Let's get radical: Extending the reach of Baylean (and Forstian) toleration

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> Tis pleasant enough, and very glorious to the Christian Name, to compare the Griefs of the Orthodox, and their Complaints against the Pagan and Arian Persecutions, with their Apologys for persecuting the Donatists. When one reflects on all this impartially, he'l find it amount to this rare Principle; I have the Truth on my side, therefore my Violences are good Works: Such a one is in an Error, therefore his Violences are criminal.
>
> Pierre Bayle[1]

> 'Shut up!', he explained.
>
> Ring Lardner

In *The Right to Justification* Rainer Forst tells us that that social context in which humans find themselves is called 'political' when it is 'an order of justification' – an order which consists of norms and institutions that are to govern their lives together in a justified or justifiable way.[2] The most important normative concept that applies to this order, he tells us, is that of *justice*. Justice 'overarches' every form of political community, demanding reasons why some have rights, and asking how it is determined who possesses what claims, and how persons stand in relation to one another as authors and addressees of justifications. Political and social justice, he argues, should be understood as grounded in a single right: the right to justification.[3] In his other philosophical writings, as well as in sections of *The Right to Justification*, Forst has

also gone to great lengths to emphasise the significance of toleration, which he also sees as fundamental to the good society, and much of his work has been an attempt to show how important it is to adopt the right understanding of toleration if we are indeed to live in a society in which the right of justification is taken seriously. To this end, he has drawn extensively on the thought of Pierre Bayle, offering an insightful and illuminating interpretation of Bayle's theory of toleration in order to criticise not only Locke's better known arguments, but also modern-day doctrines which have unwittingly relied upon them and been led astray.

My aim in this chapter is to examine Forst's use of Bayle and to argue that he has underappreciated the force of Bayle's challenge, and the radical nature of its implications for our understanding of political order, and of the place of justice in our thinking. The issue here is not merely one of interpretation, though this is where we shall begin. The larger question at stake is the defensibility of the conception of political order that Forst wishes to elaborate. My contention is that Forst goes badly wrong in placing justice at the centre of his theoretical analysis, and in suggesting that tolerance is, in the end, a 'normatively dependent concept' – that it is not an ideal in its own right but a 'virtue of justice'.[4] Taking Bayle seriously has important, and radical, implications for the way we think about justice, and politics more broadly. While Forst has begun to see Bayle's importance, he has turned away from him at the critical juncture and gone back to the more conventional understanding of politics he looked like challenging.[5]

I begin in section I with an account of Bayle's theory of toleration, drawing attention to the distinctiveness of his view, and reviewing the main objections that have been raised against him both by his contemporaries and by modern commentators. In section II, I turn to Forst's account of Bayle's contribution to show how he has sought to incorporate Bayle's thought into a deeper understanding of toleration. Section III then considers Forst's theory of toleration more critically, arguing that he has not embraced Bayle to the extent necessary for the incorporation to be of any great consequence. Section IV then goes on to argue that the root of the problem lies with the subordination of

toleration to justice and offers reasons for thinking that toleration is not a virtue of justice but supplies the foundations for justice. Section V then goes on to suggest that this requires thinking about justice in a very different way, one which gives it a much more modest place in our thinking about political order generally. I conclude with some wider reflections on where this leaves Rainer Forst's conception of justice as the right to justification.

I Pierre Bayle's theory of toleration

Bayle's theory of toleration arises out of his preoccupation with the question of whether possession of the truth justifies religious persecution. He addressed this issue directly in his *Philosophical Commentary*,[6] which appeared in 1686: a time when French Huguenots were moving in their thousands to Holland to escape persecution at the hands of the Catholic state. The people Bayle addressed here included not only French Catholics but also his fellow Calvinists, both of whom held that possession of the truth *did* justify persecution, and that they would be right to use force against the other because they knew what was right while their opponents did not. Bayle held, against his religious compatriots and his persecutors alike, that all coercion in religious matters was inconsistent with reason and, so, wrong. The case for righteous persecution by the light of reason he found wanting, and the theory he proposed as an alternative was the doctrine of mutual toleration, according to which those who disagree on matters of faith, while entitled to attempt to persuade one another of what each takes to be the truth, have no right to use force to attempt to convert an erring conscience to what is asserted to be the true faith.

Bayle develops his argument through a critique of the literal (and dominant) reading of the Gospel of Luke, 14.23, which recounts a parable of a Lord who commands his servant to 'compel' his invited but reticent guests to come into his house to enjoy his hospitality. No less

an authority than St Augustine had read this passage as evidence that Jesus Christ held it to be justifiable to use compulsion or force to bring unwilling people into the true church. Bayle, however, insists that the only plausible interpretation of Christ's word 'compel' is not 'force' but 'persuade'. Coercion in religious matters was inconsistent with reason and inconsistent with the spirit of Christianity. The natural light of reason reveals that the use of force to bring about conversion is wrong, and Christ could not have intended by his use of the word 'compel' to suggest that he wished us to persecute.

