perfectly natural.”

Of course this way of putting it is unfair (to the philosopher). For the philosopher is not endorsing a psychological connection. The philosopher claims to be pointing to a conceptual connection. He too may deplore the hostility that emerges from adverse moral judgment. But he thinks the link between them is one of implication not psychology. Endorse or deplore, it doesn’t matter, says the philosopher: it’s a matter of logic. You can’t ask a person to give up the implication of a judgement without giving up the judgment itself.

(B) Logical or conceptual connection. What might this alleged conceptual connection between “X is wrong” and the appropriateness of suppressing X consist in?

Well, there used to be a position called “prescriptivism.” It was key, for example, to the meta-ethics of R.M. Hare (in The Language of Morals and in Freedom and Reason). Prescriptivism took seriously the practical nature of moral judgments, indeed value or normative judgments of any kind. Crudely understood, it held that calling something X involved issuing a prescription like “Don’t do X.”

Now, such a prescription might be issued in the first instance to oneself. Prescriptivists like Hare suggested that to assent to the judgment that “X is wrong” is (among other things) to tell oneself not to do X, and the practical force of that is that one prepares or intends not to do X, at least if some question of doing X has arisen. If P says “X is wrong” and then promptly adopts the intention to do X, one suspects P of insincerity in the judgment (absent some elaborate special explanation). Part of the meaning of “X is wrong” is “Don’t do X” (certainly as addressed to oneself); and one does not form an intention to do X while addressing “Don’t do X” to oneself.

The prescription need not be confined to one’s own choices and actions. For P to tell Q that “X is wrong” is—I’m stating this in very crude terms—for P to tell Q not to do X. With this, we seem to be in the ball-park so far as the practical implications that are supposed to generate the paradox are concerned. A judgment that X is wrong is not inert in respect of one’s attitude towards others’ behavior.

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4 I am leaving aside the universalizability element of Hare’s meta-ethics.
But still there is quite a distance to go before we get anywhere near the paradox of toleration, because of course there is a considerable logical distance between telling someone not to do X and calling for anything like the coercive enforcement of that prescription.

For one thing, there are all sorts of problems with prescriptivism. I want to mention only a few of these, and I am not going to rely on any of them (for my argument against the claim that toleration is paradoxical). But prescriptivism does have problems with the phenomenon of weakness of will; there are problems with Hare’s suggestion that to call X wrong is to tell oneself not to do it; and there are problems with his claim that to tell oneself not to do X is (more or less) the same as resolving or intending not to do X. There are also problems with any attempt to extend Hare’s prescriptive analysis to evaluative language in general. The position looks attractive for straightforward normative claims like “X ought to be done.” It doesn’t look so convincing for “Y is good,” where Y is the name of a thing (such as a car, a painting, or for that matter a person). Hare’s strategy was to parse “Y is good” as implying “Choose Y” or “If you are looking to choose something of the kind to which Y belongs, then choose Y.” But his prescriptivism looks a bit over-extended at this point.

Never mind: suppose prescriptivism is true and that these problems can be overcome. (If it is false, then I don’t think the alleged appearance of paradox even gets off the ground.) Still, we have not established anything remotely like a logical implication between “X is wrong” and the kind of coercive actions in regard to X that toleration is supposed to forbid. Certainly someone who says that X is wrong must evince some sort of determination to suppress X so far as his own conduct is concerned. But that is perfectly compatible with toleration. Someone who says that X is wrong commits himself to refrain from X-ing. But there is no tension at all between that commitment and his refusal to stop others from X-ing.

What about the other-regarding aspect of his prescription? If the prescriptivist is right then saying in the presence of others that X is wrong seems to involve telling them not to engage in X. Isn’t that incompatible with tolerating their X-ing? I think not. Terminology may confuse us here: “telling” someone not to do something sounds a bit like commanding them not to do it, and if we make that connection then we may be in danger of carrying over some sense of threat or force often associated with command. But prescriptivism does not commit one to saying that a judgment of wrongness has those overtones. Conveying any sense of menace or coercion is something extra, and prescriptivism does not entitle us to help ourselves to that as part of the logical analysis.

