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JOHN LOCKE AND THE PROBLEM OF TOLERATION

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The furor in April 2007 over a remark by Don Imus was, at one level, a conflict between offensive speech and free speech. The episode was a lesson too that free speech is disallowed if anyone takes offense at that speech, a curious lesson for Americans to learn. Given our tradition of free speech as protected speech, the rejection of the principle of free speech in this instance is curious at best and troubling at worst. No question of harm arises here; harmful speech is not protected. No question of inoffensive speech arises either; inoffensive speech needs no protection. It is offensive speech that is deserving of protection. If protected speech has any meaning, its arena of concern has to be offensive speech. On another level, the Imus affair raises a question about the principle of toleration. What he said about the Rutgers University Women's Basketball Team was intolerable to the team, to many of his listeners, and, unfortunately for him, to his employers. The shock-jock had at last gone too far.

Why was his offensive speech intolerable? No matter how ugly or crude his remark, it would have seemed a plausible candidate for a toleration that has been generally recognized as a political principle at least since 1689, when John Locke's *Letter Concerning Toleration* entered the mainstream of political philosophy. While Locke's emphasis was a toleration of religious differences, the principle *qua* principle applies also to non-religious differences in our times, the furor over offensive speech being one good example. Clearly a political principle that occupies a solid place in our political traditions, toleration could have, perhaps should have, changed the character and outcome of the Imus episode.

That his crude remark was in fact intolerable rather than tolerable raises a question of whether there is indeed any way of distinguishing between the two categories, a difference sufficiently rational so as to allow toleration to remain in our political philosophy and value theory. Observers of this melee are left wondering where the boundary line between the tolerable and the intolerable should be drawn, if indeed a boundary exists at all. I am claiming that the boundary between the tolerable and the intolerable is fuzzy, and perhaps the distinction is in danger of collapsing entirely. My reflections look to John Locke's 1689 document and some of its implications.[1]

While Locke did not provide a definition *per se* of toleration, others have generously done so. Some recent efforts come from interpreters like John Horton (1996), T.M.Scanlon (1996), Alex Tuckness (2002), Andrew Cohen (2004) and Andrew Fiala (2005).

> Horton: "…the refusal, where one has the power to do so,
> to prohibit or seriously interfere with conduct that one finds

objectionable." (Heyd, p.28).

Scanlon: "Tolerance requires us to accept people and permit their practices even when we strongly disapprove of them." (Heyd, p.226).

Tuckness: "…a theory of toleration will give reasons why we\ should not put a stop to some action or state of affairs that we think wrong and which we have the power to affect."

Cohen: "…an act that is an agent's intentional and principled refraining from interfering with an opposed other (or their behavior, etc.) in situations of diversity, where the agent believes she has the power to interfere."

Fiala: "When I tolerate something: I have a negative judgment about this thing (usually a person or his activities, where activity is broadly conceived to include the actions, attitudes, and habits of persons). I could negate this thing. I deliberately refrain from negating this thing."

Locke's plea for toleration is a plea for religious toleration in general and for a mutual toleration among Christians in particular. This emphasis is not surprising, given the religious and political turmoil of the Tudor-Stuart epoch. Readers cannot be surprised when Locke rails against Christians who "…deprive (men) of their estates, maim them with corporal punishments, starve and torment them in noisome prisons, and in the end even take away their lives…"[2] An intolerance of this sort that finds expression in such violence is itself intolerable on several grounds, according to Locke. It violates the mandates of charity and meekness that must characterize the true Christian. Those guilty of such aggressive, violent intolerance are hypocritical in that they are frequently careless about their own virtue. Locke urges these to look to their own moral reformation and that of their family and friends. Moreover they are spending time and effort on matters that are, as he implies, trivial, i.e., doctrinal matters and ceremonial preferences. They bend their effort "…either to the introducing of ceremonies, or to the establishment of opinions, which for the most part are about nice and intricate matters that exceed the capacity of ordinary understandings…"[3] Finally, intolerance of this kind is also pointless, because only Christ at the end of time can reveal which group is right, and all with have to wait until that time.