Bayle's theory holds that reason should guide our interpretations of scripture, that the literal reading of scripture, particularly in this case, is contrary to reason, as well as to the spirit of the Gospels, causes confusion of vice and virtue, gives infidels a pretext for expelling Christians from their lands, leads to crimes in the name of Christianity, depriving it of an important argument against other religions (notably, Islam), makes the complaints of the first Christians against their persecutors invalid, and makes it impossible to end the dispute between persecutors and the persecuted. Implicit in the doctrine of compulsion is a doctrine of violence, which is, he thinks, quite contrary to Christ's teachings. Much of Part II of the *Philosophical Commentary* attempts to answer those who think either that he has exaggerated the violence implicit in compulsion, or that he has failed to appreciate the utility of violence, which is needed to preserve order (as the Fathers of the Church, and indeed, the Old Testament, recognised). The outcome is a positive theory of toleration which is an alternative to the theory of righteous persecution, and to the ideas of 'half-tolerationists' who think that '*general toleration*' is absurd.

At the core of Bayle's theory is the thought that the erroneous conscience has the same claims to respect as an enlightened one. Those who are in error have the same rights as those who are blessed with true understanding if they are sincere in their belief in the rightness of their convictions. Disputes between one and the other cannot be resolved by invoking the superior rights of truth because the truth is precisely what is disputed. Each therefore has an equal claim to toleration by the other.

Since one must be in error, the erroneous conscience must have a claim equal to that of the enlightened one.

Central to Bayle's thinking is his view that an act is never more sinful than when it is undertaken in the conscious belief that it is wrong. An innocent act of wrongdoing is excusable; an otherwise right act is contemptible if committed in the belief that it is wrong. This does not, however, mean that one can evade responsibility for wrongdoing by trying to remain ignorant. Wilful negligence and self-deception can be grave sins which render a person culpable even when his actions are the result of error. Equally, it is seriously wrong to force, or even tempt, a person to go against his conscience, whether by threat or inducement. In the end, our actions must be judged not by their real qualities but by our intentions – by our purity of heart. Sincerity is more important than truth.

Persecution, and intolerance or half-toleration more broadly, is not tenable because any principle of persecution will always rebound upon the orthodox. If the case for intolerance is sound, it can be deployed equally effectively by the heretic. In Part III of the *Philosophical Commentary*, Bayle shows this is something St Augustine failed to appreciate, at least in his later writings: the consequence of his doctrine of intolerance could only be to arm all sects against one another.

Now, Bayle's theory does confront two serious difficulties. The first is a problem of internal consistency: having insisted at the outset that reason should be our guide, and that we are blessed by God with access to its natural light, how can he then coherently assert that disputes between truth and error are incapable of resolution? Indeed, if he thinks that reason can reveal to us that persecution is wrong, why can it not also reveal to us other truths? According to Walter Rex, by the end of Bayle's argument 'the criterium of natural light has virtually disappeared and the fallible but absolute judgment of conscience has been put in its place'.[7] He had begun by maintaining the priority of philosophy over theology, but in the end his rationalism gave way to fideism, if not complete scepticism. The second is a problem of plausibility, arising out of paradox. If we are indeed obliged to act as conscience dictates,

because to act against conscience is to sin, then the person who sincerely believes that he ought to use force to compel religious obedience, does not sin in persecuting – and indeed is obliged to persecute. 'The argument of the erring conscience has now worked back upon itself and partially destroyed Bayle's argument for tolerance.'[8]

In Rex's judgement, Bayle was not able to resolve the problems at the heart of his doctrine and his contribution was in laying the groundwork for future defences of toleration – by developing arguments, refuting objections and suggesting routes down which later writers might travel. Thus, for example, Diderot was able to uphold the principle of toleration by asserting that intolerance was unjust, cruel, immoral, and an insult to piety and to human dignity. Bayle could not make such a move, constrained as he was by the need to work with traditional Christian concepts.[9] In the end, 'the theme of tolerance had to await the age of Enlightenment to come into its own.'[10]

Is this really the full extent of Bayle's contribution to the understanding of toleration: paving the way for the (very different) theories to come? In fact, Bayle's theory of toleration is more robust than Rex suggests, and what he provides is not merely a clearing in which to construct a philosophy of toleration but a doctrine that is distinctive and compelling in its own right. The real question, as we shall see, is whether we are prepared to embrace that theory and its implications, for its radical nature makes it difficult to accept without at the same time abandoning a number of settled convictions which are built into our way of thinking.