Even so—you may say—some vulnerable people may be “coerced” (in some weak sense) just by another’s implying “Don’t do X” when they say “X is wrong.” We are back to psychology again, but no matter. If we expect this to be
so, then we might draw a different conclusion: from the fact that one judges X to be wrong one cannot always infer that it is appropriate to say that X is wrong, particularly when this would have to be said in the presence of someone who might construe the saying of it as coercive. A tolerant attitude (broadly conceived) would be willing to countenance this. And again there is no paradox here, because nothing to the contrary is logically implied by one’s subscription to the proposition that X is wrong. One can subscribe to a proposition without being logically committed to giving voice to it in the presence of others.

Logically, then, it is important to remind ourselves how limited the implications are of a judgment that a belief is incorrect or a practice wrong. Even if prescriptivism is true, the most that follows from such a judgment is one’s resolution to eschew such beliefs and practices and, under certain conditions, to prescribe non-coercively to others that they should eschew them as well. For normal cases, none of this comes anywhere near coercion. I believe that one of the most important parts of a theory of toleration is to remind us of this.

That nothing whatever follows from “X is wrong” so far as the coercive suppression of X is concerned is evident once we examine the logic of a normative judgment and the logic of a coercive recommendation. The reasons that there must be for saying “X is to be coercively suppressed” go way beyond the reasons that would justify “X is wrong.” Acts of coercion raise issues—some of them consequential issues, some of them issues of inherent moral significance—that need to be dealt with on their own terms and that are not yet accounted for in the judgment that the object of coercion is wrong. Here are some of those distinguishing issues:

1. Coercion involves the deployment of individual and social resources, and, if those resources are scarce, the wrongness of the intended object of coercion does not begin to settle those issues. Many fewer resources are involved in just making the moral judgment that X is wrong.

2. Coercion involves a certain sort of impact on the life and agency of those subject to it, which always goes beyond the mere evaporation of the wrong action that is supposed to be its target.5

3. Coercion is experienced as demeaning and insulting (in a way that a mere judgment voiced that one’s conduct is wrong is not normally experienced).

5 There is a fine account of this in Chapter 15 of Joseph Raz’s book, *The Morality of Freedom*, where Raz insists (quite rightly) on a separation between (i) the implications that the wrongness of X may have for any autonomy-based claim concerning the performance of X and (ii) the implications of any proposal to coercively suppress or put a stop to X.
4. Coercion is necessarily a sort of blunt instrument that will often chill behavior adjacent to X even if that behavior is not wrong like X is. Moral judgments, by contrast, can be as fine-grained as our normative language allows.

5. Coercion furnishes opportunities for various forms of corruption and various forms of pathology on the part of the coercer. No doubt there are some pathologies associated with the simple voicing of moral judgements, but they are seldom as serious as those associated with the use of coercive power.

6. Coercion often has an irreversible impact in the world, whereas ordinary moral judgements, being revisable, do not. Of course one can reverse or abandon a policy of coercion, but the effects of such coercion as has taken place will remain.

There are probably lots of other features as well that distinguish coercion form mere moral judgment. Since coercion has these features, we must expect the truth-conditions of the claim that coercively suppressing X is appropriate to be quite different from the truth-conditions of the claim that X is wrong. It is obvious then that the former cannot be derived logically or conceptually from the latter.

What about the other way round? Maybe the judgment that X is to be coercively suppressed implies that X is wrong. (I can think of various reasons for denying this, but let’s accept for the sake of argument that it is true). Then X’s being wrong is a necessary condition for its being appropriate to coercively suppress X. In this very minimal sense, the wrongness of X makes some contribution to the case for coercive suppression. But the fulfilment of a necessary condition is not usually understood as part of a justificatory argument. That I am alive and breathing is a necessary condition of my being chosen as the next astronaut to visit the international space station. But it does not really contribute anything to the case for my being the next astronaut to visit the international space station.