Thus beginning with a condemnation of religious intolerance that issues in violence, imprisonment and execution, Locke moves forward with advice and guidelines for toleration. These dominate the bulk of this document.

Separation of church and state is a major premise underlying everything in the document, a clear separation of civil and religious authority.[4] The role of government is to secure for its citizens the

"…procuring, preserving, and advancing…" of their civil interests, well-being and life.[5] *Magistrate* is his word for one who wields civil authority. It is the magistrate who is enjoined to tolerate any religious doctrine and practice, provided that these do not violate the rights of citizens or disrupt the peace. Here, by implication, we have a twofold description of what are intolerable, viz. violations of the rights of citizens and crime, or, whatever is disruptive of peace. While individuals will find crimes intolerable, they are not in a position, in Locke's political philosophy, to redress or punish the crime. Only a civil magistrate is empowered to respond to and to punish whatever is criminal and intolerable. His coercive power must keep out of religious matters, as long as the religious matters are not detrimental to citizens' rights and to the peace. The scope of his authority is limited accordingly, and his coercive power is irrelevant to religious matters, because penalties do not convince the mind, Locke thinks, and true religion must be a matter of conviction.

On the religious side of the divide, religious authorities do not have any coercive power, for, according to Locke's psychology, coercion is not persuasive in the matter of religious beliefs. As J. Judd Owen reminds us, Locke's *Essay Concerning Human Understanding*, a foundation of the Letter, limits the scope of human knowledge so that so-called revealed truths are mere conjecture. No individual, whether private citizen, civil magistrate, or religious leader, can claim superior knowledge of religious matters. Nevertheless human faculties are adequate for an apprehension of the natural law, and so coercion is neither necessary nor sufficient in matters of religion. Religious churches or religious societies must tolerate each other, even while each disagrees with doctrine and ceremonies in others. "For every church is orthodox to itself; to others, erroneous or heretical."[6] Even idolatrous churches must be tolerated. Locke fears that, should we allow magistrates to control or destroy what he considers idolatry, this power might be extended, along a slippery slope, to ruin even orthodox churches.

Individual persons who are religious are similarly exhorted: "No private person has any right in any manner to prejudice another person in his civil enjoyments because he is of another church or religion."[7] One reason for thus enjoining toleration is respect for the autonomy of the other. Because the other religion's beliefs are freely chosen, as all religious beliefs must be, coercion and freedom cannot coexist in religious matters. "No way whatsoever that I shall walk in against the dictates of my conscience will ever bring me to the mansions of the blessed."[8] Some skepticism serves the believer also in tolerating those who hold different religious doctrines. Each religious person must surely be tolerant of others, realizing that no one person can hope to enjoy all truth, and all must wait for the full revelation by Christ at the end of time.

Lest a reader be tempted to accuse Locke of being too tolerant in the matter of religion, we must take note of other paragraphs in this document. Men should enter some religious society or church, for God ought to be publicly worshipped. Being without religion seems unthinkable to Locke. Avowed atheists

are not to be tolerated. "Promises, covenants, and oaths, which are the bonds of human society, can have no hold upon an atheist." [9] They are intolerable insofar as they represent a threat to political bonding, and probably less because they do not give to God deserved worship. Roman Catholics are not to be tolerated, again for the political threat that they represent. Catholics "…deliver themselves up to the protection and service of another prince…" [10] This would mean a foreign jurisdiction in one's country, and any influence by the ruler of the Vatican States outside of the Vatican States is intolerable. Locke anticipates some bizarre religious practices, offering as one example the sacrifice of infants. The magistrate should not tolerate such practices because he cannot tolerate them in the society at large. A religious setting does not transform an illegal practice into a legal one.