To see this, we should begin by recognising that Bayle's theory neither rests upon nor descends into scepticism. Leave aside that Bayle always rejected scepticism, not merely in religion but in general.[11] We have the capacity to reason and to discern truths, including truths of morality, and Bayle repeatedly returns to this theme in the *Philosophical Commentary* after devoting the first part to the defence of the natural light as a gift of God. Yet this is not to say that we are infallible, that we can come to discern the truth without effort, or that we can spare ourselves the burden of careful and painstaking inquiry when the truth is

at issue. Once we recognise this, it becomes clear that the possibility of knowledge does not imply the impossibility, or even the unlikelihood, of disagreement or error. Equally, the possibility of knowing the truth supplies the warrant for continuing to examine and re-examine matters more closely when things look uncertain, or when disagreement persists.

If we can know the truth through the exercise of reason, and yet we also regularly disagree about the truth, Bayle's theory tells us, the right course of action cannot be for one of us to demand that the other accept his understanding of the truth, much less for one to try to compel acceptance of a particular view. If it is reason that enables us to find the truth, and at least one party has not seen it, the answer can only be to resort to further exercise of our capacity for reason. The fact of disagreement does not undermine or contradict Bayle's claim that we have the capacity to know the truth through reason; on the contrary, if there were no disagreement it would be a better conjecture that truth is not the outcome of rational inquiry. Bayle sees truth as the outcome of a process to which reason is central; and reason could have no role unless there is something with which to engage and overcome in the pursuit of truth: error. To engage our capacity for reason, however, we must disengage our capacity for (and propensity to) violence. The exercise of force is inconsistent with the exercise of reason.

Bayle's theory of toleration is a theory of mutual forbearance from the exercise of violence, one against the other. It is necessary to make reasoning possible. But how are we to establish that our efforts at reasoning have reached a successful conclusion? When does reasoning end? Implicit in Bayle's view is that it does not, for it is an ongoing *process* rather than a *procedure* or technique.[12] Conclusions of reason are themselves only aspects of the process of reasoning, for they do not terminate the activity and remain themselves open to further assessment, challenge and modification.

It is with this in mind that we should consider Bayle's attitude to the conscientious persecutor. If it is sinful to do what one holds to be wrong, the righteous persecutor who does sincerely hold that he ought

to persecute is indeed obliged to persecute. If he declined to do so despite his conviction he would act immorally, even if rightly. Our attitude towards him should be one of disapproval for his moral weakness, tempered with relief that his weakness has prevented him from doing wrong. On the other hand, if the righteous persecutor wished to act on his convictions, particularly if he has not tried to deceive himself in order to indulge a wicked desire, we have to respect the sincerity of his conviction even as we ought to try to persuade him of the error of his thinking. Our response to the persecutor, conscientious or vicious, should be to resort to reason. If we think the persecutor is in the wrong and is not amenable to reason, we would then be justified in taking action to prevent him from persecuting others. Indeed, if we ourselves are convinced (conscientiously believe) that we ought to persecute the persecutor, then we do not sin if we exercise force in this way (as we are indeed obligated to do).

Is this view as implausible or as self-contradictory as some, like Rex, have suggested? Let me suggest that Bayle's view is essentially sound, even if he does err at the critical moment. His error, however, is not the one Rex identifies but an error of an entirely different kind.

Bayle is right to the extent that he says that we should always return to reason. Even when confronted by those who decline to do so, our first recourse must be to reason, which means that we must tolerate – we must resist the temptation to use force. If we take reason at all seriously, we must assume that it has the capacity to illuminate and to persuade. He is also right to suggest that we can only rightly act as conscience dictates and that this imperative ought to be respected inasmuch as we ought not to try to force people to act against conscience. To say otherwise would be to imply that it would be acceptable to tell people to do wrong (as against trying to persuade them that they are mistaken about what they think is right). The tension that now arises is between two seemingly incompatible propositions: the first that reason should guide us, the second that conscience should. What if they tell us different things?

Rex's conclusion is in effect that the problem cannot be solved until we accept that toleration has its limits, which can be identified by reason. Reason can tell us that intolerance is unjust, and an insult to human dignity, so those who wish to persecute even in all sincerity have no claim upon our patience. Otherwise we would have to tolerate the intolerant.[13] What I think Bayle senses, however, is that reason cannot settle the limits of toleration to the extent that it licenses the use of force to establish those limits. Reason cannot legislate: it cannot serve to justify the use of violence.

Now, Bayle does not argue this explicitly, which is why Rex concludes that Bayle's thought is a failed attempt to defend toleration within a Christian framework, but one that brilliantly illustrates the tension between reason and faith in the theology of the time. The Enlightenment resolved the tension by invoking reason to put faith (in this case in the form of the persecuting religious authority) in its place.

Yet perhaps Bayle did not go down this route because he could discern (however dimly) its difficulties. The main difficulty is what to do when these conclusions of reason are challenged by others whose reasoning leads to altogether different results. Bayle's commitments to the principle of respect for conscience, and to the idea that reason reveals to us the wrongness of using force rather than persuasion to change belief, make it difficult for him to think reason could justify the suppression of reason.