Let’s sum up the argument so far. The beginning of wisdom in the evaluation of anything that looks remotely like state moralism in relation to religion or any other matter is the logical gap (even on a prescriptivist account) between the practical implications of a judgment that X is wrong and the judgment that X is to be coercively suppressed (or prohibited, hindered, harassed, etc.). There is no logical or conceptual way of bridging that gap. And my point is that, given the existence of this prescriptive gap, it is not at all clear how the so-called paradox of toleration is supposed to arise.

Is any of this contested? Well, historically, some moral philosophers have associated terms like “duty” and “obligation” with sanctions. John Stuart Mill
believed that “the idea of a penal sanction,” enters into the conception of “any kind of wrong.” He said in Ch. 5 of *Utilitarianism* that

we do not call anything wrong, unless we mean to imply that a person ought to be punished in some way or other for doing it. … It is a part of the notion of Duty, in every one of its forms, that a person may rightfully be compelled to fulfil it.

I am not sure whether those who subscribe to the paradox-of-toleration thesis intend to associate themselves with John Stuart Mill on this. Mill’s position is not now a mainstream position. And anyway, Mill’s account of “punishment” and “compulsion” was capacious enough to encompass non-legal and non-coercive means—compulsion “if not by law, by the opinion of his fellow-creatures; if not by opinion, by the reproaches of his own conscience.” I think his position was that, at a minimum, to judge something wrong is to anticipate that the wrongdoer will or should be punished and constrained by his own conscience. And of course that doesn’t generate any sort of paradox so far as toleration is concerned. Beyond this minimum, familiar doctrines associated with Mill’s own liberalism (e.g., in *On Liberty*) entail a recognition, not a denial, of the gap between moral judgment and the sort of coercive enforcement that toleration is usually said to be opposed to.

(C) Moral connection. Even if there is not a conceptual connection between “X is wrong” and “X is to be coercively suppressed,” might there not be a moral connection? Might not someone hold the following moral principle?

M: The coercive suppression of wrong action is usually permitted (or required) just in virtue of its wrongness.

If M is a plausible principle, then the appearance of paradox revives. Though it is not analytic, maybe M is nevertheless true or a moral commonplace. Arguing for the toleration of X therefore does require us to come up with something that can displace the force that the judgement that “X is wrong” normally has in the light of M.

No doubt some people hold M. But once we acknowledge that it has to be defended as a synthetic proposition—that it is definitely not a matter of the prescriptive logic of a judgment that something is wrong—it begins to look quite implausible. This is particularly so for anyone who bears honestly in mind the six distinguishing features of coercive suppression that we mentioned a page or two earlier (pp. 7-8 above). Unfortunately the fact that a putative principle is, on reflection, implausible does not mean that it is not widely held; people hold all sorts of implausible and unpleasant moral propositions. An awful lot of the work that has been done in the tradition of tolerationist arguments has involved arguing
against M. Some of it involves highlighting and reminding people of considerations 1 through 6 mentioned on pp. 7-8. Some of it also involves reminding people of the futility and counter-productiveness of using coercive means in support of moral judgments.

On both fronts, the arguments may be tailored particularly to religion. Mostly in our discussion so far, I have imagined a simple judgement that a practice, X, is wrong. But while everything said is applicable to the coercive enforcement of straightforward moral judgments about wrong action, the arguments are particularly powerful in the case of adverse religious judgments about religious actions or practices. Of the considerations mentioned on pp. 7-8, numbers 2 and 3 are particularly important for the religious case given the prominence of religious practice in most people’s conception of themselves and of what makes life worth living. And John Locke is famous for the view that, in the area of religion especially, coercive means are by and large futile and non-productive. Coercion cannot suppress conviction or elicit sincere belief; but the attempt can still generate the bad consequences mentioned on p. 7.8

The important point to see is that these arguments against M are aimed at cutting off or pre-empting anything that could possibly count as a paradox of toleration. There is no paradox of toleration unless something like M can be

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6 Our arguments against M will be rather like the arguments we use to try to break the spell of the psychological association between moralism and coercion that I mentioned on pp. 4-5 above. The difference is that the psychological association may be impervious to argument (and still be objectionable).