The historical context of Locke's treatment of toleration was one bedeviled by religious changes, religious turmoil, and political changes shaped in large measure by religious tensions. It seems doubtful that Locke himself was deeply concerned about the doctrinal content of his Christianity, his comments on the "nice and intricate" nature of theology suggesting just this. Lest one think, though, that religious differences are no longer important in a secularized age and that toleration is not concerned with religious matters, we have only to consider the so-called Culture Wars identified by James Davison Hunter and certainly consider Samuel Huntington's Clash of Civilizations. Though these books appeared in 1991 and 1996 respectively, they are still viable as interpretations of our internal and external struggles. Religious differences remain an arena of the struggle for toleration, as certainly as the problem of offensive speech.

A defining of toleration assumes a social context of free agents and a diversity of views in that society or organization. An agent may be an individual person or a group (**A**). **A** is in a pluralistic situation, where competing values and worldviews are the case. Having reflected on, and freely chosen, a belief (**X**), he is prepared to explain and defend it, as well as govern his life by **X**. For **A**, **X** is true, good, or right. **X** may be almost anything, e.g. an idea, an action, a religious view, a law, a lifestyle, anything about which an agent may form a judgment. **X** has some significance for **A**, because he is, after all, prepared to defend **X** as well as live his life according to **X**. But there is in **A**'s world another agent, **B**, who is equally committed to a contrary view, **Y**. **A** has a negative or critical view of **Y**, as **B** does, of **X**. To **A**, **Y** is foolish, or false or even evil; and **B** thinks of **X** in the same way.

'Negative judgment' is overly broad and must be refined, because, when dealing with toleration, we are not dealing with all possible negative judgments. For instance, **A** has a negative judgment about murder and crime generally. He may have actual power to intervene aggressively but he lacks the legitimacy to do so and must defer to the state and its coercive and punitive action, or to Locke's magistrate. Thus excluded from any question of law enforcement, toleration, if it is to exist, does so in a context of free and legitimate action. What could **Y** be? It could be the idea that the United States is the Great Satan; an action like offensive speech; a religious view like hell; a law that allows abortion; a

lifestyle that includes excessive smoking or drug addiction. The offending idea, action, etc. is such that it matters to **A**, because **A** has a stake in the society, group, or state in which this offense exists. We must omit indifference posing as tolerance. If one truly does not care, for example, when his neighbor watches television and whether he goes to church, he is indifferent. 'Toleration' has to be reserved for those instances when **A** truly does care about the matter at hand. An internal debate about whether or not to intervene is, to use William James's expression, a live option, but only to one is not indifferent.

If **A** chooses not to intervene against that which offends him, it is possible that we can use the term 'toleration' to describe his restraint. The reasons for his non-intervention are crucial here.

Locke's primary rationale for toleration is the autonomy of the other agent. **A**, if he is to be tolerant on this basis, judges that the offending item (**Y**) is foolish, false, or evil and yet allows **Y** to continue. He must suspend consideration of the substantive issue, i.e. the content of what is objectionable, and look only to its origin in a free agent. The origin of the offense is more important than the offending belief, action, etc. To be considered tolerant, then, one must ignore the substance or content and be satisfied merely with the knowledge that the other reached his conclusions autonomously. If this is toleration, then toleration would not be content-sensitive. A current TV program, *Intervention*, suggests one example. If a parent is upset about his son's drugged-up world, can he be comforted by the knowledge that his son freely chose to take drugs? Sudan provides an example of genocide: Should the world community be comforted by the knowledge that Sudan's rulers autonomously decided on a policy of genocide? Americans would still find terrorists' determination to wipe us out intolerable, regardless of the autonomy of the terrorists' decision. Locke is saying that the autonomy of **B** is a sufficient condition for the existence of toleration by **A.** We can imagine many instances when considerations of the autonomy of the other will prevail as a justification for non-intervention. There are, however, instances when the substantive matters are so offensive that they outweigh considerations of autonomy. **A** may well decide that he will not tolerate his son's drug addiction; **A** may decide that genocide is intolerable. A Lockean autonomy works sometimes but not always, and, for this reason, is too narrow.