The one mistake Bayle makes, if this analysis is correct, is to argue that it would be justifiable to use force to prevent the attempt by some to persecute others, even if it would not be justified to use force to change the minds of persecutors. If force cannot be justified by a claim to be in possession of the truth, it is hard to see how the use of force can be justified in any circumstances.

If this is indeed the thought behind Bayle's overall argument, its implications are radical and significant. The use of violence could never be justified by appeal to reason. Even if the proclaimed purpose of violence were to be to uphold reason it would not be justified. Claiming to have truth on one's side is of no use when the truth is the subject of

contention. To offer truth as a justification is to beg the question. In order to appreciate just how significant is this argument of Bayle's we should look more deeply into his theory of toleration. The best way of doing this would be to look at Rainer Forst's reading of Bayle, which does much to establish just how important Bayle is.

II Rainer Forst on Bayle on toleration

Rainer Forst is one of the few contemporary thinkers writing on toleration (and justice) to have recognised the distinctiveness and significance of Bayle's theory. For our purposes, however, what is important is that Forst attributes to Bayle responsibility for the development of a particular conception of toleration he describes as the reflexive conception of toleration.

In the history of thought there are three prominent conceptions of toleration. The first, Forst tells us, is the 'permission conception', according to which 'toleration is a relation between an authority and a dissenting, "different" minority (or various minorities)'.[14] Toleration here means that the authority or majority gives qualified permission to the minority to live as they wish provided it accepts the dominant position of the authority or majority. The Edict of Nantes, the Toleration Act after the Glorious Revolution of 1689, and the Toleration Patents of Joseph II in 1781 were examples of this kind of toleration. Toleration here is non-reciprocal – the more powerful party simply condones the activity of the weaker. Toleration is a grant from the powerful to the powerful to the powerless, but is nonetheless a form of exercising and preserving power.[15]

The second form of toleration Forst calls the 'respect conception', according to which the tolerating parties recognise one another in a reciprocal, 'horizontal' way, despite their differences. Historically, this respect was grounded in some kind of shared moral conception, such as a notion of individual rights that persons shared by nature. This notion

of toleration was, however, circumscribed by these moral conceptions, and those who did not share in the relevant moral understanding could not claim them. Thus, those who were atheists, typically, could not claim a right to toleration since atheists could not claim the rights that were accorded to those who belonged to the community of believers. Toleration here depended upon a shared morality.[16]

In an earlier paper Forst suggested that there were two other conceptions of toleration also worth noting. There was the *coexistence conception* of toleration, in which the object of toleration was to secure peace, understood as a *modus vivendi* among similarly powerful groups.[17] And there was the *esteem conception*, which requires a stronger level of respect amounting to esteem for the ways of life of the other parties.[18]

Bayle, Forst suggests, introduced an altogether new understanding of toleration. Locke, and other 'respect' theorists of toleration, had excluded atheists and Catholics from among the tolerable for fear that their beliefs kept outside the realm of common morality. Bayle, however, suggested that no such common conviction was necessary, for even a society of atheists was possible. Mutual toleration was possible among people of different religious beliefs, who could nonetheless share convictions about mutual respect that ruled out the exercise of force to compel religious belief. Bayle's justification for toleration, Forst argues, avoids the weaknesses in the liberalisms of Locke, Mill and, more recently, Kymlicka, because it does not require any commitment to a particular view of personal autonomy as a precondition of the good life. Grounding toleration in autonomy, Forst maintains, makes it difficult to tolerate traditional ways of life that do not exhibit the right kinds of autonomy.[19] What Bayle offers is a theory of toleration that is not subject to these difficulties.

Bayle's theory, according to Forst, is a reflexive theory that is a kind of combination of the permission and respect conceptions. Politically, it is like the permission conception, but socially it calls for the toleration of respect. Bayle's understanding of toleration was able to make room for the toleration of atheists, and also to do what Locke struggled

to do in his first *Letter concerning Toleration*: supply an answer to the challenge of Proast (who was himself only rehearsing St Augustine) who argued that intolerance could indirectly serve to secure the good by creating the conditions under which the right doctrines might be adopted.

Bayle's greatness has, for most of the history of political thought, gone unrecognised. One of Forst's most important contributions has been to recover his insights and to try to incorporate them into a modern analysis. So far so good.

Sadly, however, Forst goes one step too far (or has one thought too many). Having rescued Bayle's contribution from relative obscurity, he proceeds to interpret it in a way that deprives it of much of its critical power, and turns toleration from a revolutionary into a cautious, and even conservative, doctrine. We need to consider why, and how.

III Forst's theory of toleration

Forst wants to offer what he calls a neo-Baylean justification of toleration, which he thinks is superior to others for being a *reflexive* conception. Rather than resting on a particular idea of salvation or notion of the good, it is grounded on the very principle of justification, 'a higher-order principle of the demand to give adequate reasons for claims in the political realm'.[20] It is at this point, however, that Forst abandons the spirit of Bayle's enterprise, and forgoes an opportunity to take the theory of toleration down the more radical, critical, path Bayle's theorising revealed.