7 Locke, however, was never able to make this stick as tightly as he wanted. Locke's critics—notably Jonas Proast—argued persuasively that force may sometimes work indirectly to inculcate beliefs or to make the mind receptive to beliefs, even if it does not work directly on the understanding. Locke accepted this. There is no denying, he said, that in some particular cases force may work to procure salvation. God himself makes use of all sorts of things to save men's souls (“as our Savior did of clay and spittle to cure blindness”). God might have ordained the general use of force in religious matters, but he didn’t. So the position to which Locke retreats is that even though force may work in some cases, it has not generally been ordained by God as a means of conversion: “It is not for the magistrate, or any body else, upon an imagination of its usefulness, to make use of any other means for the salvation of men's souls than what the author and finisher of our faith hath directed.” So the main line of Lockean argument that survives Proast's critique is dominated by Locke’s sense of what God has and has not ordained. (I have adapted this material from pp. 210-11 of God, Locke and Equality. The relevant Lockean responses to Proast are in theSecond, Third and (mercifully uncompleted) Fourth Letters Concerning Toleration.

8 This helps answer a criticism I made many years ago against Locke’s argument. In “Locke, Toleration, and the Rationality of Persecution” (reprinted in Liberal Rights), I complained that he showed only that the enforcement of religious practice was futile not that it was wrong. But it is both: it is futile for just the reasons that Locke insisted upon—fire and the sword cannot produce sincere belief—and it is wrong because the use of fire and the sword in a (futile) attempt to produce sincere belief always does great moral harm to things like autonomy and is always an insulting violation of duties of respect owed to those to whom the coercion is directed.
sustained. That, I guess, is why all this talk of a paradox of toleration strikes me as so obtuse. Historically, many of the arguments brought forth in support of toleration are arguments whose purpose and tendency is to dispel the main pillar by which the alleged paradox is sustained.

One last objection: Isn’t it a problem that in my arguments against M, and more generally in my driving this huge wedge between “X is wrong” and “X is to be coercively suppressed,” I am proving too much? For surely coercion in support of morality is sometimes justified: we think this about the coercive upholding of justice and basic rights, for example, or the coercive upholding of many of the moral values protected by ordinary criminal law. How can this be, if M is always false?

The answer is that M is not false for all cases. There is a class of cases where it seems to be true, a class of cases captured by a variant of M, namely

\[ M_{H}: \text{The coercive suppression of wrong action that causes harm to others is usually permitted (or required) just in virtue of the fact that it causes harm to others.} \]

We can distinguish \( M_{H} \) from M in several ways. Coercive interference can actually have an effect in preventing harm; and the adverse impact on what seems to be a person’s autonomy can be justified by the need to protect others’ autonomy from the harms that certain sorts of wrong-doing involve. The classic defenders of toleration were well aware of this and they devoted a lot of time to showing that, in the religious case, most beliefs and practices that were judged wrong were in fact not harmful (except at most to the person engaging in them). That’s the force of Locke’s insistence, for example, that “one man does not violate the right of another by his erroneous opinions and undue manner of worship, nor is his perdition any prejudice to another man’s affairs.” He wants to show that coercive interference with religious practice and belief cannot be justified under \( M_{H} \).

Given the plausibility of \( M_{H} \), there might be something we could plausibly call “the paradox of toleration” if the general tendency of tolerationist arguments were to refrain from interfering with harmful religious practices. But that is not and never has been the tendency of tolerationist arguments. On the contrary, the defenders of toleration have always sought to limit the prohibition on coercive interference at exactly the point at which religious practices become harmful.