Locke's second reason for toleration is skepticism. **A** should consider that, after all, he may not have all truth and should temper his enthusiasm and commitment to his own belief. Mill's classic challenge in On Liberty might be persuasive here: the challenge presented by views that we think to be false has the merit of allowing sometimes for new truths to emerge. Mill writes, "The fatal tendency of mankind to leave off thinking about a thing when it is no longer doubtful, is the cause of half their errors."[11] This is not a thorough-going skepticism but a procedural type approaching a modesty or diffidence. ("Who knows, maybe I'm wrong this time.") A complete skepticism is irrelevant here, because it will be indistinguishable from indifference. A temporary or methodological doubt may be helpful. One recent and favorable view of skepticism puts forth Socrates as an exemplar of such doubt. "…Socrates claimed

that the only thing he knew was that he knew nothing. Socratic doubt is a methodological first principle that demands that we be critically self-conscious."[12] The methodological doubt having served its purpose, the agent may still think, even after a protracted period of cleansing skepticism, that his neighbor should break his smoking addiction, or that the UN should intervene more aggressively in Sudan's internal affairs. Skepticism would subvert the agent's own position, rendering toleration moot. Or, in the case of religion, the believer who believes that the basic truths of his tradition are divine revelation will not seriously consider those truths to be false. As with autonomy, skepticism provides little basis for toleration. Locke seems not to have provided any good reason for the restraint and non-intervention that are necessary to toleration

Even if we bracket the question of the basis of toleration, we still have the question of the intervention. *Intervention*, in Locke's understanding, refers to either the severe persecutions that attended the religious violence of sixteenth and seventeenth century England or to civil disabilities imposed by the dominant religious group on minority religious groups in England and Europe. Violence and even execution stand at one end of a continuum that presents many possible ways to conceive of intervention and non-intervention. Andrew Cohen raises what may be an unanswerable question on how interfering interference need be. What if a potentially tolerant person, while experiencing a negative emotional response to something objectionable, decides within himself to refrain from expressing his response and turns his attention to an entirely different matter. The emotion, in Cohen's view, does not qualify as action but is a non-behavioral response. Cohen is implying that the person being tolerated must be able to view or experience the non-interference of the other person. Internal upset, revulsion, strong emotion, etc. do not qualify as action.[13] Somehow, this reductionist notion of human action does not do justice to ordinary experience.

Fiala's study prefers the word 'negation': "I deliberately refrain from negating this thing."[14] Refraining from negation is, arguably, the broadest description of toleration. Fiala argues that toleration includes a mandate to engage the other in critical but supportive dialogue: "…we should question and listen carefully to those with whom we disagree, while refraining from carrying out any negative actions implied by our negative judgment."[15] This urging to engage the other in respectful dialogue, a re-articulation of Mill, is too broad, I suggest, to be helpful. The notion of respect goes too far beyond toleration to help us in clarifying toleration. I doubt that many people who are opposed to, say, producers of child pornography films, will engage these producers in respectful, critical dialogue. There also are practical limitations to setting up opportunities for respectful dialogue, or engaging what may be truly offensive policies, ideas, etc. in a Socratic interchange. John Horton writes that toleration is a "…refusal, where one has the power to do so, to prohibit or seriously interfere with conduct that one finds objectionable," but admits that the concept is still vague.

> "For instance, how serious must interference with the disapproved conduct be for it to be incompatible with toleration? If, for example, the sale of pornographic magazines is restricted to specialty shops, because some people object to them, should we regard this as a tolerant or intolerant response to the sale of pornography?" [16]

George Fletcher concludes, in his analysis of the toleration problem, that toleration is "…always the second-best solution." One would like to intervene, to do something about the problem, but cannot safely or effectively do so. Homosexual behavior is one of his examples. Even if one wished to prohibit and punish certain sexual acts, "…the invasion of privacy required to enforce the law is worse than the behavior in question." [17]

If Locke's description of toleration seems, on the face of it, unworkable, the question of what part of it, if any, can be redeemed seems a fair line of inquiry. Failing some such redemption we would have to declare the whole idea of toleration passé, or maybe its status as a principle governing social and political interchange would have been illusory.