The Bayle that Forst presents is a Bayle who has been Kantianised and Rawlsified in the course of an attempt to address the question: what are the limits of toleration?[21] Another way of presenting this question would be to say: when, or for what reasons, may we cease to tolerate? For the question itself implies that there are limits; the issue is, where do they lie? Forst's answer, in a nutshell, is that we may do so when

we have justified our actions to others. Herein lies the problem; as we shall see.

How are we to justify ceasing to tolerate? To answer this question, we need first to understand why we need such a justification. Forst's explanation begins by identifying three paradoxes of toleration: the paradox of the tolerant racist, the paradox of moral tolerance, and the paradox of drawing the limits.[22] We should consider these in turn.

The paradox of the tolerant racist arises when we are forced to concede that the racist who curbs his desire to discriminate against 'inferior races' is virtuous, since he has behaved 'ethically' by suppressing his prejudices. Indeed the more racist his convictions, the more virtuous he will turn out to be for being tolerant. But this understanding of toleration turns blind prejudice into an ethical judgement and is surely not acceptable, according to Forst. We need therefore to start not with irrational prejudice and hatred but with judgements that have an intelligible and acceptable basis before we can talk of tolerance. Racists cannot exemplify the virtue of tolerance.[23]

The paradox of moral tolerance arises if both the reasons for objection and the reasons for acceptance are called 'moral', for then it seems that it is morally right to tolerate what is morally wrong. It would become morally right to tolerate immoral acts, such as racists attacks, for example. Solving this paradox requires making some kind of distinction between different kinds of 'moral' reasons, 'some of which must be reasons of a higher order that cannot be trumped and which ground and limit toleration'.[24]

The paradox of drawing the limits arises out of the idea that, 'since toleration is a matter of reciprocity, those who are intolerant need not and cannot be tolerated'.[25] But this idea, Forst says, is not only vacuous but dangerous, for the definition of intolerant is all too often one-sided and intolerant. Moreover, since those who are intolerant of the intolerant are themselves, by definition, intolerant and so deserving of intolerance. In this case, toleration ends as soon as it begins.[26]

We can only find the limits to toleration, Forst argues, and recognise tolerance as a virtue, if we can draw the limits in some non-arbitrary,

impartial way. 'The reasons of rejection must be morally justified reasons.'[27] From this he draws a critically important conclusion: toleration is a normatively dependent concept. 'By itself it is too empty and indeterminate to answer the question about the character of the reasons of objection, acceptance, and rejection.'[28] It needs to draw on other resources if it is to have any substance, content and limits. What this means is that it has to rely on a conception of *justice*. Toleration is not a virtue in its own right, but a normatively dependent concept – one that depends on a conception of justice.

It is at this point that Forst's theory of justice takes centre-stage: the theory of justice as the right to justification. Justice circumscribes the limits of toleration.

The question, however, is whether toleration in this account has a role of any consequence or is a virtue of any great significance. What work does toleration do in this moral universe? And where, one might ask, is Bayle?

The answer, I think, is that toleration is of no great significance, and has entirely lost purpose and, so, its lustre. As for Bayle, he's gone back to Rotterdam, to continue writing books no one would read. Or is turning over in his grave.

If we accept Forst's account of the relationship between justice and toleration, there is nothing for toleration to do. All the work is done by justice. In the theory of social and political morality, toleration is superfluous. It remains a virtue to be sure, but one with about as much importance as punctuality, being well-groomed, and charm.[29]

The only issue now is whether this matters. In the first issue of the *Journal of Political Philosophy*, in a paper entitled 'Autonomy as a Good: Liberalism, Autonomy and Toleration', Deborah Fitzmaurice argued that it did not. Once we realise that the good of autonomy guides our assessment of how to regulate relations among citizens, toleration becomes quite unnecessary. There's no sense in getting excited about a normatively dependent concept.

But I thought then that Fitzmaurice was wrong in explicitly prioritising autonomy to the exclusion of toleration, and think now that

Forst is wrong inadvertently to eviscerate toleration by subordinating it to justice. We need to consider why.

IV Justice and toleration

Toleration is not the handmaid (or the butler or batman) to justice but is itself the master principle. Toleration is in play when people resist the temptation to exercise power, particularly in the form of force or violence, to alter the conduct or circumstances of others whose activity is deemed unacceptable. To tolerate is to decline to suppress or censure that of which one disapproves. Why is this principle fundamental?