IV

Now I want to consider the possibility of justifying toleration on the ground that professional coercers (e.g. state officials) have no business judging religious practices right or wrong (except on the grounds of their harmfulness).
Most philosophers who talk of a paradox of toleration want to push this kind of justification to one side. They want the starting point of any argument about toleration to be a clear judgment about the wrongness of the practice, X, that is to be tolerated. Thus the spurious connection we have been exploring—between judging X wrong and doing something coercive to suppress X—is given pride of place in what we may call the narrow philosophical conception of toleration. They want that connection there so that there can be a puzzle for them to work on. These philosophers tell us that if a proposal to refrain from suppressing X is based on the proposition that the potential suppressors really have no business forming a judgment about X’s rightness or wrongness at all, then it is not really a proposal to tolerate X. That X is to be tolerated is supposed to presuppose a judgement that X is wrong, and wrong in a sense that has a conceptual link to the appropriateness of suppressing X. That’s why the philosophers say that toleration properly understood is paradoxical.

Now we have just seen—insection III (B)—that there is no sense of wrongness that is linked conceptually in this way to the appropriateness of suppressing the practice supposed to be wrong. So there is no paradox, even if tolerating X does presuppose X’s wrongness. But I don’t think that even the presupposition requirement can be defended. In this section I shall argue against excluding, from the core range of “toleration,” arguments against coercion based on the proposition that those in possession of the means of coercion should refrain from forming views about what is right and wrong in matters of religion.

The case I shall make is partly affirmative, i.e. it is affirmatively in favour of a broader conception of toleration. Toleration (especially religious toleration) has been an important ideal in the liberal tradition since Locke’s time, and I believe we should understand it in a broad tradition-based way (just as we understand, say, the rule of law or the separation of powers by reference to the tradition(s) in which these ideals have been framed and argued about in the past 300 years or so). And it is certainly the case, in the liberal tradition, that arguments based on the inappropriateness of political authorities making moral judgements on religious matters have played an important role in relation to the ideal of toleration. They have not been the only arguments in favour of toleration, but they have stood alongside some of the important arguments canvassed in section III. Not only that, but—and this is important—they represent positions that have, in a sense, developed out of the arguments canvassed in section III.

I am heartened in this methodology by David Heyd’s observation in the Nomos volume, *Toleration and its Limits*, p. 172, that
[a]bstract theoretical analysis of the idea of toleration that ignores the way the idea has operated in political rhetoric runs the risk of becoming irrelevant."

Unfortunately no sooner did Heyd say this, than he went on to say that it was also important to “filter[ ] out those phenomena that do not satisfy certain theoretical conditions.” Heyd seems to believe that we owe something to both sides in this methodological dispute. We owe tribute, on the one hand, to the historical tradition in which arguments about toleration have been developed. And, on the other hand, we owe tribute to the philosophers who have attempted to isolate a particular narrow conception of toleration that, to them, is of surpassing theoretical interest. I am sorry, but I just don’t get the latter point. On what authority do the philosophers insist—as a “theoretical condition”—that tolerating X has to imply or presuppose that X is wrong (in some suitably robust sense of “wrong”)? After all, this is not revealed by analysis of ordinary usage. It is, at best, something constructed; and I think it is constructed just for the purposes of sponsoring arguments of philosophical interest. The philosophers want to define a narrow concept of toleration to give themselves an interesting conundrum to play with. They actually want toleration to be a paradox, in regard to which they can then show off their special skills and poise and clear-headedness. And it is pursuant to this interest—and this interest only—that a narrow definition seems desirable.\(^9\) As Heyd puts it in his introduction (p. 5) to the *Elusive Virtue* collection, “It is an interesting feature in the analysis of toleration that the narrower its definition the more paradoxical it becomes.”

As the tone of these comments suggests, I think there is also a negative case to be made against the philosophers’ narrow definition. On the one hand, they have no right, so to speak, to narrow the discourse of toleration in this way. And secondly, the point of their doing so fails anyway. For if what we just said in section III is correct, you are not going to get a paradox to play with even if you *do* confine toleration to contexts where the thing to be tolerated is judged morally wrong. So even the insider’s professional-entertainment case for narrowing the definition fails to get off the ground. We might as well stick with a broader conception, since narrowing our understanding of toleration does not promise the intellectual fun that the philosophers were hoping for.