His plea for religious toleration might have been explained either as a concern for the well-being of religion or for some non-religious reason. While religious toleration is the purported topic of the *Letter*, Locke gives no evidence of being interested in religious doctrines or religious practices. Rather, his language suggests that he finds religious differences too insignificant for discussion or commentary. Since the interest in religion is not here, an interest in the political ramifications is a plausible reading of Locke's interest. Locke's concern was exclusively political in nature. While religious matters, specifically religious violence and polarization along the lines of religious denominations, were the historical context in which he wrote, these were not the primary interest of this *Letter*. This is a document on religious toleration only because religion had, and has, a potential for civil disruption. A straightforward reading of the *Letter* reveals that Locke saw this potential and offered what he believed was a means for restoring civil stability and peace.

Restoring stability and maintaining peace require sovereignty, though, or a locus of political authority. The sovereign has both power and authority to govern; he has legitimacy; he has control of all resources that support his governance. Here, Locke anticipates Legal Positivism and later theorists like John Austin who wrote that *Law is a dictate of the sovereign*. Sovereignty must use coercion in fulfilling its role. As Locke read the broad sweep of Tudor-Stuart history, though, coercion in religious matters had not worked. The futility of coercion in religious matters seems to have made an impact on Locke, for the *Letter* has a lot to say about coercion in religious matters.

Since coercion is necessary to sovereignty, which is necessary to stability, and since coercion in religious matters is not only futile but also disruptive, church and state must be separate. The *Letter* is an early call for church-state separation, but his call is made not for the benefit of religions but for the sake of political stability. Sovereignty requires coercion; absent coercion, as in religion, there is no sovereignty. But the state cannot exist without sovereignty. For the state to exist, then, coercion must be allowed to civil authority but not allowed in religion. If coercion in religious matters does not work, and toleration is a kind of non-coercion (non-interfering, etc.), toleration is the only practical alternative. There will be stability only if there is toleration in religion. Toleration, then, becomes a necessary condition of political stability.

Historian Christopher Hill points thus to Locke's political posture: "Yet he was no democrat, and happily accepted 1688 as the revolution to end revolutions…by 'the people' he meant the propertied class." [18] The Toleration Act of 1689 had destroyed any hope of establishing the unity of the national church and was aimed at reducing political opposition by some non-Anglican groups. Locke's *Letter* is a call for religious toleration only accidentally, in seventeenth-century England where religious affiliation and political commitment were conflated. Anglicans were usually Royalist in politics; Protestants who dissented from the Church of England were Parliamentarians. Locke's call for toleration, then, was a rhetorically persuasive means of reiterating a call for unity.

Though we may wish to universalize his ideas, we cannot apply these ideas to situations different from those of seventeenth-century England. His idea of toleration works only where there is a sect-preference, i.e. where one can speak of political stability by using religious labels. Parliament passed the Toleration Act in May 1689, granting some liberties to Non-Conformists, i.e. Protestants who dissented from the Church of England (e.g. Baptists, Congregationalists, and Quakers). Locke returned to England from Holland in February 1689; his *Letter* was published in Holland in May, though in Latin. In October he published the English edition of the *Letter*, now that it was safe to do so. James II had been driven into a French exile, and the Glorious Revolution in 1688, followed by the Toleration Act made his *Letter* more descriptive than prescriptive. He had kept close and approving watch on events leading up to the ouster of James II and, in the *Letter*, publicly moved a bit beyond Parliament by calling for the extension of the same liberties to Anabaptists, Dissenters, Presbyterians, and Quakers. A coalition of these groups was needed for political stability. Groups that were perceived as not needed for stability, or as inimical to it, were still intolerable, viz. Catholics, Unitarians, and atheists. The doctrine of toleration, then, cannot be removed from the context of British history, specifically from a nation that had been fractured into political groups that operated under religious labels and banners. The *Letter* was not a creative foray into groundbreaking political theory, because it offered little that was not already implied or suggested by the Toleration Act.