I think Bayle saw that it is fundamental because to exercise force is to abandon reason, and a commitment to reason and reasoning is fundamental if right conduct is our intention. And right conduct has to be our intention if we are to be moral. Acting rightly means acting according to conscience; but acting according to conscience does not mean indulging our whims and behaving capriciously – it means acting according to what we genuinely *think* to be right. Reason is therefore vital if we are to act conscientiously. Reason cannot be in play, however, when force is exercised. Force must be forsworn for reason to hold sway, and the condition in which force is held at bay is a condition of toleration.

This is a very powerful idea, which is, in fact, given clearer expression in Kant in his discussion of 'The Discipline of Pure Reason in Respect of its Polemical Employment'.[30] According to Kant, reason depends for its workings – for its very survival – on the existence of a realm of freedom: a realm in which criticism of or challenge to even the conclusions reached through reason itself can never be suppressed. He writes:

> Reason must in all its undertakings subject itself to criticism; should it limit freedom of criticism by any prohibitions, it must harm itself, drawing upon itself a damaging suspicion. Nothing is so important through its usefulness, nothing so sacred, that it may be exempted from this searching examination, which knows no respect for persons.

> Reason depends on this freedom for its very existence. For reason has no dictatorial authority; its verdict is always simply the agreement of free citizens, of whom each one must be permitted to express, without let or hindrance, his objections or even his veto.[31]

This realm of freedom is nothing less than a condition of toleration. It is a condition in which force may not be exercised to suppress any contention, criticism or challenge, for it is a condition in which no power has the authority to suppress any idea. There is nobody to whom one might appeal to suppress any dissenting idea: not to the majority opinion, nor to the views of an elite, nor even to reason itself – for Reason, like the Pope, has no divisions, and no authority to enforce anything. Such authority as reason possesses it does in virtue of its recognition by persons who are free to subject any of its determinations to critical scrutiny. Reason, in Kant's account, as Onora O'Neill explains, 'has no transcendent foundation, but is rather based on agreement of a certain sort. Mere agreement, were it possible, would not have any authority. What makes agreement of a certain sort authoritative is that it is agreement based on principles that meet their own criticism. The principles of reason vindicate their authority by their stamina when applied to themselves'.[32] Criticism, and the toleration criticism needs if it is to be sustained, are essential if the authority of reason is itself to be sustained. Indeed, in Kant's thought, the 'development of reason and of toleration is interdependent … Practices of toleration help to constitute reason's authority'.[33]

It is important to recognise here that this argument for the importance of toleration is not, like John Stuart Mill's, for example, an argument about the tendency of toleration and free discussion to lead to the truth. Nor is it an argument that toleration will enable us to grasp truth more securely, say, by coming to a greater awareness of still-defended falsehoods. Even as Kant insisted that 'there can, properly speaking, be no polemic of pure reason',[34] he was all too aware of the existence of 'disingenuousness, misrepresentation, and hypocrisy even in the utterances of speculative thought, where there are far fewer hindrances

to our making, as is fitting, frank and unreserved admission of our thoughts, and no advantage whatsoever in acting otherwise'.[35] It is not an argument that toleration is a useful convention. Toleration is necessarily involved in any context in which reason operates. And reason is banished when toleration is compromised or abandoned.

Because this is not a consequentialist argument, it does not depend upon contingent or empirical considerations. It cannot be argued, for example, that mild intolerance will not undermine reason, just because a single infraction cannot bring down the entire edifice of reason. But that is not the point. The point is that a condition of tolerance defines the existence of reason. Analogously, we might say that an absence of fighting defines the existence of peace. To be sure, one small fight will not necessarily bring an end to an enduring peace within or among nations, but it remains true that if there is fighting there is, in that context, no peace. Where there is no tolerance, there is, in that context, no reason – only force.

This brings us to the issue of what 'toleration to uphold reason' might amount to in practical terms. There is toleration that upholds reason when there is no force exercised to impede the communication among persons that is essential to the working of reason. It is worth bearing in mind here that the mere absence of force impeding communication does not mean that such communication will always produce good results. Reasoners may be in the grip of error or may simply reason poorly. Moreover, as Kant noted, people are prone to be deceitful, and misrepresent not only themselves but also their most speculative thoughts. Yet 'what could be more prejudicial to the interests of knowledge than to communicate even our very thoughts in a falsified form, to conceal doubts which we feel in regard to our own assertions, or to give an appearance of conclusiveness to grounds of proof which we ourselves recognize to be insufficient'.[36] Nonetheless, reason is upheld when force is eschewed; and in the end, it will only be through processes of reasoning that error, deceit and sophistry are identified.

But what does it mean to say that force is not exercised? It means that no physical power is brought to bear on a person to compel him

to accept the rightness of a determination he disputes, or to perform an action he repudiates. When no force is exercised to compel belief or action, we might say that the principle of toleration is obeyed to the letter and reason holds sway. However, it is only when we also eschew more subtle forms of the exercise of power – deceit, manipulation, cajolery – that the principle of toleration is obeyed in spirit, and reason is upheld or honoured.