Is this too quick? One response might be: “Well, what if there is someone—some potentially intolerant ruler, for example—who judges some religious practice

\(^9\)So, on my view, philosophers should not be bullying their audience by representing a failure to infer “X is wrong” from “X is to be tolerated” as some sort of intellectual or conceptual mistake. The mistake, if there is one, is in failing to go along with the philosophers’ sense of what makes an argument about toleration philosophically worth spending time on.
X to be unequivocally wrong? Don’t we want to have a tolerationist argument against him, whatever other arguments we have going in this broad area?” Well, yes we do. But it need not be a tolerationist argument that leaves his judgment that X is wrong entirely untouched or unquestioned. If we do leave it untouched or unquestioned, he won’t get very far with it; that’s what we showed in section III. But we may not be willing to let him get even that far. We may want to show that intellectually or politically, he is not entitled to form a judgment about X’s wrongness. And indeed we may think that this is where the action is or where the action ought to be so far as the case for toleration is concerned. We may think that if we can’t make the case here, then we have failed.

Our interlocutor may persist: “Yes, but what if we can’t shake the ruler free of the judgment that X is really wrong and that this is something he is entitled to form a view on?” Well, in the face of this possibility, we may comfort ourselves with the thought (based on what we said in section III) that the ruler still has a long way to go before he can infer the appropriateness of coercion from whatever he insists on saying about X’s wrongness. But we may think still that there is a pro tanto failure in the case for toleration if things get that far. Or, more moderately, we may think that both phases of the argument are important, and that it is quite misleading to say that, strictly speaking, only the second phase is an argument about toleration.

V

David Heyd (“Is Toleration a Political Virtue?”) thinks that toleration cannot really be regarded as a principle of the political philosophy of the liberal state. This is not of course because he thinks such states are or should be intolerant. It is because he thinks there is no room for the question of toleration to even arise:

Unlike a medieval sovereign, the state is an impersonal institution which cannot be described as “suffering” in having to reconcile itself with beliefs and practices to which “it” does not subscribe. Hence, it cannot be said to overcome or endure its wish to undermine or interfere with them. In other words, the state cannot be engaged in toleration.

His view is that the state cannot judge that a religious practice X is wrong. It has no authority, means, or jurisdiction to do so. It follows, Heyd thinks, that the state cannot be said to do anything or take any position that presupposes a judgment that X is wrong. But—on the narrow conception—the proposition that X is to be tolerated does presuppose that X is wrong. Accordingly, on Heyd’s view, the state cannot hold that X is to be tolerated.
I think this is all too quick. It fails to credit the role of tolerationist principles in bringing us to the position (about the state) that Heyd simply announces. Let me explain.

I assume that Heyd has no wish to deny that a liberal state may be, so to speak, beset by judgments that X is wrong (beset by such judgements, surrounded by them, pressured by them, and so on). A liberal state is open to (or at least hears) the views and demands of its citizens, even views and demands that its liberal character makes it incapable of acting on. Moreover, the liberal state must be exhibit a certain resilience in the face of such demands. It must be able say to its citizens: “These are not views that we (the state) may hold or act on.” And if the citizens ask “Why not?” the state must have an answer to give.

I believe that the answer to be given—or some of the various different answers that it is appropriate for the state to give—are either tolerationist answers or are constructed out of tolerationist answers. We can miss this if we see the modernity or liberalism of the state as something simply given: e.g. the state just is an impersonal institution that is incapable of holding views about the wrongness of religious practices. But that is not just given. Historically this characterization of the entity that monopolizes force in society had to be constructed, and that construction was partly argumentative; and, even in the present, the liberal, neutral and impersonal character of the state has to be continually explained and defended.