Locke's political interests naturally raise the question of what the state itself can tolerate. Given its role in protecting the rights of citizens, e.g., life, liberty, health, and property, and in preserving good order, the state cannot tolerate anything that may harm these goods. "…No opinions contrary to human society, or to those moral rules which are necessary to the preservation of civil society, are to be tolerated by the magistrate."[19] Given the broad range of possible meanings to such terms as *life*, *liberty*, *health*, *property*, *good order*, the state need not tolerate very much at all. An analogy can be drawn to Mill, in *On Liberty*. Having stated clearly that the prevention of harm can be the only justification for limiting personal liberty, Mill exempts those needing care, the residents in the British colonies being a significant group needing British care, rather than liberty.

It is possible that some citizens will not agree with the majority of citizens that these are indeed goods to be protected, but there is no evidence in the *Letter* that Locke, a liberal and a revolutionary, considered this possibility. The public good is the rule and measure of all law-making. "If a thing be not useful to the commonwealth, though it be never so indifferent, it may not presently be established by law." [20] If the state is looking out for the rights of the citizens, how could they possibly object? The goals here to be achieved are obviously good. What does it matter if the process of achieving them leaves something to be desired? And what qualifies as disruptive of good civil order? By implication, the state must exert compulsion and not tolerate any demurral from citizens not in the mainstream. It must not tolerate their intolerance. Supposedly the state must be neutral, viz. not embrace the views of some citizens while rejecting the views of other citizens. But, as one Locke commentator, Stephen Douglas Smith, observes: "…this view is, itself, a distinct position not universally accepted. So, to adopt even this, is to prefer the views of some citizens over the views of other citizens." And compulsion may, in time, generate "…a voluntary embrace of the orthodox position." [21]In practice, the state must take substantive stands and not tolerate contrary views, a possibility that would have posed a dilemma for Locke, had he considered it.

The historical particularity of Locke's document, then, renders it less than applicable in another age and time. Perhaps one may point out, though, in his defense, that he does provide a grounding for Parliamentary policy in his discussions of the basis of toleration, viz. in a respect for the autonomy of other persons and in a healthy skepticism or diffidence about one's own ideas and values. Clearly autonomy is necessary for an understanding of human choice. The question of toleration does not even arise in the absence of autonomy. For example, if we were to discover that the producer of a child pornography film had not acted autonomously, our search for the source would have to continue until we did find the film's origin. Having discovered the responsible persons, our judgments about child pornography films would, I would claim, remain as they had been: these films, whatever their origin and regardless of who is responsible, are morally unacceptable. Considerations of autonomy are inadequate, though necessary, because they bracket considerations of content. Autonomy, then, is not sufficient as a

basis of toleration. Locke himself did not allow considerations of autonomy to prevail. Had he respected autonomy, he could not have declared Catholics and atheists intolerable to British society. Neither does Locke do well on the matter of skepticism, that healthy skepticism that borders on modesty and diffidence. There is no evidence that Locke had any suspicion that he might, after all, be wrong and thereupon seek to engage an opponent in respectful dialog. In the absence of evidence, one can say only that the *Letter* reveals that he was reiterating what the Toleration Act had already established and was himself confident that this new policy and the new age of William and Mary were a happy resolution to the anguish and violence of Tudor-Stuart England.

If toleration will not admit of some plausible articulation, neither does intolerance; any boundary line between the two would be a shifting affair. The difference between them may well be purely contextual, that is, may depend on the circumstances of the event and on the personality of the agent. It is an interpretive challenge to a reader of the *Letter* to settle on an unambiguous picture of Locke's true position. While he is writing about toleration, he is also calling for a strongly sovereign state that need not tolerate much deviation from its citizens. While writing about the need for religious toleration, he declares unequivocally that atheists and Roman Catholics are not to be tolerated. While advocating skepticism as a basis for toleration, he gives no indication that he himself might be fallible. While advocating the separation of church and state, there is no evidence that he worked to change the sect-preference in an England where the head of state was, and is, the head of the Anglican Church.