This argument in favour of toleration defends it by describing it as that moral stance which is most consistent with a respect for reason. It takes a stance that forswears the use of force in favour of rational engagement: dialogue in favour of censure, persuasion in favour of suppression. Another way to look at the matter would be to say that toleration is a doctrine of peace. What requires further explanation, however, is precisely what kind of peace this might be.

Peace may come in many forms, yet not all are equally secure or equally desirable. The peace of the graveyard, as Kant intimated, can be nothing more than a satirical notion,[37] as would be the peace that followed a nuclear holocaust. Equally, the peace endured by a terrorised populace would scarcely be worth commending, even if it were a peace of sorts. The peace of toleration is not the peace of exhaustion, nor the peace of cowed submission. The peace of toleration is the peace of reason: the peace that obtains when there is a commitment to resolving all questions not by resort to force but by recourse to reasoning.

Now, the temptation here is to say that this condition of toleration, which is also, by its very nature, a condition of peace, is best accounted for as a construction of justice. This thought should be resisted. The initial problem with regarding toleration as given shape and content by justice is that this is inconsistent with a proper conceptual understanding of toleration. To tolerate is to refrain from suppressing that of which one does not approve. Justice, by its nature, must be something of which we approve. If justice determines the boundaries or the scope of toleration, then toleration becomes a requirement that we only accept that of which we approve and may rightly suppress that of which we do not approve. If this is the case, then toleration becomes

redundant. If toleration means doing what justice demands, it has to mean not accepting – tolerating – that of which we do not approve. Now, to be sure, this only means not accepting – tolerating – one particular class of those things of which we do not approve: those things we define as unjust. But this is a pretty important class. The move to define toleration in terms of justice thus would, at best, turn toleration into a demand that we not suppress things of which we do not seriously disapprove. And it would turn toleration into a relatively insignificant virtue, if it remained a virtue at all.

But there is still more at stake than this. Toleration is important not because we sometimes disagree about trivial matters but because we often disagree about things that are of fundamental significance. It is important because we often disagree about how we should live: because we disagree about justice. (To relegate toleration to the status of the virtue of accepting trivial differences with others would be to trivialise toleration.) Toleration cannot simply be a matter of justice because we actually disagree about what is justice. The question is: What should we do when we disagree about justice? The answer implicit in the doctrine of toleration is that we should not seek to enforce our view of justice when we are powerful enough to do so.

Now it might be retorted at this point: but surely we will disagree about toleration no less readily than we will disagree about toleration – about its value and its scope? An appeal to toleration does not resolve the problem of moral disagreement. Yet this is where the analysis of toleration as an aspect of a commitment to reason and to peace becomes crucial. For what toleration demands is that, in the face of disagreement, we retreat to reason – or, better still, we refuse to retreat from our commitment not to abandon reason. It demands that we resist the temptation to use power to suppress those views with which we disagree, even if we regard them as unjust. Confronted between a choice of upholding (what we think is) justice and upholding reason, we choose reason. Every time. What this means is that, in the face of serious disagreement we opt not to use force to bring about the arrangements we would like to see but continue to reason with those with whom

we disagree. We opt not to return to the state of nature or the state of war: that state in which reason and reasoning have no public place or standing.

But does this mean that a commitment to toleration must also mean abandoning any commitment to justice? Does it mean that we simply confront an invidious choice: justice or toleration? In the end, that is not quite how matters should be viewed; for there is also reason why a commitment to justice itself demands a commitment to toleration. If justice is, as Plato tried to show, not simply the view of the stronger but the construction of reason, a commitment to justice would require a determination not to yield to the temptation to abandon reason in favour of force. A commitment to justice cannot mean refusing to tolerate disagreement about justice; it can only mean tolerating even what one regards as unjust so as not to abandon the condition that makes the pursuit of justice possible. This means, above all, forsaking force and pursuing peace. It means forsaking force in favour of toleration. It means forsaking force in order to reason. Justice is something whose understanding can only be pursued in peace. This is not the peace of the grave; nor the peace of the truce or balance of power; nor the peace of justice (for this would give us only an empty tautology); but the peace of toleration.

V Justice and political order

The implications of this way of thinking are radical. If toleration is taken seriously, it is difficult to justify any authority with the capacity to close off discussion or bring peaceful contestation to an end by the forcible imposition of a solution. Authority brings reasoning to a halt. Even if authority is exercised after the most extensive consultation, debate and dialogue; after each and every person is offered justifications, and justifications for those justifications; after every effort is made to take seriously the objections and reservations of those to whom the justifications are offered; the fact remains that, unless the outcome of

this process is complete agreement, force will be used to establish – to enforce – some conclusion. We might try to convince ourselves that those who remain unpersuaded but are compelled to submit to our conclusions have been treated justly because we have offered them justifications for our actions, and that we have taken account of their reasonable objections (ignoring only their unreasonable ones). But they will probably view our protestations of justice with Ring Lardner's quip firmly in mind: 'Shut up', they explained.