When I first wrote about John Locke on toleration many years ago (in “Locke, Toleration, and the Rationality of Persecution,” in Liberal Rights), I found a number of commentators saying that Locke’s position was based on the premise that religion was not part of the function of the state. I wrote that that couldn’t be his premise: it would just be question-begging. What Locke had to do was argue that religion was not part of the function of the state. And this, I said, he did do; and the arguments he made remain important and available to modern liberals in explaining and defending the impersonal neutral character of the state that they have helped bring into existence.

Many of those arguments are versions of those we already considered in section III. For example, Locke argued again and again in the Letter Concerning Toleration that coercive means could do no real good in respect of religious practice and belief. (I won’t repeat the arguments here; they are very well known, and I have written extensively about them elsewhere.) These arguments were addressed potentially to anyone with coercive means at their disposal. For example, they were part of the basis on which Locke established that it was not appropriate for bishops and other religious leaders to use force against members of their congregations. They were also part of the basis on which Locke argued against the use of force by private individuals against others who differed from them in matters of religion.
But the futility-of-the-use-of-force argument crystallized in a particularly powerful way in the case of magistrates, because of the way Locke defined the state. The magistrate’s power “consists only in outward force”—“a magisterial care ... consists in prescribing by laws and compelling by punishments.” If we define the state in this way, then it follows that it cannot have the enforcement of true religious practice and belief as its object. This argument is not based on a functional assumption. It is based on a modal assumption—about the means that states characteristically use—and it works from there to a functional conclusion. And just because the state is (by definition) a mechanism of this coercive kind, it has no business forming judgments about matters on which coercion is inherently inappropriate.

For this reason, I think it is very artificial to sideline the liberal-state argument to the margins of tolerationist discourse. We cannot understand the liberal-state argument without understanding the classic case for toleration in which it is rooted. And, as I have indicated already, the philosophers’ attempt to sideline this argument because it fails to give them the sort of paradoxical entertainment they want—which they can’t have anyway—is particularly silly.

VI

One last thing. I have heard it said that there is another—and perhaps more respectable—reason for distinguishing arguments for toleration from arguments about the inherent inappropriateness of the modern liberal state making judgments about religion. The latter arguments, it is said, are much more respectful of religious minorities than toleration arguments. Toleration arguments always seem to be condescending, judgmental, and insulting. The tolerator says,

T₁: I believe that what you are doing is wrong, wrong, wrong, but as a matter of grace and favour (or for reasons I can barely formulate) I will tolerate your practice, that is, I will permit you to do it anyway, despite my strong and justified inclinations to the contrary.

The modern liberal, by contrast, just says: “You have a right to religious freedom, and the character of your beliefs is simply none of my business.” That is much less unpleasant, much more respectful.

So stated, we can agree with the assessment. But again we should dispute both the characterization of the tolerationist attitude and the wedge that is being driven between that attitude and the position of the rights-respecting state. The characterization of the tolerator’s position in the last paragraph depends on something like the paradox of toleration. If that talk of paradox makes no sense—and that is what I argued in section III—then we are not entitled to present the
tolerator in this light, and the tolerator, if he knows his business will not describe his position in that way. He may say instead:

\[ T_2: \text{I disagree with your practice and, as you know, I judge it wrong. But I acknowledge that that does not in any way make it appropriate for me to interfere with what you are doing, especially since it is not harmful.} \]

Not only that, but if he is a magistrate, he will add:

\[ T_3: \text{Moreover, in my capacity as magistrate (that is, as someone entrusted specifically with the coercive power of the community), I want to say that it is not for me to form any judgement whatever about your practice. If you want to have a debate about it, off duty and in private life, that’s fine. But in my official capacity, all I can say is that any coercive interference with what you are doing would be wrong.} \]

Together, T₂ and T₃ define an attractive and respectful position and one that has the advantage of making the argument for the modern rights-based view clear and transparent.

It seems to me to be an enormous advantage of my rejection of all this talk about a paradox of toleration that I can put T₁ aside as a characterization of the tolerationist attitude and replace it by the much more attractive, much more illuminating, and much better-thought-through version in T₂ and T₃.