The contextual and thus shifting character of toleration has contemporary instances. Salman Rushdie understands intolerance. The Danish cartoons of the prophet Muhammad and the subsequent furor alerted everyone to the power of words, or, in that case, drawings. One recent comment claims that, "Traditionally, Americans have protected speech, absent a risk of immediate unlawful violence, but when it comes to terrorism in today's world, most countries, including the world's democracies, are not as tolerant as they used to be." [22]American courts have not hesitated to declare some religious practices intolerable by construing them as harmful or as contrary to the community's well-being, e.g. Mormon polygamy; Native Americans' use of peyote; Santeria rites of animal sacrifice in Florida. [23] The Rutgers University Women's Basketball Team did not believe that Don Imus's autonomy redeemed what he had said, nor were they skeptical about their judgment of him.

Locke's *Letter* contains the fault lines that still frustrate a plausible and reliable theory of toleration. The autonomy requirement, while necessary, is not sufficient for preserving genuine objections to content. Skepticism removes the need to tolerate. Only practical considerations are left, but these do not deserve the lofty status of principle. Given the so-far elusive character of a theory of toleration, we could either give up the quest entirely, allowing the desire to articulate such a theory to wither away. Or, we might find an alternative line of inquiry. Perhaps defining 'action' itself could make a contribution. What

is ‘action’? Does judgment qualify as action? Does emotion qualify as action (e.g. an emotion of revulsion)? Or, was Andrew Cohen right in arguing that the tolerating action must be external and observable? This, though, is an entirely separate task for another day. In practice, we know that Don Imus’s remark was intolerable, and we also know that we cannot provide a reliable theory for this reality.

ENDNOTES

[1] Locke wrote four letters on toleration, a topic that was one of on-going interest to him even before the publishing of the first *Letter*. Their publication dates were 1689, 1690, 1692, 1704. The second, third, and fourth were re-iterations of the first, with some modifications provoked by Jonas Proast, a persistent critic of Locke. Lockean scholars prefer to read the first *Letter*, and I have followed their lead. It is still an open question, though, whether the modifications in the later versions affect our interpretation of his understanding of toleration.

[2] A Letter Concerning Toleration, p.150.

[3] Ibid, p.151.

[4] Perhaps Jonathan Cohen is correct when he finds this separation analogous to the soul/body distinction. More suitable to Christianity than to Judaism, the soul/body distinction is an assumption that Locke never thinks to question. "Some Jewish Reflections…", p.65.

[5] Letter Concerning Toleration, p.152.

[6] Ibid, p.157.

[7] Ibid, p.156.

[8] Ibid, p.162.

[9] Ibid p.172.

[10] Ibid, p.171.

[11] *On Liberty*, in Three Essays, p.54.

[12] Tolerance and the Ethical Life, p.13.

[13] "What Toleration Is", Ethics Vol.115, No.1 (October 2004), p.87.

[14] Tolerance and the Ethical Life, p.18.

[15] Ibid, p.34.

[16] "Tolerance as a Virtue, in Heyd, p.28.

[17] "The Instability of Tolerance," in Heyd, p.170.

[18] Christopher Hill, The Century of Revolution 1603 – 1714, pp.244, 298.

[19] Letter Concerning Toleration, pp.170-171.

[20] Ibid, p.173.

[21] "Toleration and Liberal Commitments", University of San Diego School of Law, Public Law and Legal Theory Research Paper Series, Paper 4, 2004. http://law.bepress.com/sandiegolwps/pllt/art4. Accessed 6-19-07.

[22] George Fletcher,"Declining Tolerance of Dangerous Words," JapanTimesOnine. February 2, 2007. http://search.japantimes.co.jp/cgi-bin/eo20070202a1.html. Accessed 6-5-07.
[23] David Heyd, "The Instability of Tolerance" in Heyd, pp.163-4. The Santeria case holds more judicial interest than most, having been resolved eventually by the US Supreme Court. City ordinances of Hialeah, Florida prohibited animal sacrifice by the Santerians, who filed suit against the city. While the District Court found for the city, the US Supreme Court reversed this judgment in *Church of Lukumi Babalu Aye v City of Hialeah* in 1993. The case has been studied by David M. O'Brien in his book Animal Sacrifice and Religious Freedom: Church of the Lukumi Babalu Aye v. City of Hialeah. (University Press of Kansas, 2004).

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