A Baylean theory of toleration takes us in a direction that would make us much more sceptical about political power, and about the exercise of force more generally. For it is not a theory of toleration that can be co-opted by justice: it is not a normatively dependent notion but fundamental. At its most radical it counsels non-violence even in the face of attack. Its tendency is not authoritarian but anarchistic. Its recommendation is not righteous self-assertion, or the pursuit of justice, or even resistance, but the injunction to 'resist not evil'. Our first duty as human beings is not, as Rainer Forst suggests, to look for constructive justifications to offer our fellows for the enforcement of justice[38] but forbearance from the exercise of violence.

What is uncertain, of course, is whether this can supply the foundation of any kind of political order. I suspect that the answer may be 'no'. But here I am inclined to say two things. First, so much the worse then for political order. Second, perhaps we should devote less time and energy to finding justifications for political order and accept that even those that claim to be just – perhaps *especially* those that claim to be just – necessarily rest on very troubling foundations.

Notes

1 P. Bayle, *A Philosophical Commentary on These Words of the Gospel, Luke 14:23*, ed. J. Kilcullen and C. Kukathas (Indianapolis: Liberty Fund, 2005), p. 134.

2 *RtJ*, p. 1.

3 *RtJ*, p. 2.

4 R. Forst, 'Tolerance as a Virtue of Justice', *Philosophical Explorations*, 4:3 (2001), 193–206.

5 I have discussed other radical implications of Bayle's thought in 'Toleration without Limits: A Reconstruction and Defence of Bayle's *Philosophical Commentary*', in C. Laborde and A. Bardon (eds), *Religion in Liberal Political Philosophy* (Oxford: Oxford University Press, 2017).

6 Bayle, *A Philosophical Commentary on These Words of the Gospel.*

7 Walter Rex, *Essays on Pierre Bayle and Religious Controversy* (The Hague: Martinus Nijhof, 1965), p. 181.

8 *Ibid.*, p. 181.

9 *Ibid.*, p. 189.

10 *Ibid.*, p. 188.

11 See the discussion in J. Kilcullen, *Sincerity and Truth: Essays on Arnauld, Bayle and Toleration* (Oxford: Oxford University Press, 1988), pp. 101f.

12 A procedure always has a definite beginning and an end. A process is open-ended.

13 I am extrapolating from Rex's discussion, which is more concerned on the whole to identify tensions in Bayle's thought than to advance a solution. However, his remarks on the advances made by Enlightenment thought I have taken to mean he favours the position I have ascribed to him. Rex does not, for example, use the language of tolerating the intolerant. Responsibility for this interpretation of Rex is mine.

14 *RtJ*, p. 140.

15 *Ibid.*

16 *Ibid.*, pp. 141f.

17 R. Forst, 'Pierre Bayle's Reflexive Theory of Toleration', in Melissa Williams and Jeremy Waldron (eds), *Toleration and its Limits*, NOMOS XLVIII (New York: New York University Press, 2008), p. 80.

18 *Ibid.*, p. 81.

19 *RtJ*, p. 145.

20 *Ibid.*, p. 149.

21 See R. Forst, 'The Limits of Toleration', *Constellations*, 11:3 (2004), 312–325.

22 Forst, 'Tolerance as a Virtue of Justice', 194–5.

23 *Ibid.*, 194–5.

24 *Ibid.*

25 *Ibid.*
26 *Ibid.*
27 *Ibid.*
28 *Ibid.*, 196.
29 One is tempted to add: Toleration has passed on. It is no more. It has ceased to be. It's expired and gone to meet its maker. It's a stiff! Bereft of life, it rests in peace. Its metabolic processes are now history. It's off the twig! It's kicked the bucket, it's shuffled off its mortal coil, run down the curtain and joined the choir invisible. It is an EX-CONCEPT.
30 I. Kant, *The Critique of Pure Reason*, trans. N.K. Smith (London: Macmillan, 1978), A739/B767–A769/B797, pp. 593–612.
31 Kant, *Critique of Pure Reason*, A739/B767, p. 593.
32 O. O'Neill, *Constructions of Reason: Explorations of Kant's Practical Philosophy* (Cambridge: Cambridge University Press, 1989), p. 38. I have not only drawn on O'Neill's discussion of Kant but also owe to her the argument that toleration is central to Kant's understanding of reason.
33 *Ibid.*, p. 39.
34 Kant, *Critique of Pure Reason*, A750/B778, p. 600.
35 *Ibid.*, A750/B778, p. 599.
36 *Ibid.*, A750/B778, p. 600.
37 I. Kant, 'Perpetual Peace', in *Kant's Political Writings*, ed. H. Reiss (Cambridge: Cambridge University Press, 1979), p. 93.
38 Forst, 'Tolerance as a Virtue of Justice', 204.